



NGEC
National Gender and
Equality Commission

Monitoring Tool for Assessing Compliance with Concluding Observations and Recommendations Issued to the Government of Kenya Under CEDAW, CRC, and CRPD

A Color Scheme Score Card

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Acronyms

CO&RCS	Concluding Observations and Recommendations Compliance Scorecard
COK	Constitution of Kenya (COK)
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
HRTC	Human Rights Treaty Committees
CC&IOs	Constitutional Commissions and Independent Offices
IDLO	International Development Law Organization
NGEC	National Gender and Equality Commission
OHCHR	Office of the High Commissioner for Human Rights
PWD	Persons with Disabilities
SDGs	Sustainable Development Goals
UPR	Universal Periodic Review

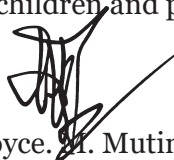
Foreword

Kenya is a signatory to various international and regional human rights instruments that protect and promote the rights of special interest groups including women, youth, Persons with Disabilities (PWD), minority and marginalized groups, children and older members of society. Article 2(6) of the Constitution of Kenya, 2010, provides that any treaty or convention ratified by Kenya shall form part of the laws of Kenya. Section 8 (c) of the National Gender and Equality Commission Act no. 15 of 2011 mandates the Commission to 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. This function extends to monitoring the compliance of the State with all conclusions and recommendations issued by the Human Rights Treaty Committees.

The Concluding Observations and Recommendations Compliance Scorecard (CO&RCS) is an accountability tool for monitoring and reporting on steps taken by the State to promote and protect rights of women, children and persons with disabilities based on all conclusions, recommendations and feedback issued to Kenya by the HRTC. This tool will be used by the National Gender and Equality Commission (NGEC) and its stakeholders including communities and networks to review progress made by Kenya in the implementation of concluding observations and recommendations issued specifically by the Committee on the Elimination of Discrimination Against Women, Committee on the Rights of the Child and the Committee on the Rights of Persons with Disabilities.

The scorecard is simplified into an illustrative colour scheme that is easy to apply, interpret and present results. The scorecard was developed through a consultative process bringing together relevant ministries, departments, agencies, county governments, civil society organizations, Constitutional Commissions and Independent Offices (CC&IOs), select UN agencies and development partners. The tool and its attendant documents guide stakeholders to identify specific measures that the State is required to take to implement recommendations issued by the committees. Subsequently, stakeholders can assess whether the State has complied fully with the recommendations. Where the State has failed to meet the threshold of compliance, the NGEC and its stakeholders will seek to interrogate and document reasons such failure. The NGEC will coordinate the stakeholders to produce a compliance report for consideration by key agencies in Government that have the greatest responsibility of implementing CEDAW, ICRPD and CRC.

I am therefore delighted to present to the government implementing agencies of CEDAW, ICRPD, CRC and monitoring bodies including national human rights institutions, the non-State actors, media and human rights defenders and practitioners this tool for assessing the progress that Kenya has made in complying with observations and recommendations issued in the last reporting cycle and future reporting cycles of CEDAW, ICRPD and CRC. I hope that once put into use, this tool will enrich the State reporting process and assist the State in fulfilling its human rights commitments to women, children and persons with disabilities.



Dr. Joyce M. Mutinda (PhD)

Chairperson

Acknowledgement

I acknowledge the collective efforts of several institutions including government ministries, agencies, departments, civil society organizations, county governments and development partners under the leadership of the National Gender and Equality Commission (NGEC) towards the development of this Concluding Observations and Recommendations Compliance Scorecard (CO&RCS).

I am particularly indebted to the team drawn from Office of the High Commissioner for Human Rights, United Nations Children's Fund, Office of the Attorney General, State Law Office, Department of Children Services, Council of Governors, Kenya National Commission on Human Rights, Kenya Alliance for the Advancement of Children, Pulse Consult, Save the Children, and Centre for Reproductive Rights for their invaluable critique that enriched the structure and content of the final tool and its attendant documents.

I wish to thank Dr Joyce Mutinda (PhD), the Chairperson of NGEC, Dr Chomba Munyi (PhD), the Vice-Chairperson and Commissioner Hon. Priscilla Nyokabi Kanyua for their policy and strategic guidance during the development process of this scorecard.

Finally, I extend our sincere gratitude to the International Development Law Organization for the financial support and overall technical support towards the development of this scorecard.

Thank You



Betty Sungura-Nyabuto, **MBS**

Commission Secretary/Chief Executive Officer

Executive Summary

Kenya has signed and ratified three important United Nations human rights treaties that protect the rights of women, children and persons with disabilities. These treaties are the Convention on the Elimination of All Forms of Discrimination Against Women, Convention on the Rights of the Child and Convention on the Rights of Persons with Disabilities. As a State party to these treaties, Kenya is required to report periodically to the treaty monitoring bodies established under the treaties, on measures it has taken to implement her treaty obligations. She is also required to implement concluding observations and recommendations that are issued by the treaty bodies following a review of her State reports and file a progress report.

The National Gender and Equality Commission, as the principal organ of the State that monitors compliance with treaty obligations relating to rights of special interest groups, has developed this Concluding Observations and Recommendations Compliance Scorecard (CO&RCS). The tool is designed to facilitate NGECE and its stakeholders to objectively monitor the compliance of the State with feedback including concluding observations and recommendation issued to Kenya by the CEDAW, CRC and ICRPD treaty committees. The tool is designed to use a colour scheme that is easy to use, present data and interpret the results. The tool is structured in two chapters: the first chapter provides a background to the tool and treaty reporting process under CEDAW, CRC and CRPD. The second chapter introduces the structure and content of the tool and illustrates how the users will apply it.

This scorecard is accompanied by the following three addenda that will aid in tracking recommendations for future reporting cycle under the three treaties:

1. Addendum 1: Concluding Observations and Recommendations Compliance Scorecard for Assessing Progress made by the State in the Implementation of the Concluding Observations of the Committee on the Elimination of Discrimination Against Women on the 8th Periodic Report of the Government of Kenya.
2. Addendum 2: Concluding Observations and Recommendations Compliance Scorecard for Assessing Progress made by the State in the Implementation of the Concluding Observations of the Committee on the Rights of the Child on the combined third to fifth periodic reports of the Government of Kenya.
3. Addendum 3: Concluding Observations and Recommendations Compliance Scorecard for Assessing Progress made by the State in the Implementation of the Concluding Observations of the Committee on the Rights of Persons with Disabilities on the initial reports of the Government of Kenya.

