NATIONAL VALUES & PRINCIPLES OF GOVERNANCE

AN ALTERNATIVE REPORT OF STATE COMPLIANCE ON OBLIGATIONS UNDER ARTICLE 132 (C) (I), CONSTITUTION OF KENYA 2010 ON REALIZATION OF ARTICLE 10.

Kenya National Commission on Human Rights
NATIONAL VALUES & PRINCIPLES OF GOVERNANCE

AN ALTERNATIVE REPORT OF STATE COMPLIANCE ON OBLIGATIONS UNDER ARTICLE 132 (C) (I), CONSTITUTION OF KENYA 2010 ON REALIZATION OF ARTICLE 10.

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This Report was published by:

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Cover design and layout:

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Preface

The Constitution of Kenya gives prominence to national values and principles of governance. Article 10 (2) of the Constitution provides the national values and principles of governance as follows: a) Patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people; (b) human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized; (c) good governance, integrity, transparency and accountability; and (d) sustainable development. Article 232 of the Constitution further provides for the principles that inform public service which include; high standards of professional ethics; efficient, effective and economic use of resources; responsive, prompt, effective, impartial and equitable provision of services; accountability for administrative acts; transparency and provision to the public of timely, accurate information; fair competition and merit-based appointments and promotions; public participation in policy making processes; representation of diverse communities; and affording adequate and equal opportunities for appointment, training and advancement at all levels of public service of men and women; the members of all ethnic groups; and persons with disabilities. These principles are binding on all State organs, State officers, public officers and all persons whenever any of them applies, or interprets, the Constitution; enacts, applies or interprets any law; or makes or implements public policy decisions.

Article 132(1) (c) (i) of the Constitution provides that the President shall once every year report, in an address to the nation, on all measures taken and the progress achieved in the realization of national values. This report must be published in the Kenya gazette and further be submitted to the National Assembly for debate. In discharging this function, the President may request the respective constitutional commissions to undertake a survey, compile and forward the report to him for further action. This report is intended to provide valuable information to the President for consideration towards the realization of national values and principles of governance.
The Kenya National Commission on Human Rights (KNCHR) is an independent National Human Rights Institution with ‘A status’ accreditation. The Commission was originally a statutory body established under the KNCHR Act of 2003. With the promulgation of the 2010 Constitution, the Commission was re-established under Article 59 (4) of the 2010 Constitution and for that reason, enjoys constitutional protection as a Constitutional Commission. Pursuant to the KNCHR Act (No.14 of 2011), the Commission is mandated to act as the principal organ of the State in ensuring compliance with obligations under international and regional treaties and conventions relating to human rights as well national laws and policies and the protection of human rights.

KNCHR submits this alternative report on the status of the implementation of national values and principles of governance in line with its constitutional mandate under Article 254. The report highlights key achievements and challenges covering the period 2013-2015. It also provides recommendations for action by the national government, county governments and parliament. It is hoped that the report shall inform objective debate and form basis for further actions by both levels of government towards better implementation of the national values and principles.

Kagwiria Mbogori

Chairperson, KNCHR
Acknowledgements

The Kenya National Commission on Human Rights (KNCHR) would like to acknowledge and appreciate the contribution of individuals, groups and institutions that provided information towards the writing of this report.

Special thanks to the following staff of KNCHR for their contributions in the survey and subsequent writing of the report: Dr Bernard Mogesa, Mohamed Jaafar, Keith Changalwa, Maureen Mwadime, Beryl Orao, Cyrus Mawe and Ibrahim Kassim, James Mwakazi and Martin Pepela. The final report was reviewed by Patricia Nyaundi.

KNCHR is grateful to the Royal Netherlands Embassy for continued support to the program activities, part of which supported this work.
## Acronyms & Abbreviations

<table>
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<tr>
<th>Acronym</th>
<th>Full Form</th>
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<tr>
<td>CSOs</td>
<td>Civil Society Organizations</td>
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<tr>
<td>EACC</td>
<td>Ethics and Anti-Corruption Commission</td>
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<td>FDSE</td>
<td>Free Day Secondary Education Program</td>
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<tr>
<td>FPE</td>
<td>Free Primary Education Program</td>
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<tr>
<td>HRBA</td>
<td>Human Rights Based Approach</td>
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<td>GANHRI</td>
<td>Global Alliance of National Human Rights Institutions</td>
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<td>ICC</td>
<td>International Criminal Court</td>
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<td>ICT</td>
<td>Information and Communication Technology</td>
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<td>IFMIS</td>
<td>Integrated Financial Management Information System</td>
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<td>KIPPRA</td>
<td>Kenya Institute for Policy Research and Analysis</td>
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<td>KNCHR</td>
<td>Kenya National Commission on Human Rights</td>
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<td>KNTC</td>
<td>Kenya National Trading Corporation</td>
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<td>KSG</td>
<td>Kenya School of Government</td>
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<tr>
<td>MDAs</td>
<td>Ministries, Departments and Agencies</td>
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<td>NHRI</td>
<td>National Human Rights Institution</td>
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<td>SACCO</td>
<td>Savings and Credit Co-operative Organization</td>
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Executive Summary

The Kenya National Commission on Human Rights is mandated under section 8 of the KNCHR Act, 2011 (Revised 2012) to act as the principal state agency in the promotion and protection of human rights. The commission is required to ensure observance of human rights in all spheres within the republic of Kenya.

This report on the status of the implementation of National Values and Principles of Governance highlights key achievements and challenges covering the period 2013-2015. It also provides recommendations for action by the National Government, County Governments and parliament.

The report acknowledges the efforts made by the National Government in implementation of the national values and principles of governance. These include enabling legislation and policy frameworks. Most significantly, the commitment by the government towards a national human rights policy and action plan demonstrates its commitment to promoting the respect for human rights and good governance. In addition, oversight institutions are now in place to ensure the citizens are not only able to claim their rights but also play their rightful role on matters of good governance.

The report highlights a number of challenges such as lack of a public participation framework, insecurity, corruption and inadequate funding to institutions that have oversight mandates on the values and principles of governance. This report highlights the views of the citizens who had an opportunity to respond to the survey study conducted by the Commission.
PART 1: Background

On 27th August 2010, Kenya ushered in the Constitution of Kenya 2010. This has been classified as one of the most robust and progressive Constitutions in the world. It comprehensively provides for the Bill of Rights that binds all state organs and persons. The State is under an obligation to respect, protect, promote and fulfil the rights as contained in the Bill of Rights. Of equal importance are the national values and principles of governance that have now been captured in the Constitution. These values which form part of essential fundamental beliefs help in guiding decision-making, the actions and behaviour of citizens and to a great extent influence the relationship between citizens. Engagement between communities in the country borrows a lot from these values and principles. It is true that these values and principles focus on engraving the spirit of nationalism and promotion of corporate rather than individual interests. Kenya Vision 2030 and the national development agenda in general are anchored on these national values and principles under which the two development agenda can thrive.

