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REVIEW (UPR) FOURTH CYCLE UNIVERSAL  
PERIODIC REVIEW OF KENYA**

**JOINT STAKEHOLDERS' SUBMISSION BY COUNTER TRAFFICKING  
THEMATIC AREA OF UNIVERSAL PERIODIC REVIEW.**

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To make this process a success, the following twenty two (21) organizations participated: Terre des Hommes Netherlands, Free the Slaves, Awareness Against Human Trafficking (HAART) Kenya, Center for Domestic Training and Development (CDTD), Counter Human Trafficking Trust-East Africa (CHTEA), Okoa Sasa, Equality Now, Sema Nami Organization, Frolics of Hope Africa, Ubani Trust, Childline Kenya, Candle of Hope Foundation, Migrant Defenders, Survivors Network, One More Day 4Kids, Set Free to Thrive, Azadi Kenya, Love Justice, Consolation East Africa, and the African Network for the Prevention and Protection Against Child Abuse and Neglect (ANPPCAN).

### **Key Words**

- Victims of trafficking.
- Child trafficking.
- Human trafficking.
- National Referral Mechanisms.
- National Assistance Trust Fund.
- Shelters /rescue center.

## Executive Summary:

1. This stakeholder report has been developed and submitted by the counter trafficking ) thematic group, a member of Universal Periodic Review Kenya, a coalition that brings together Civil Society Organizations in Kenya, all of which are directly or indirectly involved in combating human trafficking in Kenya . Members of the thematic group include; Terre des Homme Netherlands, Free the slaves, Awareness Against Human Trafficking (HAART) Kenya, Center for Domestic Training and Development (CDTD), Counter Human Trafficking Trust- East Africa (CHTEA), Okoasasa, Equality Now, Sema Nami Organization, Frolics of Hope Africa, Ubani trust, Childline, Kenya, Trace Kenya, Candle of hope foundation, Migrant defenders, Survivors network, One more day 4kids, Set Free to Thrive, African Network for the Prevention and Protection Against Child Abuse and Neglect (ANPPCAN), Azadi Kenya, Consolation East Africa, and Love justice.
2. This submission focuses on **three key issues**:
  - Inadequate law enforcement and judicial response.
  - Lack of aggregated data in capturing Trafficking cases
  - lack of access to adequate shelter and comprehensive support services for victims of human trafficking
3. This report is to provide information on the situation of human trafficking with the above themes and provide key recommendations to improve coordination mechanisms on countering the human trafficking situation in Kenya
4. Kenya has previously been reviewed thrice by the Universal Periodic Review and has received key recommendations on the above themes.

## Introduction:

5. Human trafficking in Kenya is a growing concern, fueled by poverty, unemployment, and weak legal frameworks. Victims, including women, children, and young men, are trafficked both internally and across borders for forced labor, domestic servitude, sexual exploitation, and even forced begging. Vulnerable groups are often lured with promises of education or employment but end up trapped in exploitative conditions<sup>1</sup>. Trafficking networks exploit weaknesses in law enforcement and border control, and Kenya's proximity to conflict-ridden regions exacerbates the issue by increasing refugee vulnerability. Kenya is classified as a Tier 2 country, indicating efforts to combat trafficking but falling short of minimum standards for elimination<sup>2</sup>.

6. Labor trafficking, particularly of migrant workers, is a critical issue, with Kenyan citizens exploited both domestically and abroad, especially in Gulf states and Southeast Asia. Victims face harsh conditions such as non-payment of wages, physical abuse, passport confiscation, and excessive working hours<sup>3</sup>

7. The government's capacity to provide adequate protection services, especially for adult victims, is limited, relying heavily on civil society organizations without sufficient governmental support. Corruption and official complicity further hinder anti-trafficking efforts, with law enforcement and judicial officials often accepting bribes to protect traffickers (UNODC, 2023)<sup>4</sup>.

8. Prosecution of trafficking crimes is problematic, with a decrease in investigations and prosecutions. Many cases are misclassified or lack sufficient evidence to proceed, and the legal framework allows fines instead of imprisonment for sex trafficking, which is not commensurate with other serious crimes like rape.

9. The absence of a centralized law enforcement data collection system hampers accurate reporting and interagency coordination<sup>5</sup>. Victim services are critically underfunded and underdeveloped. The government relies on NGOs to provide essential services, as it does not operate shelters for trafficking victims.