Chapter One: Introduction

1.1 Background

The National Gender and Equality Commission (NGEC) is a Constitutional Commission established by the National Gender and Equality Commission Act No. 15 of 2011, under Article 59(4) and (5) of the Constitution of Kenya, 2010. The mandate of the Commission is to promote gender equality and freedom from discrimination for all people in Kenya with a focus on Special Interest Groups that include women, Persons with Disabilities, children, youth, older members of society, minority and marginalized groups.

The Commission is 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.¹ NGEC regularly provides advisories, data and information on the State of human rights with a focus on gender equality and freedom from discrimination relating to special interest groups to enable the State to fulfil its international human rights obligations. The State relies on information provided by NGEC to prepare periodic reports to the relevant human rights treaty bodies or to respond to issues of concerns raised by them. Civil society organizations also rely on information provided by the Commission to prepare their memorandum and alternative reports to the committees.

To facilitate its monitoring role, the Commission has developed the Concluding Observations and Recommendations Compliance Scorecard as a monitoring tool that will guide NGEC and its partner organizations to monitor progress made by the State in complying with the concluding observations and recommendations issued to Kenya. The scorecard is framed on an illustrative colour scheme to allow NGEC's stakeholders including the special interest groups to use it with ease. The tool allows users to collect, analyze, present and interpret data with accuracy. The tool is also easily adaptable to other treaties and obligations that Kenya has ratified at International, African and East African Level. The tool will be used to monitor implementation of recommendations issued under UN human rights treaties that focus on special interest groups within the Commission's mandate namely: the Convention on the Elimination of All Forms of Discrimination Against Women, Convention on the Rights of the Child and Convention on the Rights of Persons with Disabilities.²

The three treaties:

1. Set out substantive rights for women, children and persons with disabilities;
2. Outline general and specific obligations that States should implement to protect and promote the rights guaranteed therein;

¹ Section 8(c) of the National Gender and Equality Commission Act No. 15 of 2011

² Kenya has ratified seven of the nine core UN human rights treaties. The nine core human rights treaties are: International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) (1965), International Covenant on Civil and Political Rights (ICCPR) (1966), International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966), Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (1979), Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT) (1984), Convention on the Rights of the Child (CRC) (1989), International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICMW) (1990), International Convention for the Protection of All Persons Against Enforced Disappearance (CPED) (2006) and Convention on the Rights of Persons with Disabilities (CRPD) (2006). Kenya has ratified all these treaties except ICERD and ICMW. Some of the treaties are supplemented by optional protocols addressing specific issues. Information on Kenya's ratification status of UN treaties is available at https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=90&Lang=EN

3. Establish an international monitoring mechanism for ensuring compliance with the treaties namely the Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW Committee), Committee on the Rights of the Child (CRC Committee) and the Committee on the Rights of Persons with Disabilities (CRPD Committee); and
4. Obligate Kenya to periodically report to the relevant committee on measures it has taken to implement the treaty obligation. Kenya is subsequently required to implement concluding observations and recommendations issued by the committees following examination of the State report.

These treaties form part of the laws of Kenya as provided for by Articles 2(5) and (6) of the Constitution of Kenya, 2010. Kenya is bound to promote and respect the rights of women, children and persons with disabilities outlined in these treaties.

1.1.1 Overview of the Convention on the Elimination of All Forms of Discrimination Against Women

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is an international human rights treaty that is exclusively devoted to addressing discrimination against women and promoting equality of rights of men and women in the enjoyment of all economic, social, cultural, civil and political rights. It was adopted by the United Nations General Assembly on 18th December 1979 and it came into force on 3rd September 1981. Kenya acceded to the treaty on 9th March 1984. The Convention is supplemented by the Optional Protocol to the Convention on Elimination of All Forms of Discrimination Against Women, which establishes an individual complaints mechanism. Kenya is not a State party to the Optional Protocol.

Box 1: Overview of CEDAW³

- ❧ Articles 2 to 5 set out general obligations and measures to eliminate discrimination against women. They include legislative, policy and administrative measures, adoption of temporary special measures (affirmative action) in favour women, and combating social and cultural prejudices that consider women as inferior to men or promote gender stereotypes. States have also committed themselves in Article 6 to combat trafficking in women and exploitation of the prostitution of women.
- ❧ Articles 7 to 16 set out the substantive rights of women in political and public affairs, economic, social and cultural spheres and civil matters and outline measures necessary to eliminate discrimination in these areas.
- ❧ Article 18 requires States to submit periodic reports, every four years, to the Committee on the Elimination of Discrimination Against Women on measures they have taken to implement the treaty.
- ❧ The CEDAW Committee has issued 37 general recommendations which explain the scope and content of specific provisions of the treaty and clarify the State's obligations concerning the specific treaty provisions or when addressing thematic issues of concerns.

3 CEDAW, optional protocols to CEDAW and general recommendations issued by the CEDAW committee are available at the CEDAW committee's section of the OHCHR website (www.ohchr.org)

1.1.2 Overview of the Convention on the Rights of the Child

The United Nation's Convention on the Rights of the Child (CRC) is an international human rights treaty that seeks to protect the rights and welfare of the child. It was adopted by the UN General Assembly on 20th November 1989 and it came into force on 2nd September 1990. Kenya ratified the Convention on 30th July 1990. The treaty is further supplemented by three additional protocols namely, Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and Optional Protocol to the Convention on the Rights of the Child on Communications Procedure. Kenya has ratified the first Optional Protocol only (Optional Protocol to the Convention on the Rights of the Child on the involvement of Children in Armed Conflict).⁴

Box 2: Overview of CRC⁵

- ❧ The Convention acknowledges that the child, because of their physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth.
- ❧ Article 1 of the Convention defines a child as every human being below the age of eighteen years unless majority age is attained earlier under applicable national law.
- ❧ Articles 2 – 5 set out general obligations of States relating to protection of children from any form of discrimination, upholding the principle of the best interest of the children in all actions concerning children, commitment to take appropriate legislative, administrative and other measures to implement the children rights and respect for the rights and duties of parents, extended family, the community, and guardians to provide appropriate direction and guidance in the exercise by the child of the rights recognized in the CRC.
- ❧ Article 6 – 41 set out substantive rights for children and outline measures to implement them.
- ❧ In Article 44, States are required to submit periodic reports, every 5 years, to the CRC Committee outlining measures they have taken to implement the treaty.
- ❧ The Committee on the Rights of the Child has adopted more than 24 general comments on various thematic issues including children's rights in the child justice system (General Comment No. 24 (2019) and, the right of the child to the enjoyment of the highest attainable standard of health (Article 24)(General Comment No. 15 (2013).