The State is also under obligation to give an annual status report on steps taken to realize these values and principles. This was informed by Kenya’s past history of poor leadership and bad governance by successive regimes especially in public service. Chapter II of the Kenyan Constitution, sought to define and provide for
an identity of the nation and quite importantly, propose the values and tenets that ought to be upheld and observed in governance. The law further lays down a framework through which these values and principles can be realized. This report provides a brief summary on how the State has met its obligations in ensuring observance and implementation of these values and principles.

**Justification**

Article 132 Constitution of Kenya is instructive. The President is obliged during the state of nation address to table a report detailing all measures undertaken and the progress made in actualizing the national values and principles enshrined under Article 10. This report must be published in the Kenya gazette and further be submitted to the National Assembly for debate. In discharging this function, the President is usually guided by reports and presentations made through the various institutions of government including the respective constitutional commission who undertake a survey, compile and forward the report to him for further action.

In the same vein, the Constitution provides for the general powers and functions of all constitutional commissions. Under the reporting requirements at Article 254, Constitutional Commissions are obliged to submit a report on a particular issue of concern upon request by the President, National Assembly or Senate or on its own motion. It is in this regard that the KNCHR undertook a survey to determine the status of compliance with national values and principles of governance in public service. The survey sought to determine the steps made since the promulgation of the Constitution in 2010. Further to this, the report focuses on the efforts and commitments by the state to fulfil its obligations between the period 2013 and 2015.
PART 2: Introduction

The Kenya National Commission on Human Rights (the Commission or KNCHR) is an independent National Human Rights Institution (NHRI) established under Article 59(1) as read with Article 59(4) of the Constitution of Kenya, 2010 and the Kenya National Commission on Human Rights Act No. 14 of 2011 (Revised 2012). The Commission has two broad mandates: to advise and support state and non-state actors to discharge their obligation to respect, promote and fulfill human rights and to play a watchdog role over the various government organs with respect to human rights in the Republic of Kenya. The functions of the Commission as provided for under Section 8 of the KNCHR Act, 2011 are to:

a) promote respect for human rights and develop a culture of human rights in the Republic;
b) promote the protection and observance of human rights in public and private institutions;
c) monitor, investigate and report on the observance of human rights in all spheres of life in the Republic;
d) receive and investigate complaints about alleged abuses of human rights, except those relating to the violation of the principle of equality and freedom from discriminations under the gender and equality commission, and take steps to secure appropriate redress where human rights have been violated;
e) on its own initiative or on the basis of complaints investigate or research matter in respect of human rights, and make recommendations to improve the functioning of State organs;
f) act as the principal organ of the State in ensuring compliance with obligations under international and regional treaties and conventions relating to human rights except those that relate to the rights of special interest groups protected under the law relating to equality and non-discrimination;
g) formulate, implement and oversee programmes intended to raise public awareness of the rights and obligations of a citizen under the Constitution;

h) work with the National Gender and Equality Commission and the Commission on Administrative Justice to ensure efficiency, effectiveness and complementarity in their activities and to establish mechanisms for referrals and collaboration;

i) perform such other functions as the Commission may consider necessary for the promotion and protection of human rights; and

j) perform such other functions as may be prescribed by the Constitution and any other written law.

The Commission enjoys the ‘A status’ accreditation by the Global Alliance of National Human Rights Institutions (GANHRI).

The Kenya National Commission on Human Rights (KNCHR) prepares and submits this report in fulfilment of its obligation to ensure observance of human rights by both private and public sectors. National values and Principles of Governance affect the rights of citizens. In General Comment number 12 on the Right to Adequate Food, the Committee on Economic, Social and Cultural Rights observed that “good governance is essential to the realization of human rights….”. The Bill of Rights cannot be comprehensively addressed if national values and principles of governance are wished away. Due to the close link between good governance and realization of human rights, the Commission monitors State compliance in implementation of these values and principles.

KNCHR presents this report to the Presidency in order to highlight the progress made as well as the challenges experienced in the realization of National Values and Principle of Governance and fulfilment of the international obligations of the Republic of Kenya as provided for in Article 132 (1) (c) (i) (iii) of the Constitution.

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Objective of the Report

The report is the culmination of a survey that targeted Kenyans from all walks of life who gave their views and observations on how the government was implementing the national values and principles of governance. It is hoped that this report will add value to the effort by the government in fulfilling its obligations as provided under Article 132. Further this report seeks to identify key areas that have not supported the achievement of the national values and makes appropriate recommendations for improvement.

Legal Framework

The Constitution of Kenya 2010 enlists national values and principles of governance as one of the major facets under which the nation is founded. The preamble of the Constitution espouses the aspirations of all Kenyans to have a government that is anchored on essential values of human rights, equality, freedom, democracy, social justice and the rule of law. The Constitution further identifies Kenya as a sovereign Republic, a multi-party democratic state that is founded and rests on national values and principles of governance².

The Constitution further specifically provides these values and principles of governance under Article 10 as follows;

10. (1) the national values and principles of governance in this Article bind all State organs, State officers, public officers and all persons whenever any of them -

(a) Applies or interprets this Constitution;

(b) Enacts, applies or interprets any law; or

(c) Makes or implements public policy decisions.

(2) The national values and principles of governance include -

²Article 4, Constitution of Kenya 2010
(a) Patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people;

(b) Human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalised;

(c) Good governance, integrity, transparency and accountability; and

(d) Sustainable development.

These values and principles bind all State Organs, State Officers, Public Officers and all other persons in interpretation of the Constitution, enacting and or interpreting any law; and implementing public policies and decisions.

The Constitution also obliges the State through the President to give annual status report with regard to these values and principles. This is provided for in Article 132 (1) c). Specifically, it is a compulsory requirement that the President reports, in an address to the nation, on all compliance measures taken and the progress achieved in realization of the national values and principles and consequently publicize this in the Kenya Gazette. The President is also required to report on the progress in implementation of Kenya’s international obligations. This necessitates the release of an annual Status Report in compliance with these constitutional requirements.

The Constitution also requires that the Public Service Commission should promote national values and principles of governance. Further, the Commission should evaluate and report to the President and Parliament on the extent to which these values and principles have been complied with in the public service. This informs a ground under which the Commission is brought to account on the efforts harnessed into implementing the values and principles.