10. The National Assistance Trust Fund's supposed to assist in disbursement of resources necessary to meet the needs of victims, particularly for long-term housing and specialized services for adult women, male and girls and boys, returning migrant workers, reintegration and victims support is significantly underfunded.

11. While Kenya has strong anti-trafficking laws on paper, implementation remains weak. Corruption, lack of resources, and inadequate training for law enforcement and judicial officials continue to hinder effective enforcement.

12. Kenya's position as a hub for migration makes it vulnerable to both internal and cross-border trafficking, particularly involving neighboring countries like Ethiopia, Uganda, Tanzania, and Somalia. Laws addressing cross-border trafficking need further strengthening, including better regional cooperation.

## Summary of the Issues:

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<sup>1</sup> IOM. (2019). *Migration in Kenya: A country profile 2018*. <https://publications.iom.int/books/migration-kenya-country-profile-2018>

<sup>2</sup> TIP report 2024-<https://www.state.gov/reports/2024-trafficking-in-persons-report/kenya/>

<sup>3</sup><https://www.state.gov/reports/2024-trafficking-in-persons-report/>

<sup>4</sup> UNODC TIP 2023-<https://www.unodc.org/unodc/en/press/releases/2023/January/global-report-on-trafficking-in-persons-2022.html>

<sup>5</sup> Human rights Watch 2024-<https://www.hrw.org/world-report/2024>

### **Issue 1: Inadequate law enforcement and judicial response:**

13. Inadequate law enforcement and judicial response significantly hinders efforts to combat human trafficking in Kenya, exacerbating the problem in several ways like, Poor investigation and prosecution of human trafficking cases. This can be compounded, by several factors that include but not limited to, Lack of awareness amongst judicial officer and law enforcement agencies on the CTIP Act 2010 and inadequate Resources and Infrastructure to effectively investigate trafficking cases

14. The issue has been static, with little changes since 2021, from the composition and allocation of resources to efforts towards countering trafficking cases in Kenya. There are 32 persons in the special unit tasked in combating Trans Organized Crime, with little knowledge among judicial officers and law enforcement agencies on Counter Trafficking Act of 2010.

15. The net effect of limited support and response among law enforcement agencies in the fight against human trafficking, leads to, Limited Legal Precedents, Lack of enough jurisprudence to reference emerging TIP trends, Minimum penalty for cases of human trafficking, Dismissal of cases due to wrong charges or insufficient evidence and delayed and denied justice to victims

16. The use of alternative legislation to prosecute trafficking cases characterized by inadequate resources and infrastructure has limited efforts to counter trafficking. This has subsequently led to limited jurisprudence, dismissal of charges and delayed justice for victims of trafficking.

### **Laws and Policies:**

17. Kenya has enacted laws and policies that are more explicitly on human trafficking. The Counter-Trafficking in Persons Act, 2010 Kenya's principal law on human trafficking. It was enacted in 2010 and came into force in 2012. The Act defines human trafficking, sets out punishments for traffickers, and provides protections for victims, however, the act is currently under review.

18. The Act represented a major legal step in aligning Kenya's laws with international frameworks, including the UN *Palermo Protocol* on trafficking. However, its implementation has faced challenges due to inadequate resources and insufficient training for law enforcement.

19. The Convention on the Elimination of All Forms of Discrimination Against Women (**CEDAW**), Article 6, United Nations Conventions on the rights of the child (UNCRC), Article 35 and the Kenyan Constitution Article: 28, 29, 39, 53(d) in parallel with the Counter-Trafficking in Persons Act 2010: Articles 3, 4, 13, 14, 15 give credence to law on how to handle trafficking cases. The Universal Declaration of Human Rights (UDHR): Articles 4, 5, Children's Act 2022, Article 18 and the Witness Protection Act 2008 form the basis in law to adjudicate on trafficking matters in Kenya.

20. National Plan of Action for Combating Human Trafficking (2013–2017, and 2019–2023) The *National Plan of Action* (NPA) is a policy tool designed to guide Kenya's efforts in counter-trafficking. The first NPA (2013-2017) focused on prevention, victim protection, and capacity building. The second NPA (2019–2023) aimed to build on previous successes while addressing emerging issues like cross-border trafficking and technological exploitation.