1.1.3 Overview of the Convention on the Rights of Persons with Disabilities

The Convention on the Rights of Persons with Disabilities (CRDP) seeks to promote and protect human rights and fundamental freedoms for all persons with disabilities, and to promote respect for their inherent dignity. It was adopted by the UN General Assembly on 13th December 2006 and it entered into force on 3rd May 2008. Kenya ratified the treaty on 19th May 2008.

4 See footnote 2 above

5 CRC, optional protocols to the CRC and general comments issued by the CRC committee are available at the CRC Committee's section on the OHCHR website (www.ohchr.org)

Box 3: Overview of CRPD⁶

- ❧ Article 1 of the treaty defines persons with disabilities to include those who have long-term physical, mental, intellectual or sensory impairments, which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.
- ❧ Articles 3 to 9 elaborate on the general principles of the conventions, general obligations of States, obligations of the State to eliminate discrimination based on disability, and specific obligations relating to rights of women and girls with disabilities, children with disabilities, awareness-raising and public education on rights of persons with disabilities, promoting accessibility to persons with disabilities and eliminating barriers to accessibility.
- ❧ Articles 9 to 30 secure substantive rights for persons with disabilities in the area of civil, political, economic, social and cultural rights.
- ❧ According to Article 35(2), States are required to submit a periodic report to the Committee on the Rights of Persons with Disabilities every four years.
- ❧ The CRPD Committee has adopted 7 general comments clarifying the scope of State's obligation with respect to specific provisions of the treaty.

1.2 Kenya's Reporting History under CEDAW, CRC and CRPD**State Reporting Process**

Kenya is obligated to submit periodic reports to the CEDAW Committee and CRPD Committee every four years and the CRC Committee every five years. The report can be submitted under the simplified reporting procedure adopted by treaty bodies including CEDAW, CRC and CRPD. The key steps involved in simplified and detailed reporting are outlined in Figure 1 and 2.

6 CRPD and general comments issued by the CRPD committee are available at the CRPD committee's section of the OHCHR website (www.ohchr.org)

Figure 1. Simplified Reporting Procedure

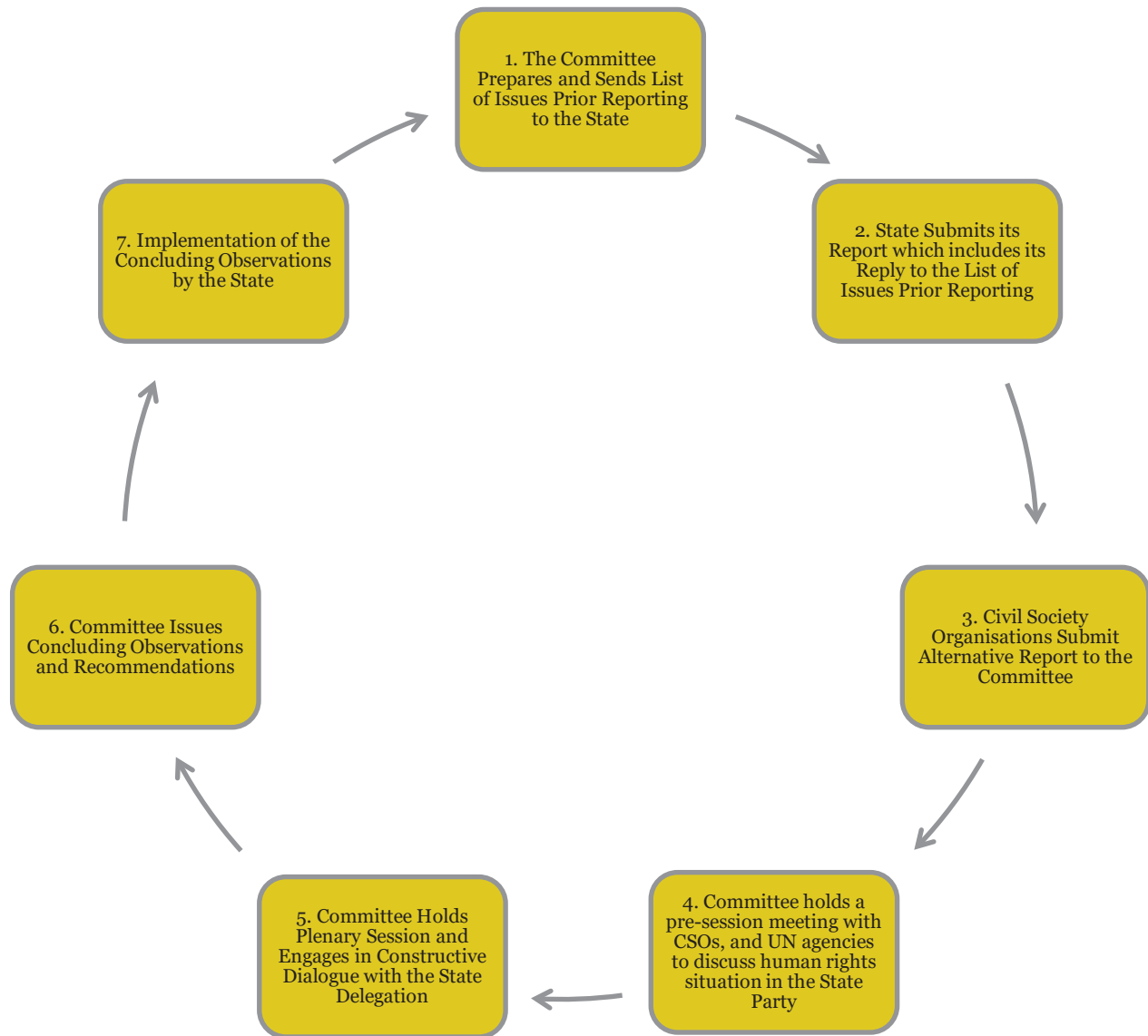
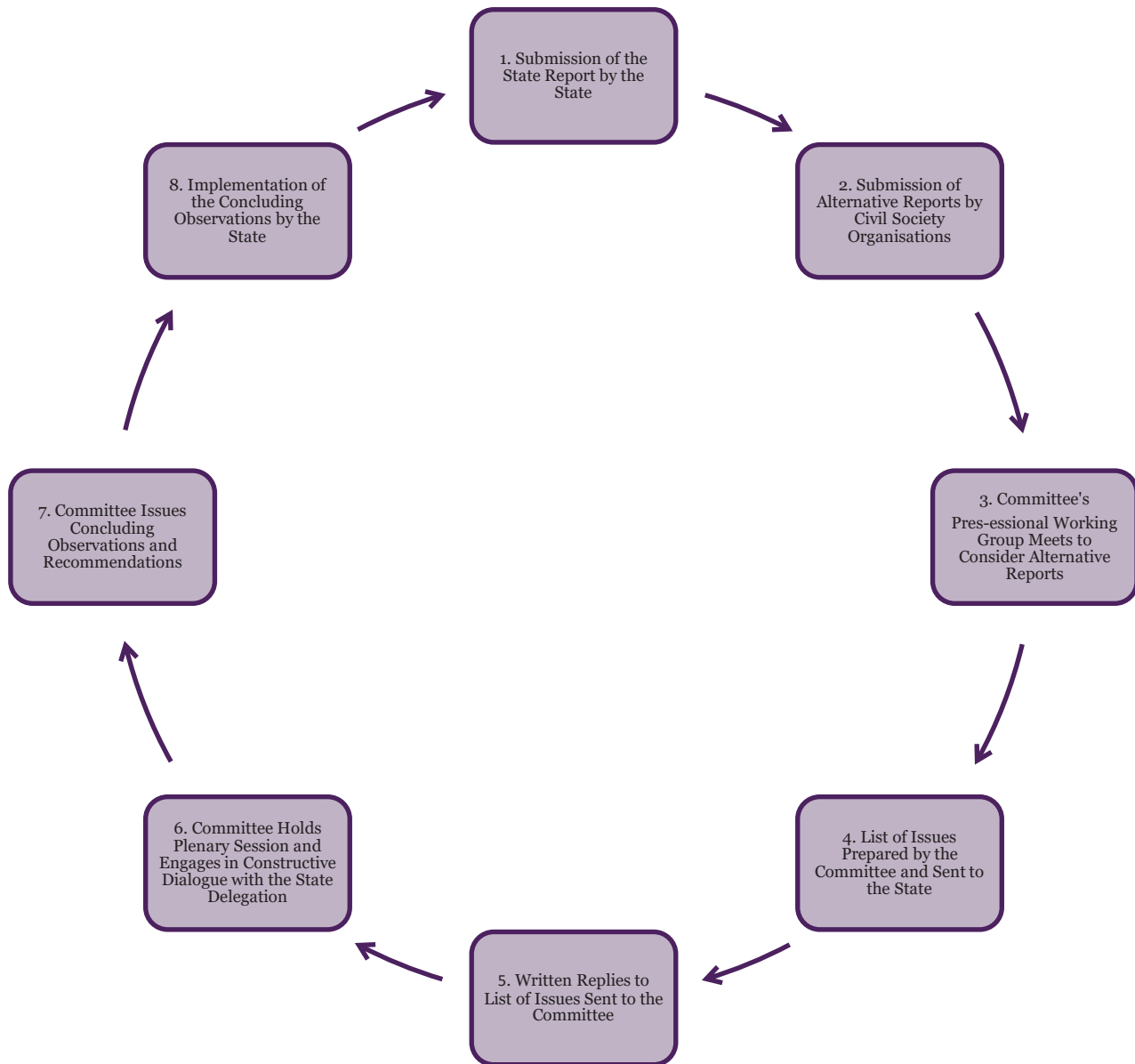