The Independent Commissions are also seized with the responsibility of securing the observance of the values and principles by all State Organs. Appointment into the Commissions must also take into account the provisions.
The Cabinet has approved the Sessional Paper on National Values and Principles of Governance that is now awaiting discussion in Parliament. Among other things, the policy requires that public institutions make reports which shall include assessment of the promotion and practice of values, measures taken, progress achieved and identification of any challenges encountered. This policy provides broad goals, objectives and guidelines to government, non-state actors and citizens to develop action plans to mainstream National Values and Principles of Governance, as provided in the Constitution, into their programmes and activities, and ultimately ensure that the values become a way of life for the Kenyan people.

The policy provides a framework for fostering national unity, inculcating patriotism, redressing marginalization, and promotion of an accountable and democratic Kenyan society. It is meant to ensure equitable distribution of resources and opportunities, and promote and protect the objects of devolution as enshrined in the Constitution. If adopted by parliament, the policy will provide a clear guideline on how the State should respond in implementation of the values and principles.

The National Values & Principles of Governance: Progress in Implementation

In the 2013 Presidential Inaugural Report on measures taken and progress achieved in the realization of national values and principles of governance, the Government highlighted seven (7) major areas of focus which were delegated to Ministries, Departments and Agencies (MDAs) and which were to be a working plan for the year 2014. The areas identified included:

1. Monitoring full implementation of the Constitution

2. Training, sensitizing and civic education on national values and principles of governance.

Sessional Paper No.8 of 2013

3. Conducting of Baseline Survey on the Status of National Values

4. Fast-tracking the policies on National Values and Principles of Governance and National Cohesion and Integration.

5. Entrenching national values in performance management systems

6. Developing and implementing an educational curriculum on national values and principles of governance

7. Undertaking forensic audit of legislation, policies and institutional frameworks to ensure adherence to Article 10 of the Constitution.

**Article 10 (2) (a): Patriotism, National Unity, the Rule of Law, Democracy & Participation of the People**

National Unity, Patriotism, the Rule of Law and Peoples’ Participation are critical in fostering state development. Without the State meeting its obligations to operationalize these values, peaceful co-existence may be unrealistic. Kenya has made tremendous steps to implement these values. To start with, The Heroes Act, 2014 has been enacted. This is meant to provide for the recognition of heroes, establish criteria for the identification, selection and honouring of national heroes, to provide for the categories of heroes, and for the establishment of the National Heroes Council. In addition, the National Honours Act\(^8\) has been enacted to provide mechanisms under which the President can confer such honours to deserving citizens.\(^9\)

The government has also embarked on police reforms. The various police departments that form the National Police Service play a critical role in promoting National Unity and the rule of Law. The Police are the most visible representative of the state and by extension, the attitudes that are exhibited by the Police in any jurisdiction are the same attitudes that the state is assumed to possess. Good

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\(^8\)Act Number 11 of2013
\(^9\)Article 132(4)(c) of The Constitution 2010 empowers the President to confer honours in the name of the people and the Republic.
organizational and command structure in the police service is necessary.

The Government has reviewed The National Cohesion and Integration Act\textsuperscript{10}, whose main object is to promote national cohesion and integration by outlawing discrimination on ethnic grounds to enhance its enforcement and compliance mechanisms especially in the promotion of national unity.

Through the Ministry of Interior and Coordination of National Government, the Government has made a series of strides to promote national unity. Among the many approaches used, the Government has spear-headed the implementation of National Integration and Cohesion Policy. The policy provides a guide for the promotion of national unity by all institutions and establishes a coordination framework for national unity initiatives.

Despite the efforts, the Government is facing a number of challenges in implementing these values and principles: The following are some of the challenges:

1. Increasing ethnicity and tribalism. This has, in some cases, led to eruption of tribal clashes between some communities. Exchanges between users of social media, especially on political issues, also point to an increase in ethnic intolerance amongst Kenyans.

2. Terrorism has also hampered efforts to ensure patriotism and national unity. Repeated terrorist attacks are dividing the Country along ethnic and religious lines. The narrative being created has been seen to focus on the terrorism menace being supported by Muslim Fundamentalists. Media reports have continuously reported on an increase in the levels of distrust between the Muslims and the Non- Muslims. During the reporting period, and in line with the terror menace, a lot of youth have been reported to have been conscripted into militia groups and youth radicalization are now a threat to national unity and betrayal of patriotism.

3. Inadequate implementation of policies and relevant legislations on the promotion of national identity and exercise of sovereign power.

\textsuperscript{10}Act No.12 of 2008
4. Inadequate awareness on the constitutional provisions that seek to enhance promotion of national identity and exercise of sovereign power.

5. Failure to adhere to formal guidelines for identifying and rewarding national heroes/heroines.

6. Absence of an overarching national policy (and law) to guide public participation continues to impede ‘meaningful public participation’ in public/state programs and activities. There is also a general opinion that public participation has been left as an obligation of County Governments and that it is conducted routinely to meet demands of the law.

Sharing & Devolution of Power

Devolution empowers citizens to exercise their democratic rights both at national and county levels in order to realize socio-economic development and brings services closer to the people. The Constitution identifies devolution and sharing of power as a major tool that can enhance efficient service delivery to citizens. Devolution is meant to ensure and promote democratic exercise of power and delegation of power of self-governance to the people. It is also in this context that the interests of minorities and marginalized should be addressed. Through sharing and devolution of power, it is expected that there should be promotion of socio-economic development and provision of proximate and easily accessible services to the public.\(^\text{11}\)

In order to operationalize the devolved system of government, the Ministry of Devolution and Planning brought forth various legislations that are meant to promote realization of these principles. To start with, the Transition to Devolved Governments Act, 2012, which provides a framework for the transition to devolved government was enacted in 2012. In the same year, the County Governments Act 2012\(^\text{12}\) was enacted to provide for county governments’ powers, functions and responsibilities

\(^{11}\)Article 174 of Constitution of Kenya 2010
\(^{12}\)Act no. 17 of 2012
to deliver services. The Urban Areas and Cities Act, 2011\textsuperscript{13} was also enacted to provide for the classification, governance and management of urban areas and cities. County Governments have also exercised powers to legislate in thematic areas as provided in Article 185 of the Constitution. Other critical laws that have been enacted include the Inter-governmental relations Act (2012) that gives effect to Article 6 of the Constitution, and the Public Finance Management Act (2012) which guides management of public finances at both levels of government. Apart from the laws, various institutions that promote sharing and devolution of power have been established by law and have continued to effectively, albeit amidst some challenges, execute their mandates. They include the Commission for Revenue Allocation, the Council of Governors, Summit and the Inter-Governmental Budget and economic Council.

