

**UNIVERSAL PERIODIC REVIEW**  
**THEME: ECONOMIC, SOCIAL AND CULTURAL RIGHTS**  
**MENTAL HEALTH RIGHTS CLUSTER**

Universal Periodic Review 4th Cycle of Kenya

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**SUBMITTED BY; Talk It Out CBO in collaboration with the following organizations:**

- EACHRights
- Kenya Legal and Ethical Issues Network on HIV and AIDS (KELIN)
- Umande Trust
- MICOP Kenya
- Global Initiative
- Health Rights Advocacy Forum (HERAF)
- LVCT Health
- Hakijamii – ESRC
- Afyafrika
- Feminist for Peace Rights and Justice Centre
- Health NGOS Network (HENNET)
- Voluntary Services Organization (VSO)
- Coalition Action for Preventive Mental Health (CAPMHK)

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## **THEMATIC CLUSTER: ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

### **SUB THEME: MENTAL HEALTH RIGHTS**

#### **ISSUES: GAPS IN MENTAL HEALTH SERVICE DELIVERY**

##### **1.0 BACKGROUND AND INTRODUCTION**

1. Kenya faces significant gaps in mental health service delivery at the national, county, and community levels. These gaps include; inadequate resources allocation, shortage of specialized mental health professional, problematic clauses such as Section 226 of the Penal Code that criminalizes attempted suicide, widespread stigma associated with mental illness and conditions, partial implementation of the Mental Health (Amendment) Act, 2022, and the Kenya Mental Health Policy (2015-2030) limit access to quality mental health services. These obstacles deter mental health patients from seeking help and perpetuates the cycle of inadequate care and poor mental health outcomes across the country.
2. There's inadequate resource allocation for mental health in Kenya. The current mental health allocation is 0.01% of the national health budget. Consequently, Kenyans have been forced into poverty due to out-of-pocket payments for mental healthcare services. The amount of money that ought to be spent on mental health is USD 1.16 per capita but Kenya is spending USD 0.0012<sup>1</sup>. Additionally, inadequate national health budget allocation that falls short of the recommended WHO guidelines and Abuja Declaration recommendations of 5% and 15% also affected mental health financing. In the 2022/23 budget, the health sector at the national level was allocated a total of USD 951302129.28 – 3.69% of the total budget and 0.97% of GDP.
3. Kenya's legal and policy framework for mental health is anchored in the Constitution of Kenya, which, under Article 43(1)(a), guarantees the right to the highest attainable standard of physical and mental health. The Constitution prohibits discrimination based on health status and disability, while Article 54 specifically protects the rights of persons with disabilities, including mental health conditions. The Mental Health (Amendment) Act 2022 further enhances this framework by strengthening patient rights and improving access to care.
4. The Kenya Mental Health Action Plan 2021-2025 also outlines strategic priorities to address gaps in mental health service delivery, including integration of mental health into primary healthcare and community-based services. Internationally, Kenya aligns its mental health policies with SDG 3, which promotes mental well-being and access to universal healthcare. The Convention on the Rights of Persons with Disabilities (CRPD) is also embedded in Kenya's Constitution, emphasizing accessibility for individuals with mental health disabilities.
5. During the 3<sup>rd</sup> UPR cycle review in January 2020, the state of Kenya received the following recommendation related to mental health right Recommendation (6.27 Ecuador) Finalize the adoption processes of the draft bills on children, mental health, and persons with disabilities, and consider ratifying the Optional Protocol to the Convention on the Rights of Persons with Disabilities. Kenya has made significant progress in mental health. The National Mental Health

Action Plan 2021-2025, Revised Mental Health Act in 2023, National Clinical Guidelines for the Management of Common Mental Health Disorders have been formulated.

6. There have been legal efforts to decriminalize attempted suicide, with the Kenya National Commission on Human Rights and other organizations advocating for the removal of Section 226 of the Penal Code. KNCHR launched a petition to decriminalize attempted suicide. *HCCHR Petition E045/2022 Kenya Psychiatric Association and Kenya National Commission on Human Rights & 1 other VS Coalition Action for Preventative Mental Health Kenya & Ministry of Health and 2 Others* The Office of the Director of Public Prosecutions (ODPP) has also taken steps in this direction by encouraging treatment and counseling rather than punitive measures for individuals charged with attempted suicide. The ODPP in Moyale Law Courts ordered treatment/counseling for the accused who had been charged with the offense of attempted suicide contrary to section 226 of the Penal Code Cap 63

## **2.0 ISSUE ANALYSIS AND RECOMMENDATIONS**

### **ISSUE 1: INADEQUATE RESOURCES ALLOCATION FOR MENTAL HEALTH**

1. There's inadequate resource allocation for mental health in Kenya. The current mental health allocation is 0.01% of the national health budget. Consequently, Kenyans have been forced into poverty due to out-of-pocket payments for mental healthcare services. The amount of money that ought to be spent on mental health is USD 1.16 per capita but Kenya is spending USD 0.0012<sup>ii</sup>. The National Health Insurance Fund does not offer comprehensive cover to mental health patients and is discriminatory. The proposed Social Health Insurance Benefits Package does not include coverage for severe mental health conditions requiring specialized, inpatient care, or long-term institutional care<sup>iii</sup>. It also excludes high-cost interventions and treatments for complex psychiatric disorders that necessitate advanced medical facilities and continuous care<sup>1</sup>. The funding for mental health interventions remains low, with poor infrastructure.

#### **Recommendation:**

7. The Government should increase mental health funding and align the budgetary priorities with the recommendations of the Kenya Mental Health Action Plan (2021-2025)<sup>iv</sup>.