Figure 2. Standard/Detailed Reporting Procedure



Kenya’s Reporting History

Table 1 lists the reports by cycle (Since 2015) submitted by Kenya and their corresponding Concluding Observations. Annexe 1 lists the periodic reports submitted in the past reporting cycles, the concluding observations issued by the relevant treaty body and the due dates for submission of State reports for the next reporting cycle.⁷

Table 1: Kenya's State Reports by Cycle and Corresponding Concluding Observations Reports

State Report	Concluding Observations and Recommendations
CEDAW The 8 th Periodic Report of the Government of Kenya on CEDAW. (CEDAW/C/KEN/8)	Concluding Observations of CEDAW on the 8 th Periodic Report for the Government of Kenya, CEDAW/C/KEN/CO/8, 22 nd November 2017.
CRC Combined 3 rd , 4 th , and 5 th Periodic Report of the Government of Kenya on CRC (CRC/C/KEN/3 – 5)	Concluding Observations of CRC on the Combined 3 rd , 4 th and 5 th Periodic reports for the Government of Kenya; CRC/C/KEN/CO/3-5; 21 st March 2016.
CRPD Initial Report of the Government of Kenya on CRPD (CRPD/C/KEN/1)	Concluding Observations of CRPD (Committee) on the Initial Report of Kenya, CRPD/C/KEN/CO/1, 30 th September 2015.

1.3. Reporting on Implementation of Concluding Observations and Recommendations of Treaty Bodies

Concluding observations and recommendations are issued by a treaty body after consideration of a State party's Report.⁸ They constitute an authoritative review of the state of human rights in a country and recommendations on measures that can advance human rights. These reports highlight:

1. Positive measures taken by the State to implement her treaty obligations;
2. Areas of main concerns identified by the relevant committee; and
3. Recommendation on further actions the state needs to take to implement a treaty. The recommendations address substantive and administrative issues for consideration by the state.

Reporting Timelines and Follow – up Procedure

Kenya is required to report on the measures it has taken to implement the recommendations issued by the respective committees in the next reporting cycle: That is for CEDAW by 30th November 2021, for CRC by 1st September 2021, and CRPD by 19th June 2022. However, some committees may select a few recommendations that they consider urgent and implementable within a short time and to monitor their implementation more closely. These selected recommendations are subjected to the committee's follow-up procedure that has a shorter reporting timeline usually within one or two years.⁹ For example, the CEDAW Committee required Kenya to report within two years on measures taken to implement recommendations contained in paragraphs 31 (a) and (d), 39 (e) and 51 (a) of the

8 www2.ohchr.org/english/bodies/treaty/glossary.htm

9 www.ohchr.org/EN/HRBodies/Pages/FollowUpProcedure.aspx

committee's concluding observations.¹⁰ Similarly, the CRPD Committee requested Kenya to report within 12 months on measures taken to implement recommendation set out in paragraph 60 of the committee's concluding observation.¹¹

Guidelines on Reporting on Concluding Observations

The general guidelines on State reporting under international human rights treaties, as well as treaty specific guidelines, require States to include in their periodic reports:¹²

1. Information on the implementation of concluding observations issued by the relevant committees.
2. Explanation of non-implementation of the recommendations and challenges faced.