With the great promise brought by devolution of power are a myriad of challenges that are almost negating the good intention of this form of Government. They include:

- Perception of devolution as devolved corruption. The office of the Auditor General has brought into the limelight a series of dubious projects undertaken by County Governments whose actual values have been inflated.\textsuperscript{14} Further, a number of Governors and MCAs have been cited for corruption. Embezzlement of County Funds and manipulation of the power to expend has been used for self-enrichment.

- Inadequate funding of county governments. The amount of money devolved to County Government has been argued to be too meagre to support the number of functions devolved. This has hampered development of counties because funds are not sufficient. In response to this, there is a call to increase budget allocation to counties from 15 percent of the total national government revenue to 35 percent of the revenue. In addition, county governments have

\textsuperscript{13}Act no. 13 of 2011

\textsuperscript{14}Kwale County Assembly Financial Audit report 2013/2014
complained that disbursement of funds from national treasury is inconsistent and has often been delayed. This, in essence has impeded implementation of their budgets and service delivery.

- Inefficiency of IFMIS. As part of public finance management system reforms the Government implemented the Integrated Financial Management and Information System. The system has not received support from the county governments and has been seen as a threat to devolution of power. Most County Governments find it almost impossible to run their activities because they cannot access funds allocated to them when highly needed. This slows the pace of county development.

- Poorly coordinated transfer of functions between the national and county governments. The transfer of functions to counties has been described as ‘rushed and haphazard’. The health function is given as an example. Rather than phased-out transfer that was envisaged, the process happened at once without taking into account capacity gaps in Counties. The widely held view is that transfer of functions was rushed because of the principle that “money follows functions”. So, County governments demanded for speedy transfer so that they could control more money.

- Skills deficit. Closely linked with transfer of functions is another transition issue regarding staffing of counties and ensuring that skills are aligned to county government functions. The feedback widely received indicated that a thorough skills audit did not precede transfer of staff from national government (and the defunct local authorities) to counties. In some instances, national government was accused of retaining control of its staff that had been seconded to counties and of encroaching into the functions of county governments (roads and purchase of health equipment). Counties have also been accused of duplicating the roles of national government such as construction of classrooms in primary and secondary schools, running bursary schemes etc.
Promotion of Good Governance, Transparency & Accountability

Good governance, integrity, transparency and accountability are principles of governance which provide impetus for rapid social, economic and political transformation. To ensure observance of these in both private and public sector, the Presidency issued Executive Order No.6 of 2015 on 6th March 2015. The order focuses on fostering ethics and integrity in public service. This Order requires all relevant institutions in the ethics and anti-graft war to act swiftly, without fear or favour, to detect, investigate and prosecute all perpetrators irrespective of social status. The Order majorly focuses on fighting corruption in the public sector.

Apart from the executive order, the Government has focused on the implementation of laws that touch on good governance, transparency and accountability. Among the laws enacted and being implemented include: the Leadership and Integrity Act\textsuperscript{15}, enacted pursuant to Article 80 of Constitution of Kenya 2010, the Public Officer Ethics Act 2013\textsuperscript{16} which regulates the conduct of public officers, the Ethics and Anti-Corruption Act 2011\textsuperscript{17} that address mechanisms to fight against corruption and the Public Finance Management Act 2012\textsuperscript{18} which regulates use of public finance by both national and county Government.

The government has also embraced public training to inculcate these values to state officers. For instance, in January, 2015, the EACC trained 64 integrity officers from 7 Government institutions on strategies of fighting corruption. The training targeted corruption prevention committees from Utalii College, Kenya National Trading Corporation (KNTC), Kenya School of Government (KSG), Micro and Small Enterprises Authority, Kenya Institute for Policy Research and Analysis (KIPPRA), Kenya Dairy Board and the Witness Protection Agency. In addition, the Ministry of Health in collaboration with EACC trained 108 members of staff on good governance, integrity, transparency and accountability during the year under review\textsuperscript{19}.

\textsuperscript{15}Chapter 182 Laws of Kenya
\textsuperscript{16}CAP 183 Laws of Kenya
\textsuperscript{17}Act no. 22 of 2011
\textsuperscript{18}CAP 412C
However, despite this robust move to realize these values, the Government is far from achieving this objective. Among major challenges faced include:-

a. Rampant Corruption allegations involving senior public officers. A number of Cabinet Secretaries, Principal Secretaries and other officials are reported to be under investigation for being involved in grand corruption cases.20

b. Misuse of public funds. The country has been hit by allegations on misuse of billions of shillings in many government flagship projects including; the Eurobond borrowing transactions, the National Youth Service (NYS), the Youth Development Fund. Reports of misuse of funds allocated to county officers are also very rife as contained in the Auditor General’s Report for the financial year 2014-15, among others.

c. Unethical conduct of some senior public officers. Senior Government officials have been implicated in public land grabbing across the country.

To address these challenges, the Government should;

a. Show commitment to prosecuting public officers who breach their professional code of ethics and conduct.

b. Vet public appointments in order to ensure that persons of questionable character are not appointed into leadership positions.

c. Through the Ethics and Anti-Corruption Commission (EACC) expedite investigations into allegations of corruption. Capacity building for EACC should also be enhanced to ensure that the Commission executes it mandate. This should include decentralizing the Commission structures to counties and increasing the pool of its trained staff including forensic investigators

Protection of the Bill of Rights.

Human Dignity, Equity, Social justice, Inclusiveness, Equality, Human rights, Non-discrimination and Protection of the Marginalized are core national values and principles of governance that anchor the implementation of Bill of Rights\textsuperscript{21}. By entrenching these values and national principles into governance, the State makes a milestone in its commitment to ensure that it is a human rights observing state.

To promote this, the government has embraced various short-term, medium and long-term strategies. Most notable is the enactment of the National Human Rights Policy and Action Plan that shall give an overarching framework for realization of the bill of rights, increase of budgetary allocation to the national human rights institution (KNCHR), adoption of program based budgeting that ensures allocation of resources to human rights outputs and the initiative to abolish the death penalty among others. In addition, a bill that seeks to commit governments at both levels to proactively commit resources to economic and social rights and programs to preserve human dignity is currently before the Senate. The Preservation of Human Dignity and enforcement of Economic and Social Rights Bill 2015 was introduced by Mombasa Senator Hon. Omar Hassan and has gone through the second reading.

The Office of the Attorney General and Department of Justice has, in line with Article 159 of the Constitution 2010 and Section 53 (5) of the Advocates Act 2012\textsuperscript{22} embraced application of Alternative Dispute Resolution (ADR) in conflict resolution. Entrenchment of ADR mechanisms is aimed at promoting access to justice for those who cannot afford the protracted cases in court that hamper access to justice by many poor citizens.

The Government has also enacted the Legal Aid Bill 2015 that aims at providing legal framework for provision of legal aid towards ensuring justice for all persons as stipulated under Article 48 of the Constitution relating to the right of access to justice.