21. The NPAs serve as a blueprint for multi-sectoral collaboration and have guided Kenya's national and regional anti-trafficking initiatives.

22. Kenya has an elaborate law that protects victims of trafficking. The victims protections act of 2014 was introduced to provide legal protections for victims of crime, including trafficking victims. It establishes measures for the protection of victims' rights, such as the right to privacy, restitution, and

compensation. The *Victim Protection Act 2014* enhanced protections for trafficking survivors, making it easier for them to participate in the prosecution of traffickers without fear of reprisal.

23. In addition Kenya has a *Witness Protection Act of 2006* which provides for the protection of witnesses in criminal cases such as trafficking in persons and other proceedings, guided by the Witness Protection Agency to manage the operationalization of this Act.

### **Legal and Jurisprudential Developments:**

24. Kenya has made significant strides in the legal and jurisprudential development of counter-trafficking efforts over the past decade. These advancements reflect a growing recognition of human trafficking as a serious crime and human rights violation. Notable milestones in Kenya's legal framework and notable jurisprudential developments related to combating human trafficking have been achieved.

**25. Case Law on Human Trafficking, AO (a child) v. The Republic of Kenya (2016):** The court made a ruling in favor of a child who had been trafficked for the purposes of sexual exploitation. The judgment reinforced the need for courts to provide reparations to victims and affirmed the rights of child trafficking survivors under both the *Counter-Trafficking in Persons Act* and the *Children's Act 2001*.

**26. Case Law on Human Trafficking, Republic v. Hussein Suleiman Ibrahim & Another (2018)** In this case, the accused were charged with trafficking a child from Tanzania to Kenya for domestic servitude. The court found them guilty under the *Counter-Trafficking in Persons Act* and imposed significant sentences. This case was seen as a critical moment in demonstrating that Kenya's judiciary is willing to apply stringent anti-trafficking laws.

**27. Case Law on Human Trafficking, Republic v. DSA & JAA (2021):** In this case, the accused were convicted of trafficking women for purposes of sexual exploitation. The court's decision emphasized the need to treat victims as witnesses and participants in the justice process rather than criminalizing them, further underscoring the jurisprudential evolution in Kenya's handling of trafficking cases.

### **Progress Since Last Review:**

28. Progress has been gradual from the last process, with notable strides of reviewing the CTIP Act 2010, together with streamlining of SOPs on investigation and prosecution of trafficking in persons. Transnational Referral Guidelines have been developed and Data Protection Act 2019 becoming operational.

29. The National plan of action on online child sexual exploitation (2022-2026) and the National plan of action on combating human trafficking (2022-2027) have been enshrined in policy to guide national strategies to counter trafficking. The Children's Act 2022 was signed into law and the Employment Act 2007 is under review. More resources have been allocated to increase training of law enforcement officers.

30. Kenya is a member of the East African Community, which has been working on regional anti-trafficking initiatives. In 2018, the East African Legislative Assembly passed the *Anti-Trafficking in Persons Bill*, designed to harmonize counter-trafficking laws across the region. Kenya's domestic laws have been influenced by these regional efforts.

31. Kenya is a signatory to international conventions such as the *UN Protocol to Prevent, Suppress and Punish Trafficking in Persons* (Palermo Protocol) and has worked with international organizations like the International Organization for Migration (IOM) to implement anti-trafficking measures.

### **Recommendations For Action:**



32. The government of Kenya should allocate more resources for training/Capacity building for Judicial and prosecution officers, and specialized law enforcement units like Anti-Human Trafficking & Child Protection Unit( AHTCPU) , and Trans Organized Crimes Unit( TOCU).

33. The government of Kenya should develop a fast-track system for trafficking cases to reduce delays in trials and ensure timely justice for victims. The system should have an enhanced and timely Implementation, monitoring and evaluation framework to assess the effectiveness of the judiciary and other law enforcement officers in handling trafficking cases and promote accountability and transparency.

34. The Government of Kenya through the CTIP and advisory council should work closely with the National council for administration of justice ( NCAJ) to develop and review the legal framework to enhance restitution, penalty and fines for traffickers.