They also encourage States to use human rights indicators proposed by the committees and the Office of the High Commissioner for Human Rights (OHCHR) to assess their compliance with human rights obligations. Guidelines developed by the committees have outlined a list of demographic, socio-economic, cultural and political system human rights indicators for assessing compliance with international human rights obligations. The OHCHR has proposed an illustrative list of human rights indicators updated with Sustainable Development Goal (SDG) indicators.¹³

Some treaty bodies have developed guidelines and assessment criteria for monitoring implementation of follow-up recommendations. The CEDAW Committee requires a State Party and other stakeholders to provide concise information on all measures taken after the issuance of the recommendations subject to follow-up procedure, specifying the date of adoption and the status of implementation of each of measure.¹⁴ The Committee uses six-level evaluation criteria to assess the level of implementation of the recommendations as follows:

A – Implemented

B – Substantially implemented

C- Partially implemented

D – Not implemented

E - Lack of sufficient information to make an assessment

F - Information or measures taken are contrary to or reflect a rejection of the recommendation

CRPD Committee and CRC Committee are yet to issue similar guidelines.

10 See para 58 of the Concluding observations on the eighth periodic report of Kenya

11 See para 62 to 64 of the Concluding Observations on the Initial Report of Kenya

12 See for example, OHCHR, *Compilation Of Guidelines On The Form And Content Of Reports To Be Submitted By States Parties To The International Human Rights Treaties*

At the national level, there exist the following tools that guide the implementation of recommendations of UN human rights monitoring mechanisms:

1. *Universal Periodic Review Implementation Matrix 2015 – 2019*: This implementation tool was developed by the Office of the Attorney General and partners to guide the Government in ensuring full implementation of UPR recommendations within a four and a half year time frame.¹⁵
2. *National Plan of Action on Implementation of Recommendations Made by the Committee on the Rights of Persons with Disabilities concerning the Initial Report to the Republic of Kenya, September 2015 – June 2022*: This implementation tool was developed by the Ministry of East African Community, Labour and Social Protection and partners to guide Ministries, Departments and Government Agencies to implement the recommendations of the Committee on the Rights of Persons with Disabilities.¹⁶

There are no published monitoring tools for concluding observations issued to Kenya.

Chapter Two: The Concluding Observations and Recommendations Compliance Scorecard

2.1 Objectives of the Tool

The Concluding Observations and Recommendations Compliance Scorecard is a monitoring tool that will be used to objectively assess the progress made by the State to implement recommendations issued to Kenya by the Committee on the Elimination of Discrimination Against Women, Committee on the Rights of the Child and Committee on the Rights of Persons with Disabilities.

The findings will be used to inform the preparation of periodic reports that the State is required to submit to the three committees as well as to respond to any issues of concern raised by the committees during the reporting cycle or under the follow-up procedure. It may also be used by non-State actors to prepare their alternative reports to the committees. Further, the tool shall be used to generate reports to inform national and county level policies and programs.

2.2 Structure of the Tool

The tool is structured in a matrix with the following sections:

1. Title
2. *An evaluation criterion* that outlines a six-band grading system for assessing the performance of the State in the implementation of the recommendations of the Committee. The evaluation criteria combine a number rating system with a colour coding scheme.
3. *Thematic area* highlights the thematic focus of the committee's recommendation as extracted from the concluding observations. The thematic focus may be concerning a particular provision of the treaty (e.g. *Article 2: Non-discrimination*) or it may focus on a general area e.g. (*children with disabilities*).
4. *Thematic concern* sets out verbatim the main concern expressed by the Committee in its concluding observation. This is intended to provide context to the recommendation of the Committee.
5. *Paragraph number* of the recommendation as indicated in the concluding observation.
6. *Concluding observation/recommendation* sets out verbatim the recommendation as issued by the Committee. The recommendation will be cross-referenced with relevant paragraphs of similar recommendations issued by other UN human rights monitoring mechanisms including the Universal Periodic Review and the relevant reports on Sustainable Development Goals.
7. *Specific action to be taken by the State* lists specific and measurable actions that the State need to take to implement the recommendation. The joint monitoring team will, in consultation with the relevant State agency, identify the specific actions that need to be implemented. This may include, *legislative, policy, budgetary, programmatic and administrative measures*. Some recommendations are precise concerning the

measures that the State need to implement but others are generally worded and may address a multitude of issues. Where recommendations are precise, the specific actions will be extracted from them. However, where recommendations are general in nature, the monitoring team will identify the specific and measurable actions that the State is required to take.

8. *Implementation timelines* may be referenced to the implementation timelines under the follow-up procedure or the timelines for submission of next State report.
9. *Indicators* list relevant structural, process or outcome human rights indicators for monitoring implementation of each recommendation. This includes qualitative as well as quantitative indicators.
10. *Sources of data* list sources of information that will be used to complete the scorecard.
11. *Implementing agencies*
12. *Action taken* explains concisely the measures taken by the State to implement recommendations of the Committee from the time the recommendations were issued. It also explains the impact of those interventions on the human rights situation of the groups in focus.
13. *Pending action*
14. *The score* specifies the rating and colour code against each recommendation. The score will be based on evaluation criteria and an assessment of the extent to which the State has implemented the actions that were proposed to be implemented. The monitoring team is required to objectively review the following key parameters in the matrix before awarding a score:
 - a). *Action to be taken by the State,*
 - b). *Action taken, and*
 - c). *Action pending.*
15. *Notes:* the monitoring team is required to explain the rationale for the rating given to the State and the challenges faced in the implementation of the recommendation.

3.0 Concluding Observations and Recommendations Compliance Scorecard: The template



Concluding Observations and Recommendations Compliance Scorecard for Assessing Progress Made by the State in the Implementation of Concluding observations of

[INSERT TITLE OF THE TREATY BODY]
on the [INSERT SERIES/CYCLE OF THE REPORT]
Periodic Report of the Government of Kenya

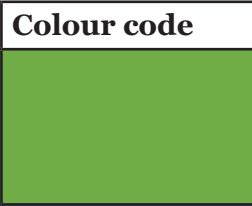




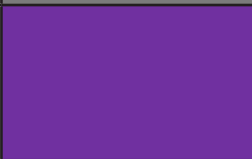
MONITORING CYCLES: [INSERT REFERENCE DATES FOR THE CYCLE]

REPORTING DATE: [INSERT DATE]



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Evaluation criteria:

Score	Colour code	Assessment	Explanation
1		Fully implemented	The State has fully implemented all measures recommended by the Committee and stakeholders.
2		Substantially implemented	The State has fully implemented most of the measures recommended by the Committee and stakeholders. A few measures are yet to be fully implemented.
3		Partially implemented	The State has taken initial steps towards the implementation of the measures recommended by the Committee and stakeholders. Further action needs to be taken to fully implement the measure(s).
4		Not implemented	The State has taken no action to implement the measures recommended by the Committee and stakeholders.
5		No information available	There is a lack of sufficient information to make an objective assessment of implementation status.
6		Recommendation rejected	Information provided or measures taken are contrary to or reflect a rejection of the recommendation.