\textsuperscript{21}Article 10, Constitution of Kenya 2010
\textsuperscript{22}Chapter 16 laws of Kenya
To promote inclusiveness, the government has enhanced public participation in various government processes. For instance, in police recruitment, the government through the National Police Service Commission has tried to enhance gender balance. The same case has been observed in recruitment into Kenya Defence Forces (KDF).

To promote equality and protection of the marginalized, the government has implemented a policy that 30 percent of all Government tenders should be allocated to the youth and women. Also, the policy requires that Government public appointments and recruitment should embrace ethnic balance and have a national outlook.

To enhance the promotion of human dignity, the Government facilitated the improvement of work environment for staff by specifically ensuring adequate working space for staff, efficient office cleaning services in all MDAs, improvement in the number and quality of ICT equipment and resources, establishment of customer care desks, among others. Government employees have further been advised to enrol to SACCOs which can boost their economic status.

The Beyond Zero campaigns, spear-headed by First Lady Ms Margaret Kenyatta have created a ground under which gender disparity based on marital status and access to health care by Pregnant women can be addressed. The Campaign has successfully distributed fully equipped mobile clinics to at least 34 counties.

To promote realization of the Bill of Rights on Human Dignity, Equity, Social justice, Inclusiveness, Equality, Human rights, Non-discrimination and Protection of the Marginalized, the Government through the KNCHR has addressed these issues. In the 2015 reporting year, the KNCHR received 1,908 alleged violations of various rights. Out of this number, 1,258 were on economic and social rights, 438 on civil rights and 212 on group rights.24

On equity and marginalization, the Government has laid down mechanisms to address
this. For instance, the Constitution has established the Equalization Fund (which constitutes 0.5 percent of total Government revenue to be shared by marginalized regions. Counties identified to benefit from this fund include Turkana, Mandera, Wajir, Marsabit, Samburu, West Pokot, Tana River, Narok, Kwale, Garissa, Kilifi, Taita-Taveta, Isiolo and Lamu. The Commission for Revenue Allocation has also been consistent in ensuring equitable sharing of national revenue by introducing objective criteria for the horizontal sharing.

Another positive is that government has been consistent in reporting to treaty bodies on the progress it is making in implementing its human rights obligations and adherence to international human rights instruments. In the latest Universal Periodic Review, the government accepted quite a number of recommendations and has developed a roadmap towards their implementation. This commitment augurs well for Kenya among the community of nations.

Despite the various steps taken to ensure realization of the values and principles, there are a series of challenges that are yet to be addressed:

- Realization of human dignity is yet to be fully addressed. Cases of questionable disappearance of persons who are suspected to be members of various militia/radical groups have become common. Poverty continues to be the greatest threat to human dignity. Whereas government has invested heavily on programs aimed at alleviating poverty, corruption and misappropriation of funds continue to impede these programs from realizing their objectives. Insecurity and threat of terrorism are also factors that are negatively affecting the government’s efforts at realization of human dignity. Other threats to realization of human dignity that were cited included disenfranchising of border communities and minorities. A classic example; there appears to be a different way of vetting these groups for registration and issuance of national identity cards as citizens compared with those from other regions of the Republic; extortion, harassment and illegal detention of refugees and asylum

25 Article 204, Constitution of Kenya 2010
seekers which has meted untold suffering on the victims. For example, in 2014 about 300 children were left alone in Nairobi after their parents had been forced to camps. The treatment of returnees from Uganda and integrated IDPs after 2007/2008 was also cited as government’s failure to promote human dignity and fairness.

- On equity, social justice and marginalization, most communities from arid and semi-arid areas feel that they have been left behind in the sharing of the national cake. The two thirds gender rule has not been realized. Also, the sharing of Equalization Fund has not been usefully utilized to meet the intended purpose. The recent attempt by members of the National Assembly to control management of equalization fund has also been viewed as having the potential to defeat its noble objective. In addition, while the Commission for Revenue Allocation (CRA) ensures objective and equitable sharing of national revenue among counties, the same is not replicated in counties. For example, most counties have adopted an approach to budgeting where they allocate an equal amount of money to Wards without taking into account their unique situations and needs.

The implementation of social protection schemes/safety nets that are meant to promote human dignity such as cash transfers to older members of society, disability fund, Youth Enterprise Development Fund, Women Enterprise Development Fund and other funds such as the constituency development fund (now national constituencies development fund have been riddled with corruption and other malpractices rendering them ineffective in addressing their objectives.

On realization of non-discrimination, various public appointments do not reflect the true picture of the Nation. There is lack of ethnic balance in various appointments by the Executive arm of Government. This is a view held by the public and the government needs to conduct a comprehensive audit of all jobs in the public sectors to establish the ethnic composition. Such a transparent and open approach
will rest the public debate on this issue which many a times causes acrimony among citizens and the feeling of marginalization.

**Progress made in fulfilling the International Obligations of the Republic**

The President is required under Article 132(1) c) (iii) to submit a report to the National Assembly during his annual address concerning the progress in fulfilling the Republic’s international obligations. The President has made an annual address on the State of the Nation for three years in 2014, 2015 and 2016 consecutively. An analysis of these annual reports indicates that the requirement to address progress in fulfilling international obligations was poorly addressed.

In the 2014 report, this Constitutional requirement was not addressed. The President focused on reporting about the National Values and Principles of Governance\(^{27}\). In his second address to the nation during a report presented to the National Assembly, the President spoke of Kenya’s efforts in regional peace building efforts\(^{28}\). The President took a similar approach in addressing progress of Kenya’s international obligations in his 2016 address to the nation in the National Assembly. He spoke of Kenya’s involvement in peace keeping in Africa\(^{29}\). He also talked about involvement of Kenyan medical staff in fighting the Ebola crisis in West Africa\(^{30}\). The President also spoke about Kenya hosting several international meetings in Nairobi in 2015 including WTO Ministerial Conference and the Global Entrepreneurship Summit\(^{31}\). He also indicated that Kenyan Diplomats played a pivotal role in negotiating the Sustainable Goals\(^{32}\).

Kenya is a signatory to several international treaties. Some of these treaties

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\(^{30}\) Id. at para. 174

\(^{31}\) Id. at para. 175-176

\(^{32}\) Id.
touch on the State’s human rights obligations. The State has an obligation to file reports to monitoring bodies that have been set up at the international level to monitor adherence to various treaties. These monitoring bodies have given recommendations for implementation of treaties and they monitor progress. Article 132 (1) c) (iii) requires the President to report the progress in implementation of these international treaties to the National Assembly.