35. The Government of Kenya, through the counter trafficking in person secretariat, should mechanize National Referral Mechanisms and increase funding to National Assistance Trust Fund (NATF) to enhance coordination and resourcing efforts across all agencies and actors in the sector.

36. The Government of Kenya , through the counter trafficking in person secretariat, should fully implement the National Referral Mechanism (NRM) by encouraging formal referral of trafficking victims by law enforcement officials for assistance and ensuring protection services are available for all victims.

37. The State should Establish shelters and/or rescue centers in Counties with high prevalence of Human trafficking, dedicated for trafficking victims to receive specialized care including safe refuge.

38. The State should Work with its neighboring state parties to strengthen cross-border management and enforcement of relevant laws to combat cross-border trafficking of children.

39. The State should Ratify the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography to strengthen and harmonize existing national laws and policies.

## **Issue No 2:Lack of aggregated data in capturing Trafficking cases:**

40. Lack of comprehensive, reliable, and aggregated data on human trafficking cases in Kenya, resulting in an incomplete understanding of the scope, trends, and patterns of trafficking.

41. Despite the introduction of screening tools, most of the details are not captured in the national or foreign statistics on matters of human trafficking. Weak data collection systems across government agencies, law enforcement, and civil society organizations, occasion this deficiency and lack of a centralized system to capture trafficking cases, that is available to law enforcement agencies, state departments and judicial system administrators.

42. Kenya recorded 201 victims in (2023-2024) compared to 556 in (2021-2022)<sup>6</sup> Of these, 17 were captured under labor exploitation, 55 in sex exploitation and 129 in unspecified forms. This collation of data was devoid of aggregation to persons living with disability, age, gender and Nationality, crucial for policy making and resource allocation. This data could derive trafficking patterns to help counter trafficking cases.

43. Increased cases of exploitation of persons living with disability for forced begging in the streets, from Tanzania were not properly captured . Minors being exploited for sex and forced labor were on the rise and foreign nationals in *mujra* (sexual exploitation in the form of dance) especially from India, Pakistan and

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<sup>6</sup>2024 TIP Report for Kenya-<https://www.state.gov/reports/2024-trafficking-in-persons-report/kenya/>

Nepal, were often documented for immigration or commercial sex offenses and either detained or repatriated.

### **Laws and Policies:**

44. Kenyan laws protect data documentation under the *Data Protection Act 2019* that gives effect to Article 31(c) and (d) of the Constitution of Kenya ensuring the right to privacy. Several principles of data documentation including; Data Minimization; Accuracy; Storage Limitation; Design and Default in regards to retention, transfer, sensitivity are managed under the Data Protection Authority, office of the data protection commissioner (ODPC).

45. The *Vulnerable Persons Act 2022*, *Victim Protection Act of 2014*, *Children Act 2022* and *Witness Protection Act 2006* provides protection to vulnerable individuals including victims of crime and abuse of power. Children are considered as vulnerable persons in the *Children of Act 2022*.

### **Progress Since Last Review:**

46. There has been significant development of Acts such as the enactment of *Children Act 2022*, the *Vulnerable Persons Act 2022* that relate to how data for the victims should be captured. The National Referral Mechanism and Standard Operating Procedures (SOPs) has provided for screening tools and victim identification, referral and support, to enhance protection and prosecution of trafficking cases.

### **Recommendations For Action:**

47. The government of Kenya through the counter trafficking in person secretariat, should set up a data management system on human trafficking and integrate it to other existing systems within the enforcement agencies like Child Protection Information System (CPIMS) to capture aggregated data in matters of child trafficking.

48. The Government of Kenya through, The Counter Trafficking In Person Secretariat should have its own system to document at local and regional level aggregated data in order to support data-driven, decision making processes on trafficking cases. The platform should allow law enforcement agencies and other stakeholders to share data regarding protection and prosecution for better victim support and conviction of traffickers.

### **Issue No 3: Lack of access to adequate shelter and comprehensive support services for victims of human trafficking.**

49. Inadequate shelter and support services for victims in Kenya and abroad have compounded the component of victim protection. Kenya has no government shelter institution that is operational and one is still under renovation in Nairobi and 5 drop in centers in Garissa, Kisumu, Machakos, Nairobi and Thika. Another was yet to be established in Saudi Arabia and none of these measures have any documentation of having offered protection services to victims.