Thematic area:

Paragraph No.	Concluding observation/ recommendation	Actions to be taken by the State	Timelines	Indicators for tracking progress	Action taken	Actions pending	Sources of data	Implementing agency(ies)	Score	Notes
Thematic concern:										

4.0 Monitoring by NGECE and Partners

The tool will be used by the National Gender and Equality Commission (NGEC) and its partners including the private sector, non-State actors, special interest groups, human rights bodies and networks, and individual practitioners representing women, children and persons with disabilities.

There shall be three joint monitoring teams comprising representatives of the partner organizations as follows:

1. Joint monitoring team responsible for concluding observations and recommendations of the Committee on the Elimination of Discrimination Against Women;
2. Joint monitoring team responsible for concluding observations and recommendations of the Committee on the Rights of the Child; and
3. Joint monitoring team responsible for concluding observations and recommendations of the Committee on the Rights of Persons with Disabilities.

The tool will enable the monitoring team to respond to the following three questions:

1. What specific measures need to be taken to implement the recommendation of the Committee?
2. What action has the State taken to implement these measures?
3. What action is pending?

4.1 Monitoring Cycle and Annual Reviews

Monitoring cycle shall commence on the year when the concluding recommendations are published and end on the year when the State is due to submit its report for the next reporting cycle. During the monitoring cycle, the monitoring team will meet at least twice annually to review progress made in the implementation of the recommendations and compliance of the State with specific feedback.

Table 2 lists the monitoring cycle and pending annual reviews under the current State reporting cycle. In the event of delay in State reporting, the dates indicated in the table may be revised to take into account the delay and the adjusted calendar issued by the relevant committee.

Table 2: Monitoring Cycle and Annual Review During the Treaty Current Reporting Cycle

Treaty body recommendations	Monitoring Cycle	Annual Reviews	
		Year 1	Year 2
CEDAW Concluding Observations of CEDAW on the 8 th Periodic Report of the Government of Kenya, CEDAW/C/KEN/CO/8, 22 November 2017	November 2017 – November 2021	November 2020	November 2021
CRC Concluding Observations of CRC on the Combined 3 rd , 4 th and 5 th Periodic reports of the Government of Kenya; CRC/C/KEN/CO/3-5; 21 March 2016	March 2016 – September 2021	September 2020	September 2021
CRPD Concluding Observations of CRPD (Committee) on the Initial Report of Kenya, CRPD/C/KEN/CO/1, 30 September 2015	September 2015 – June 2022	June 2021	June 2022

4.2 Monitoring Against National Implementation Plans

The monitoring team will initiate or engage with ongoing State initiatives to develop implementation plans for all concluding observation at the beginning of their respective monitoring cycles. Where a national implementation action plan for concluding observation exists, the monitoring team will monitor the implementation of the actions or measures and use indicators specified in the plan. In the current monitoring cycle under the CRPD, the team will refer to the *National Action Plan on Implementation of Recommendations Made by the Committee on the Rights of Persons with Disabilities concerning the Initial Report for Kenya, September 2015 – June 2022*.

If no such plan exists, the team will engage State and non-State actors to identify measures and indicators that will be applied in the monitoring tool. This shall be the case with recommendations issued under CEDAW and CRC in the current monitoring cycle under each treaty.

4.3 Engagement with Stakeholders

4.3.1 State Actors

Every year or even more frequently during the monitoring cycle, the joint monitoring team will invite the responsible ministries, departments, agencies, and other arms of government to provide information regarding measures they have taken to implement the recommendations of the Committee.

Additionally, the team will rely on other sources of information including research reports, surveys, annual reports, and the Hansards to establish progress and gaps in the implementation of the recommendations.

NGEC and partners will advise the relevant State agencies or arm of government about any gaps or delays in implementing the recommendations that are established during the annual review meeting.

4.3.2 Women, Children and Persons with Disabilities

The monitoring team will invite representatives of women, children, and persons with disabilities at the national and grassroots levels to participate in the monitoring process as well as the annual review meetings and share their input and feedback on the implementation of concluding observations.

4.3.3 Non-State Actors

The team will obtain information from civil society organizations, private sector, and the national human rights institutions, development partners, and United Nations entities. These institutions will be invited to participate in the annual review meeting of the joint monitoring team.

4.4 How to Use the Tool: Illustration

This section illustrates how to complete the tool using the example of the CEDAW Committee recommendation on discriminatory religious and customary laws. The tool may be used to monitor all the recommendations issued by a committee or select thematic recommendations of interest to the monitoring team and the NGECC.

Box 4: Extract from the CEDAW Committee's recommendation:

Committee on the Elimination of Discrimination against Women

Concluding observations on the eighth periodic report of Kenya*

...

D. Principal areas of concern and recommendations

Discriminatory religious and customary laws

8. The Committee commends the State Party for its progressive Constitution. However, it reiterates the concern expressed in its general recommendation No. 29 (2013) on the economic consequences of marriage, family relations and their dissolution, that the preservation of multiple legal systems is in itself discriminatory against women, and expresses its concern that the legal framework in the State Party, including exemptions under Article 45 of the Constitution and Section 49 (3) of the Marriage Act of 2014, discriminates against Muslim women and women in customary marriages, including through the explicit exemption of the Kadhi Courts from constitutional equality provisions and the fact that women cannot serve as kadhīs, as well as the legalization of polygamy, in violation of the non-discrimination provisions of the Constitution and the Convention, and counter to general recommendations No. 21 (1994) on equality in marriage and family relations and No. 29.