There are several recommendations that have emanated from the international monitoring mechanisms. Kenya has implemented some of those recommendations and some others are yet to be implemented. One of the mechanisms that was adopted by the United Nations General Assembly is the Universal Periodic Review (UPR) process. This is the unique process of the Human Rights Council that aims to improve the human rights conditions on the ground of each of the UN Member States, Kenya being one of them. It is a comprehensive mechanism that looks at the totality of the obligations that a UN Member State has in the international arena with regards to human rights. It is a peer review mechanism, where each State’s status is reviewed by other States. The UN Member States give the State under review their recommendations towards improvement of human rights. Thereafter the State under review is required to implement the recommendations that it accepts through this process.

Kenya presented its National UPR report in 2010. This resulted in 150 recommendations to Kenya by other UN Member States. Kenya accepted 128 of these recommendations, deferred decision on 15 and did not accept 7 of them. However, upon further consultations within the State and with non-State stakeholders, the State reported that it had accepted 149 of the recommendations and declined to accept 1 which touched on decriminalizing same sex unions.

The information in the UPR process indicates that the State has made efforts to

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34Id.
37Id.
engage at the international level and it has progress reports. However, it is not clear
why current information on implementation of Kenya’s international obligations
was not included in the President’s reports to the National Assembly and address
on the State of the Nation in the years 2014, 2015 and 2016.

**Kenya’s Obligations under International Law**

International law is basically the rules and norms that govern relations between
sovereign states.\(^{38}\) It is the law made between states though its effects also affect
other entities such as persons within the states. International law aims to shape
behaviour, to prevent violations and to provide for remedies once violations occur.
Article 38 of the Statute of the International Court of Justice is a statement of
the sources of international law. It has become widely accepted as the source of
international law.

Article 38 in particular describes the following four sources:

1. International conventions and treaties that establish rules that
   States expressly recognise;

2. International custom as evidence of general practice(s) accepted
   by States as law;

3. General principles of law; and

4. Judicial decisions and the teachings of highly qualified publicists
   of various nations.

The treaty to the Rome Statute\(^{39}\) is an example of a treaty under international law.
States generally have a duty to obey international law because it is in the interest
of states to ensure stability and predictability in their relations with other states.

It is always as a form of reprocity where if a state complies with its international

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\(^{39}\)Accessed from [https://www.icc-cpi.int/nr/rdonlyres/ea9aff7-5752-4f84-be94-0a655eb30e10/0/rome_statute_english.pdf](https://www.icc-cpi.int/nr/rdonlyres/ea9aff7-5752-4f84-be94-0a655eb30e10/0/rome_statute_english.pdf) on 9/5/2016.
obligations then other (states) in similar fashion are also inclined to comply. There are always areas of mutual concern and it becomes imperative to comply for a state’s own interests and benefits. Most importantly however is the setting and observing best standards in the field of human rights and universal human values.40

The Constitution of Kenya 2010 introduced a paradigm shift on the application of international law in Kenya. During the pre-2010 Constitution era, international law had to be ratified and domesticated for it to apply as a source of law in Kenya. Presently general rules of international law (customary international law) and treaties/conventions ratified by Kenya form part of the law of Kenya under the Constitution 2010. Whereas there is contention as to whether Kenya is still a dualist or monist state41, many scholars and institutions alike have observed that the effect of Article 2 (6) is that Kenya is now a monist state.

The Constitutional Implementation commission CIC (now defunct) observed that:

This provision while recognizing that all international and regional instruments, to which Kenya is party to, form part of the laws of Kenya also has the effect of making Kenya a Monist state, which is a shift from the Dualist state which Kenya was prior to the promulgation of the Constitution 2010.42

**Rome Statute**

It is a treaty adopted in Rome Italy on 17th July 1998 which establishes the International Criminal Court. The treaty came into force on 1st July 2002 and out of the 191 states in the world, 124 states are party to the statute. It establishes the court’s structure and its functioning. The treaty came to life owing to the desire by

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41 See for instance Herman Omiti on The Monist Dualist Dilemma and the Place of International Law in the Hierarchy of Valid Norms under the Constitution of Kenya 2010 where the author seems to suggest that we may be bordering on both monism and dualism accessed from http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2099043 on 9/5/2016

the international community to have a permanently established court to deal with the four identified grave crimes; genocide, crimes against humanity, war crimes and the crime of aggression. The court was to do away with ad-hoc courts and tribunals which were established after the commission of the identified grave crimes to deal with specific cases. The crimes had been identified to be of such a nature that shocked and provoked concern from the whole world. It was a predecessor to the ICTY (International Criminal Tribunal for the former Yugoslavia) and the ICTR (International Criminal Tribunal for Rwanda). Other tribunals such as the tribunal for Sierra Leone have also been formed. The court is complementary to the member states court and only comes into action if a state is either unwilling or unable to prosecute the identified serious crimes. Kenya ratified the Rome Statute on March 15, 2005 with no reservations.

Kenya & International Law

An understanding of how treaty law such as the treaty of the Rome Statute applies is key to appreciate and understand Kenya’s predicament when it withdraws from the Rome Statute. The background on the law of treaties lies in the Vienna Convention on the Law of Treaties. The convention came into force on the 27th of January 1980. Kenya has not ratified it though it would still apply considering that its provisions have acquired customary international law status which are currently applicable in Kenya under Article 2(5) of the Constitution. The Vienna Convention

In understanding the International Criminal Court accessed from https://www.icc-cpi.int/iccdocs/PIDS/publications/UICCEng.pdf on 9/5/2016 at pg 3 it is noted;

Some of the most heinous crimes were committed during the conflicts which marked the twentieth century. Unfortunately, many of these violations of international law have remained unpunished. The Nuremberg and Tokyo tribunals were established in the wake of the Second World War. In 1948, when the Convention on the Prevention and Punishment of the Crime of Genocide was adopted, the United Nations General Assembly recognised the need for a permanent international court to deal with the kinds of atrocities which had just been perpetrated. The idea of a system of international criminal justice re-emerged after the end of the Cold War. However, while negotiations on the ICC Statute were underway at the United Nations, the world was witnessing the commission of heinous crimes in the territory of the former Yugoslavia and in Rwanda. In response to these atrocities, the United Nations Security Council established an ad hoc tribunal for each of these situations.

Section 1; An International Criminal Court (‘the Court’) is hereby established. It shall be a permanent institution and shall have the power to exercise its jurisdiction over persons for the most serious crimes of international concern, as referred to in this Statute, and shall be complementary to national criminal jurisdictions. The jurisdiction and functioning of the Court shall be governed by the provisions of this Statute.