50. Predominantly, shelter services have been offered by Civil Society Organizations CSOs with little support from the existing National Assistance Trust Fund to complement care services to victims in offering basic needs, psychosocial support, medical, economic empowerment, repatriation and reintegration.

51. The National Referral Mechanism (NRM) has not been fully scaled beyond 13 Counties and embraced by other duty bearers since 2016, to offer the necessary pathways in giving adequate protection to victims. In most cases where shelter services lack, they are often placed in police stations causing further retraumatization.



52. The National Assistance Trust Fund which has a mandate to offer support to care services for victims has been underfunded albeit an improvement from 2022 to 2023 from USD 50,000 to close to USD 150,000.

53. There lacks adequate shelter care services to adult male and boys offered by CSO's and dire need to persons living with disabilities, whose needs often require more resources. Increased cases of forced begging by persons living with disability as a new form of trafficking, have left law enforcement agencies with limited options to offer care services.

54. Minimum standard operating procedures in shelter care services are yet to be harmonized across shelter care givers and more capacity training is still a gap to realizing quality care services for victims.

55. Victims of trafficking abroad are often on the blind side of where to get support, given there are very few labor *Attaches* and sparse locations of Kenyan Embassy or consulate services, to give immediate and adequate protection. The National Employment Authority (NEA) has a designated hotline whose accessibility to abroad victims remains a challenge.

56. Lack of shelter care and support services often lead to further trauma for victims and increase the risk of re-trafficking and could affect victim cooperation with law enforcement agencies, in building a solid case for traffickers. It also leads to long struggles of recovery and reintegration into society, impacting their physical and mental health, education, and employment opportunities.

### **Laws and Policies:**

57. The *Counter-Trafficking in Persons Act, 2010*, *The Children's Act 2022*, *The Victim Protection Act, 2014*, *Witness Protection Act 2006* and the overarching Kenyan Constitution *Chapter Four* with significance to the *Bill of Rights* is integral to offer protection and giving justice to victims in Kenya and abroad.

58. The National Referral Mechanism (NRM) for Trafficking Victims, National Plan of Action (NPA) of (2023-2027) are some of the policy strategies that provide the framework aimed at preventing, prosecuting, protecting and partnering to combat trafficking.

59. The United Nations Humans Rights Palermo Protocol adopted by the United Nations General Assembly which Kenya has adopted and ratified forms part of the international legal framework that guides to prevent, suppress and punish trafficking in persons especially women and children.

### **Progress Since Last Review:**

60. The government of Kenya , through the Ministry of State Department for Gender and Affirmative Action, has come up with a 2023-2027 Strategic Plan to curb domestic violence and offer protection to survivors of other forms of human rights violations. It emphasizes on prevention interventions and holistic support through a multi-sectoral approach among government and non-government actors.

61. The government of Kenya approved and allocated a budgetary expenditure of USD 2 Million and USD 430,000, in the fiscal year of 2022-2023 (*Source-Budget and Appropriations Committee and Ministry Of Labor*) for construction of safe shelter in Saudi Arabia. However, these efforts are yet to become a reality.

### **Recommendations For Action:**

63. The Government of Kenya through the State Department For Gender and Affirmative Action in the Ministry Of Gender, Culture, The Arts and Heritage, should Increase the number and capacity of dedicated

care services and shelters for trafficked victims, particularly in under-served regions, to provide safe and secure shelter for victims.

59. Government of Kenya to allocate more budget to build its own shelters and offer support services

64. The government of Kenya should Strengthen partnerships with NGOs, CSOs, and international donors and partners to enhance victim care and shelter services to accentuate protection for victims.

65 The Government of Kenya should deliberately enhance standardized guidelines for shelters and service providers, in ensuring a victim-centered and trauma-informed approach to care and support.

66. The Government of Kenya should ensure adequate capacity development of shelter staff and service providers in trauma-informed care, psychological first aid, legal assistance, and social reintegration for victims.

67. The Government of Kenya should accelerate on awareness campaigns and sensitization programs to educate the public especially those at risk or have been trafficked using local administration framework, learning, media and religious institutions of the care services and reintegration support for a holistic recovery of survivors.

68. The Government of Kenya should support services to ensure they meet the needs of trafficking victims and adhere to national and international human rights based approach standards.

#### List of organizations and Partners

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