9. In line with Articles 1 and 2 of the Convention and Target 5.1 of the Sustainable Development Goals, the Committee recalls its previous concluding observations (CEDAW/C/KEN/CO/7, para. 12 (d)) and recommends that the State party:

- a). Repeal or amend discriminatory provisions under religious and customary law to harmonize them with Article 16 of the Convention;**
- b). Codify Muslim family law in a manner that is compatible with Article 27 of the Constitution and Articles 1, 2 and 16 of the Convention;**
- c). Appoint Muslim women as kadhis and alternative dispute resolution mediators in the kadhi court system.**

Concluding Observations and Recommendations Compliance Scorecard for Assessing Progress Made by the State in the Implementation of Concluding Observations of the Committee on the Elimination of Discrimination Against Women (CEDAW Committee) on the 8th Periodic Report of the Government of Kenya

Evaluation criteria:

Score	Colour code	Assessment	Explanation
1		Fully implemented	The State has fully implemented all measures recommended by the Committee and stakeholders.
2		Substantially implemented	The State has fully implemented most of the measures recommended by the Committee and stakeholders. A few measures are yet to be fully implemented.
3		Partially implemented	The State has taken initial steps towards the implementation of the measures recommended by the Committee and stakeholders. Further action needs to be taken to fully implement the measure(s).
4		Not implemented	The State has taken no action to implement the measures recommended by the Committee and stakeholders.
5		No information available	There is a lack of sufficient information to make an objective assessment of implementation status.
6		Recommendation rejected	Information or measures taken are contrary to or reflect a rejection of the recommendation.

Thematic area #1 (Treaty provision): Discriminatory religious and customary laws (Article 2 and 16)

Paragraph No.	Concluding observation/recommendation	Actions to be taken by the State	Timelines	Indicators for tracking progress	Action taken	Pending actions	Sources of data	Implementing agency(ies)	Score	Notes
Thematic concern:										
<p><i>Para 8. The Committee commends the State party for its progressive Constitution. However, it reiterates the concern expressed in its general recommendation No. 29 (2013) on the economic consequences of marriage, family relations and their dissolution, that the preservation of multiple legal systems is in itself discriminatory against women, and expresses its concern that the legal framework in the State party, including exemptions under article 45 of the Constitution and Article 49 (3) of the Marriage Act of 2014, discriminates against Muslim women and women in customary marriages, including through the explicit exemption of the kadhi courts from constitutional equality provisions and the fact that women cannot serve as kadhis, as well as the legalization of polygamy, in violation of the non-discrimination provisions of the Constitution and the Convention, and counter to general recommendations No. 21 (1994) on equality in marriage and family relations and No. 29.</i></p>										
Para 9	In line with articles 1 and 2 of the Convention and target 5.1 of the Sustainable Development Goals, the Committee recalls its previous concluding observations (CEDAW/C/KEN/CO/7, para. 12 (d)) and recommends that the State party:									
	<p>(a) Repeal or amend discriminatory provisions under religious and customary law to harmonize them with article 16 of the Convention;</p> <ul style="list-style-type: none"> <i>UPR third cycle recommendation para 142.64</i> <i>SDG Target 5.1</i> 	<p><i>Repeal section 49(3) of the Marriage Act 2014</i></p>	<p><i>30 November 2021</i></p>	<p><i>Section 49(3) of the Marriage Act 2014 repealed</i></p>	<p><i>None</i></p>	<p><i>Drafting and publication of bill to amend section 49(3) of the Marriage Act 2014</i></p> <p><i>The enactment by National Assembly of the bill to amend section 48(3) of the Marriage Act 2014</i></p>	<p><i>The Hansard</i></p> <p><i>Survey Reports</i></p> <p><i>Annual Reports</i></p>	<p><i>National Assembly</i></p> <p><i>State Law Office</i></p>	<p>4</p>	<p><i>There is no clear justification for the failure to initiate the process of repealing section 49(3).</i></p>

<p>Para 9</p>	<p>In line with articles 1 and 2 of the Convention and target 5.1 of the Sustainable Development Goals, the Committee recalls its previous concluding observations (CEDAW/C/KEN/CO/7, para. 12 (d)) and recommends that the State party:</p>								
<p>(a) Repeal or amend discriminatory provisions under religious and customary law to harmonize them with article 16 of the Convention;</p> <ul style="list-style-type: none"> • <i>UPR third cycle recommendation para 142.64</i> • <i>SDG Target 5.1</i> 	<p><i>Repeal section 49(3) of the Marriage Act 2014</i></p>	<p><i>30 November 2021</i></p>	<p><i>Section 49(3) of the Marriage Act 2014 repealed</i></p>	<p><i>None</i></p>	<p><i>Drafting and publication of bill to amend section 49(3) of the Marriage Act 2014</i></p> <p><i>The enactment by National Assembly of the bill to amend section 48(3) of the Marriage Act 2014</i></p>	<p><i>The Hansard</i></p> <p><i>Survey Reports</i></p> <p><i>Annual Reports</i></p>	<p><i>National Assembly</i></p> <p><i>State Law Office</i></p>	<p>4</p>	<p><i>There is no clear justification for the failure to initiate the process of repealing section 49(3).</i></p>

<p>(b) Codify Muslim family law in a manner that is compatible with article 27 of the Constitution and articles 1, 2 and 16 of the Convention;</p> <ul style="list-style-type: none"> • UPR third cycle recommendation para 142.31 • UPR third cycle recommendation para 142.64 • SDG Target 5.1 	<p><i>Review and amend the Marriage Act to protect Muslim women against discrimination</i></p>	<p>30 November 2021</p>	<p><i>Marriage Act reviewed and amended to harmonize Muslim family law with article 27 of the Constitution and articles 1,2 and 16 of CEDAW</i></p>	<p>None</p>	<p><i>Initiation of the process to review the Marriage Act 2014 to assess the compatibility of Muslim law with CEDAW.</i></p> <p><i>Enactment of legislation amending Marriage Act</i></p>	<p><i>The Hansard</i></p> <p><i>Survey Reports</i></p> <p><i>Annual Reports</i></p>	<p><i>State Law Office</i></p> <p><i>National Assembly</i></p>	<p>4</p>	<p><i>There is no clear justification for the failure to initiate the process of reviewing the Marriage Act 2014.</i></p>
<p>(c) Appoint Muslim women as kadhis and alternative dispute resolution mediators in the kadhi court system.</p> <ul style="list-style-type: none"> • SDG Target 5.1 	<p><i>Appointment women to uphold the 2/3 gender rule</i></p> <p><i>Appoint women as ADR mediators in Kadhi court system</i></p>	<p>30 November 2021</p>	<p><i>Number of kadhis disaggregated by sex</i></p> <p><i>Number of mediators in the kadhi court system disaggregated by sex</i></p>	<p><i>No women appointed as kadhis and mediators in the kadhi court system</i></p>	<p><i>Initiation of the recruitment process for women Kadhis and ADR mediators in Kadhi's courts</i></p>	<p><i>The Hansard</i></p> <p><i>Survey Reports</i></p> <p><i>Annual Reports</i></p>	<p><i>Judicial Service Commission</i></p>	<p>4</p>	<p><i>There is no clear justification for the failure to appoint women as Kadhis and ADR mediators in Kadhi's court</i></p>