See Walter Osapiri Barasa v Cabinet Secretary Ministry of Interior and National Co-ordination and 6 Others e KLR
carries a cardinal principle in international law referred to as ‘pacta sunt servanda’ which is translated to mean that every treaty in force is binding upon the parties to it and it must be performed by them in good faith. This rule has been interpreted in various cases to mean that parties- in this case states- are not allowed to invoke internal laws as a justification for failure to perform obligations under a treaty that they are party to. Charles C. Jalloh observes that;

“States obey international law, a horizontal legal system wherein reciprocity and good reputation play a strong role in inducing compliance, generally differ from the sheriff at the door logic some associate with individual compliance with laws in vertical domestic legal systems.

Recent events in the state of Kenya specifically by the government have shown lack of fidelity to the very rule of international law that is part and parcel of the Kenyan Constitution. First the state has shown unrelenting desire to withdraw from the Rome statute. The government claims that it has established institutions under the new Constitution, which institutions did not exist in 2007-2008 period when the country was rocked into skirmishes as a result of bungled elections. The state currently insists that it has a fully functional and stable judiciary with all the capabilities to determine all case/crimes that take place in the Republic of Kenya. But perhaps the recent mistrials by the Hague based court would further incriminate the state. After the 2007-2008 violence, 6 suspects were indicted notably the President HE Uhuru Kenyatta and the Deputy President William Ruto. All the 6 cases collapsed owing to various technicalities with the last 2 being mistrials. Under the Rome statute, the key pillar is co-operation by member states as the court doesn’t have local enforcement mechanisms. What the court observed while declaring a mistrial in the case of William Samoei Ruto and Joshua Arap Sang is intriguing, the judges noted with concern the systematic interference of
the state and political forces hence making it impossible for the cases to go on. Judge Eboe Osoji in declaring a mistrial observed that there were many cases of witness tampering and disappearance. Presently the head of state has confirmed that his government would not allow any other person to be tried at the ICC. This is despite the fact that there are persons who have been indicted by the prosecutor and are fighting against extradition on allegations of witness tampering.

**Challenges Kenya may face when it withdraws**

**Kenya failed to investigate and prosecute**

It is on record that in the aftermath of the 2007-2008 election Kenya failed to investigate and prosecute perpetrators of the postelection violence. The Commission of Inquiry into PEV observes that more than 1100 Kenyans lost their lives, more than 2000 were injured and nearly 500,000 were displaced. Up until now the State has not done anything meaningful and substantial to deal with the PEV cases. In as much as the Attorney General has indicated that the setting up of a division of the high court to deal with international crimes, the same can be viewed as a reactionary measure and as a way of finding justification to cut ties with the Hague based court since more than 10 years have lapsed since the catastrophe. Additionally it is questionable whether the state’s real intention is to secure justice for victims. Initiatives to take care of victims have not borne notable fruits, the government has spent substantial amounts yet there is still a wide outcry on the state of victims.

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47 The Prosecutor complained of the State’s interference not only in the two cases where witness recanted and mysteriously disappeared. The other case especially the one for Uhuru Kenyatta had to collapse because the prosecutor was not able to get crucial evidence which the State of Kenya had control over. In this case specifically the prosecutor notes that the state had refused to co-operate in providing Kenyatta’s financial records which were relevant to prove their case that he had financed the violence in 2007/2008. Also on 21/4/2016 the President of Kenya Uhuru Kenyatta in a thanks giving rally at Afraha stadium Nakuru stated that Kenya would not take any other person to the ICC. See http://www.reuters.com/article/us-kenya-court-idUSKCN0QN1KB20150818, see also https://www.icc-cpi.int/en_menus/icc/press%20and%20media/press%20releases/Pages/otp-stat-04-12-2014.aspx accessed on 12/5/2016.

48 In a Rally at Afraha Stadium Nakuru on 21/4/2016.

The recurrence of atrocities

The African continent has suffered enough atrocities emanating from the inhumanity of human beings towards human beings.\(^{50}\) Many of these unfortunate incidents might not have occurred, or would at least have been minimized, had there been at that time an effectively functioning International Criminal Court. The conflicts in Africa are far from over. Somalia is still war torn area, South Sudan has experienced the recurrence of atrocities, Sierra Leone, DRC and many others still experience strife. In Kenya particularly, tribalism is a major issue that has polarized the politics and this has in the past led to skirmishes that culminated into the PEV of 2007-2008. Unfortunately this can recur and if institutions such as the ICC are not present, it would allow perpetrators to commit all manner of heinous acts and then walk scot free.

The ICC is the court that has the capacity to try sitting heads of state and government

Article 27 of the Rome Statute provides for irrelevance of official capacity as follows:

1. This Statute shall apply equally to all persons without any distinction based on official capacity. In particular, official capacity as a Head of State or Government, a member of a Government or parliament, an elected representative or a government official shall in no case exempt a person from criminal responsibility under this Statute, nor shall it, in and of itself, constitute a ground for reduction of sentence.

2. Immunities or special procedural rules which may attach to the official capacity of a person, whether under national or international law, shall not bar the Court from exercising its jurisdiction over such a person.

One of the biggest problems in Africa has been despots who want to rule for

\(^{50}\) DRC alone has referred 5 cases; Pros v Thomas Lubanga Dyilo; Pros v Bosco Ntaganda; Pros v Germain Katanga, Pros v Mathieu Ngudjolo and Pros v Callixte
life. Such kinds of leaders pose major challenges with regard to holding them accountable to their actions. First and foremost most heads of states including the President of Kenya enjoy immunities from prosecution within local jurisdictions.

Additionally even if heads of state were to be tried within the limits of local jurisdictions the likelihood of the trial being fair are non-existent because it is the same heads of state who either chose directly or influence the appointment of judges and other judicial officers to the judiciary. More dangerous perhaps is the fear of persecution and intimidation of the judicial officers since the government is the sole body that has control of tools of power and coercion. It has been rightly observed elsewhere that the executive arm of government is the first among equals, in fact in some quarters it is referred to and thought of as the government.

*Membership shows a strong commitment to addressing mass atrocity and gross violations of human rights.*

The idea of the ICC was informed by the massive atrocities that had rocked humanity since the world wars. It was an irreducible statement that never again would the world watch as mankind perished owing to crimes perpetrated by individuals on such a wide scale. The crimes dealt with by the ICC have been touted as the most serious crimes on the face of earth, to stand against those crimes is a clear statement of commitment on observance and respect of human rights. The effects of such atrocities are felt the world over and thus any state worth its name should stand against international crimes preferably together.

*Fairness*

The Nuremberg and Tokyo trials brought about what has now come to be known as the victors’ justice. Owing to political conflict and internal strife local institutions of justice can be misused to deal with political opponents and settle political scores.
There are legion of cases where incumbents have frustrated and even instituted framed up criminal charges against political opponents. A fair and neutral arbiter such as the ICC would be preferred since it is perceived to have no internal interest neither is it proximate for manipulation.