### **ISSUE 2: SHORTAGE OF SPECIALIZED MENTAL HEALTH PROFESSIONAL**

8. There is a shortage of specialized mental health practitioners in Kenya. The country has an estimated 100 psychiatrists, which translates to 1 psychiatrist per million people. The concentration of specialists in private practice within Nairobi reflects a broader national disparity and highlights the shortage of specialized mental health practitioners nationwide<sup>v</sup>. According to Ministry of Health (MOH) guidelines, Kenya needs 1,400 more psychiatrists, 7,000 more psychiatric nurses, and 3,000 more psychologists. Many trained mental health professionals work outside the public sector; of Kenya's 92 psychiatrists and 427 psychiatric nurses, only 36 (39%) and 187 (44%) are employed in public facilities<sup>vi</sup>. These rates are way below the globally quoted

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<sup>1</sup> Social Health Insurance Act (2023) <https://www.health.go.ke/sites/default/files/2023-11/SOCIAL%20HEALTH%20INSURANCE%20%28GENERAL%29%20REGULATIONS%20%2C2023.pdf>

minimum psychiatrist-to-patient ratio of 1:10,000 with a recommended pragmatic ratio of 1:8000 for the foreseeable future

**Recommendation:**

9. The Government should continue fast-tracking the implementation and monitoring provisions of policies including the Mental Health Policy (2015 - 2030<sup>vii</sup>) and the Mental Health Amendment Act (2022<sup>viii</sup>)

**ISSUE 3: CRIMINALIZATION OF ATTEMPTED SUICIDE**

10. The criminalization of attempted has led to increased suicide attempts, violent outbursts from untreated individuals, and a heavy economic and psychosocial burden on caregivers. Problematic clause of the Penal Code section 226, which criminalizes attempted suicide hinders patients suffering from mental health from mental health illness from seeking help. Consequently, the problematic clause has slowed efforts to design and implement effective mental health programs, as outlined by reports from the Kenya National Commission on Human Rights (KNCHR) and the Ministry of Health<sup>ix</sup>.

**Recommendation:**

11. The Government should urgently repeal section 226 of the penal code that criminalizes attempted suicide.

**ISSUE 4: Widespread Stigma associated with Mental Health Illness and Conditions in the Healthcare System.**

12. In Kenya, mental health remains an under-prioritized aspect of healthcare, accompanied by pervasive stigma and discrimination at both national and county levels<sup>x</sup>. The stigma surrounding mental health conditions, as well as the individuals who experience them and the practitioners providing care, is deeply entrenched in cultural beliefs and limited awareness. This stigmatization creates barriers to accessing treatment, undermines patients' dignity, and perpetuates misconceptions about mental illness<sup>xi</sup>. The absence of national guidelines that specifically address stigma and discrimination in mental health care exacerbates the challenges faced by individuals with mental health conditions.

**Recommendations:**

13. The Government should support public awareness campaigns to destigmatize mental health conditions and promote community-based programs supporting mental health activities

**ISSUE 5 lack of disaggregated data on prevalence of mental health illness and condition in Kenya**

14. There is a lack of concerted efforts to improve disaggregated data collection and analysis, ensuring that mental health policies are evidence-based and tailored to the diverse needs of the population, as emphasized by the World Health Organization's recommendations on mental health data collection<sup>xii</sup>. Challenges in understanding the specific needs, distribution, and prevalence of mental health conditions across different demographic groups and regions. A one-size-fits-all approach to mental health interventions often fails to address the unique circumstances of various populations.

**Recommendation**

15. The Government should establish a digital health information system and research and monitoring and evaluation framework to strengthen mental health data management, and a national survey to establish disease burden and gaps

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- <sup>i</sup> <https://www.knchr.org/Articles/ArtMID/2432/ArticleID/1171/Press-Release-The-World-Mental-Health-Day-%E2%80%9CMental-Health-Is-a-Universal-Human-Right%E2%80%9D>
- <sup>ii</sup> <https://www.knchr.org/Articles/ArtMID/2432/ArticleID/1171/Press-Release-The-World-Mental-Health-Day-%E2%80%9CMental-Health-Is-a-Universal-Human-Right%E2%80%9D>
- <sup>iii</sup> Social Health Insurance Act (2023) <https://www.health.go.ke/sites/default/files/2023-11/SOCIAL%20HEALTH%20INSURANCE%20%28GENERAL%29%20REGULATIONS%20%2C2023.pdf>
- <sup>iv</sup> <https://mental.health.go.ke/download/kenya-mental-health-action-plan-2021-2025/>
- <sup>v</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9930675/>
- <sup>vi</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9930675/>
- <sup>vii</sup> <https://mental.health.go.ke/download/kenya-mental-health-policy-2015-2030/>
- <sup>viii</sup> [https://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/2022/TheMentalHealth\\_Amendment\\_Act\\_2022.pdf](https://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/2022/TheMentalHealth_Amendment_Act_2022.pdf)
- <sup>ix</sup> <https://guidelines.health.go.ke:8000/media/SUICIDE-PREVENTION-STRATEGY-2021-2026.pdf>
- <sup>x</sup> [https://www.knchr.org/Portals/0/EcosocReports/THE\\_%20MENTAL\\_HEALTH\\_REPORT.pdf](https://www.knchr.org/Portals/0/EcosocReports/THE_%20MENTAL_HEALTH_REPORT.pdf)
- <sup>xi</sup> <https://mental.health.go.ke/op-ed-why-we-must-end-stigma-against-mental-illnesses-and-position-mental-health-as-a-priority-agenda/>
- <sup>xii</sup> <https://documents.un.org/doc/undoc/gen/g23/177/48/pdf/g2317748.pdf>