Annexes

Annexe 1: Kenya's Reporting Cycles to CEDAW, CRC and CRPD Committees

Treaty	Reporting Cycle	State Report	Concluding Observation	Reporting Date for the Next Cycle
CEDAW	Ninth reporting Cycle	NA	NA	30 th November 2021
	Eighth reporting cycle	The 8 th Periodic Report of the Government of Kenya on CEDAW. (CEDAW/C/KEN/8)	Concluding Observations of CEDAW on the 8 th Periodic Report of the Government of Kenya, CEDAW/C/KEN/CO/8, 22 November 2017	
	Seventh reporting cycle	The 7 th Periodic Report of the Government of Kenya on CEDAW. (CEDAW/C/KEN/7)	Concluding Observations of CEDAW on the 7 th Periodic Report of the Government of Kenya, CEDAW/C/KEN/CO/7, 5 April 2011	
	The combined fifth and sixth reporting cycle	The 5 th and 6 th Combined Periodic Report of the Government of Kenya on CEDAW. (CEDAW/C/KEN/6)	Concluding Observations of CEDAW on the Combined 5 th and 6 th Periodic Report of the Government of Kenya, CEDAW/C/KEN/CO/6, 10 August 2007	

Treaty	Reporting Cycle	State Report	Concluding Observation	Reporting Date for the Next Cycle
	The combined third and fourth reporting cycle	The 3 rd and 4 th Combined Periodic Report of the Government of Kenya on CEDAW. (CEDAW/C/KEN/3 – 4)	<p>Concluding Observations of CEDAW on the Combined 3rd and 4th Periodic Report of the Government of Kenya</p> <p>See</p> <ol style="list-style-type: none"> 1. Report of the Committee on the Elimination of Discrimination against Women, A/58/38 (Part I), Paras. 199 – 230 2. Report of the Committee on the Elimination of Discrimination against Women, A/58/38 (Supp), paras. 199 – 230 	
	The combined first and second reporting cycle	The 1 st and 2 nd Combined Periodic Report of the Government of Kenya on CEDAW. (CEDAW/C/KEN/1 – 2)	<ol style="list-style-type: none"> 1. Report of the Committee on the Elimination of Discrimination against Women, A/48/38, paras. 87–143 2. Report of the Committee on the Elimination of Discrimination against Women, A/48/38 (Supp), paras. 87 – 143 	
CRC	The combined sixth and seventh reporting cycle	NA	NA	1 st September 2021

Treaty	Reporting Cycle	State Report	Concluding Observation	Reporting Date for the Next Cycle
	The combined third, fourth and fifth reporting cycle	Combined 3 rd , 4 th , and 5 th Periodic Report of the Government of Kenya on CRC (CRC/C/KEN/3 – 5)	Concluding Observations of CRC on the Combined 3 rd , 4 th and 5 th Periodic reports of the Government of Kenya; CRC/C/KEN/CO/3-5; 21 March 2016	
	Second reporting cycle	The 2 nd Periodic Report of the Government of Kenya on CRC (CRC/C/KEN/2)	Concluding Observations of CRC on the 2 nd Periodic Report of the Government of Kenya; CRC/C/KEN/CO/2; 19 June 2007	
	First reporting cycle	Initial Report of the Government of Kenya on CRC (CRC/C/3/Add.62)	Concluding Observations of CRC on the Initial Report of the Government of Kenya; CRC/C/15/Add.160; 7 November 2001	
CRPD	Second to the fourth reporting cycle	NA	NA	19 June 2022
	First reporting cycle	Initial Report of the Government of Kenya on CRPD (CRPD/C/KEN/1)	Concluding Observations of CRPD (Committee) on the Initial Report of Kenya, CRPD/C/KEN/CO/1, 30 th September 2015	

Useful links

1. United Nations Human Rights Treaties: CEDAW, CRC, and CRPD

1. Convention on the Elimination of All Forms of Discrimination Against Women: www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx
2. Convention on the Rights of the Child: www.ohchr.org/en/professionalinterest/pages/crc.aspx
3. Convention on the Rights of Persons with Disabilities: www.ohchr.org/en/hrbodies/crpd/pages/conventionrightspersonswithdisabilities.aspx

2. Latest Concluding Observations Issued to Kenya under CEDAW, CRC and CRPD

1. Concluding Observations of CEDAW on the 8th Periodic Report of the Government of Kenya, CEDAW/C/KEN/CO/8, 22 November 2017: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/KEN/CO/8&Lang=En
2. Concluding Observations of CRC on the Combined 3rd, 4th and 5th Periodic reports of the Government of Kenya; CRC/C/KEN/CO/3-5; 21 March 2016: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC/C/KEN/CO/3-5&Lang=En
3. Concluding Observations of CRPD (Committee) on the Initial Report of Kenya, CRPD/C/KEN/CO/1, 30th September 2015: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/KEN/CO/1&Lang=En

3. Documents Relating to Kenya's State Reports under CEDAW, CRC and CRPD and the UPR Mechanism

1. Reporting Status for Kenya: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/countries.aspx?CountryCode=KEN&Lang=EN
2. Universal Periodic Review for Kenya: www.ohchr.org/EN/HRBodies/UPR/Pages/KEindex.aspx

4. Guidelines on State Reporting

1. Compilation of Guidelines on the Form and Content of Reports to be submitted by States Parties to International Human Rights Treaties - <https://www.ohchr.org/EN/HRBodies/Pages/HarmonizedGuidelines.aspx>
2. Guidance note for States parties for the preparation of reports under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women in the context of the Sustainable Development Goals* - https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/74/3&Lang=en

3. Guidelines on a treaty-specific document to be submitted by States parties under article 35, paragraph 1, of the Convention on the Rights of Persons with Disabilities - https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/2/3&Lang=en
4. Treaty-specific guidelines regarding the form and content of periodic reports to be submitted by States parties under article 44, paragraph 1 (b), of the Convention on the Rights of the Child - https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC/C/58/REV.3&Lang=en

5. Human Rights Indicators and SDGs

1. Human rights indicators tables updated with sustainable development goals indicators - https://www.ohchr.org/Documents/Issues/HRIndicators/SDG_Indicators_Tables.pdf



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