**Conclusion**

As has already been observed States generally have a duty to obey international law because it is in the interest of states to ensure stability and predictability in their relations with other states. Kenya risks economic, social, political and diplomatic upheaval when it withdraws. Most of the member states to the Rome Statute enjoy friendly relations with Kenya, being that Kenya has opted to withdraw without citing any cogent reasons this may have an effect on most of the relations. In extreme cases such as the Sudan case foreign aid has been cut, trade barriers introduced and flying zones limited. It is also emphasized that Kenya still has an obligation to cooperate with regards to the pending cases where persons who allegedly interfered with witnesses are have been indicted by the prosecutor. If Kenya frustrates these cases then and the same are referred to the Assembly of State Parties similar action can be taken.

The timing of the withdrawal is also suspect. It can be argued that the ICC has also been a political issue in Kenya. In the run up to the 2013 elections Uhuru Kenyatta and William Ruto successfully used their indictments for the benefit of the election whereby they cast themselves as protagonists of the anti-imperialist struggle. They subsequently after assuming office reached out to other countries for support in discrediting the ICC. This move has had and continues to have very substantial effects whereby the Kenyan case has easily been turned to the debate of the ICC’s record of involvement with African states. Going into the 2017 election Uhuru Kenyatta and William Ruto still lead this calls for Africa’s consideration of its relations with the ICC. Locally the two have turned the ICC debate to pro and anti-western imperialism where they level accusation against the opposition being pro-western imperialism.
WHAT WANJIKU SAID ABOUT IMPLEMENTATION OF NATIONAL VALUES AND PRINCIPLES OF GOVERNANCE

PART 1: Methodology

KNCHR provided an opportunity for the public to participation in this perception study regarding the implementation of national values and principles of governance. The Nairobi office and regional offices at Wajir, Mombasa, Kisumu and Kitale engaged the public through focus group discussions in public fora. Each office had 50 persons invited to participate in the survey as indicated below. The survey sought to determine the steps made since the promulgation of the Constitution in 2010. Further to this, the findings focuses on the efforts and commitments by the state to fulfil its obligations between the period 2013 and 2015.

Objectives of the Survey

1. To determine the level of awareness and understanding by members of the public on the national values and principles enshrined at Article 10 of the constitution.

2. To discharge the constitutional obligation of compiling a report and forwarding it to the president for consideration.
3. To determine the status and levels of compliance of Article 10 by the key state actors involved both at national and county levels.

4. To identify gaps, the challenges faced in actualizing Article 10 provisions and recommend possible ways of addressing these gaps.

The report has been developed through a methodology that included review of relevant literature and focused group discussions. The specific methods are as outlined below.

**Desk Review**

A review of all relevant secondary materials was conducted including key documents and reports held or generated by the public sector and other relevant institutions such as;

1. Sector strategic plans from government institutions
2. Reports to supporting partners
3. Monitoring and evaluation reports
4. State address reports as provided for in Article 132(c) (i) of the Constitution 2010
5. Reports of relevant Government Institutions that audit government adherence to implementation of national values and principles of governance.
6. Reports by Civil Society Organizations (CSOs) actively involved overseeing state compliance under Article 10 and Article 132 (c) (i) of the constitution 2010.

**Focus Group Discussion**

A focus group discussion (FGD) with key players in overseeing State compliance in inculcating observance of national values and principles of governance were
carried. The information gathered from these discussions informed the content in this report. The focus group discussion embraced engagement of experts in issues of governance.

**Public Forums**

The Commission engaged the public at regional levels to determine the level of awareness and understanding by members of the public on the national values and principles enshrined at Article 10 of the Constitution. The outcome of those engagements formed a yardstick to measure how the efforts by the state to create awareness on these principles and values permeate to the lowest units in the society.

**Target Groups**

1. Sampled public officers from different Ministries, Departments and Agencies
2. County officials
3. Civil Society Organizations (CSOs)
4. Members of the public

**Limitations of the Survey**

The survey faced the problem of definition of the various values and principles. It was difficult to define and measure the various values and principles as they are interrelated. For example, most respondents gave same views regarding patriotism and national unity. It was worth noting that, some participants held the view that Kenyans were patriotic to their “ethnic nations” and not to “Kenya”. On account of this, it is recommended that working definitions and or descriptions are assigned to the various values and principles. However this statement did not have any significant effect on the survey.
PART 2: Key Findings

The key findings in this report are based on responses from various stakeholders. The responses were guided by a questionnaire which is presented together with the findings as shown below.

1. To what extent has the state and citizens upheld the respect for the rule of law?

**State:** Recent examples of state officers being asked to step aside and leave office, being held accountable for misdeeds in the office and integrity issues demonstrates the respect for the rule of law.

On the other hand, some public officers have not complied with court orders. The recent appointment of ex-politicians to the cabinet goes contrary to national values and spirit of the constitution.

Profiling of some communities (ethnic and or religious) as terrorists and their harassment affects patriotism.

Participants observed that the executive and legislature undermined the rule of law by delaying implementation of constitutional provisions, disrespecting institutions, mutilating the constitution through amendments without due regard for the role of other institutions and the citizens. An example given here relates to the security law amendments that contravened the Constitution and the Bill of Rights. In the same vein, it was felt that the doctrine of separation of power had been disregarded by especially the national legislature and executive and that Constitutional Commissions and independent offices are interfered with.

**Citizens:** Corruption is a big threat to the rule of law. Citizens interviewed stated that corruption appears to be at its peak at both national and county government level. Mostly, corruption was being fostered by negative ethnicity that was fuelled by political competition. As a result, citizens had very low confidence in Institutions responsible for promoting rule of law and security.

Invasion of private properties by the public in the name of seeking their rights despite the law providing necessary procedures of redress is an example of citizens disrespecting the law i.e. in Bangladesh slum in Mombasa.
2. Are you satisfied with the measures taken to provide security within our borders? Justify your answer with recommendations

Citizens are satisfied with the following measures: Initiatives between President of Kenya and Prime Minister of Ethiopia to empower the communities to cease cross border conflicts along the Kenya-Ethiopia border; Increased recruitment of personnel in police service; community policing measures; increased cooperation with the international community on fighting terrorism since it’s a global menace; Launch of the CCTV technology (example of the Nyali Bridge and Nairobi City)

Citizens dissatisfied with the following measures: Erecting a wall on the Somali border may not achieve the intended results since some terrorists have already crossed the borders while others are born and live within among different ethnic communities. Concerns on slow response to acts of terrorism and clan well as ethnic conflicts. Continued presence of KDF in Somalia and lack of prompt action on available security intelligence.

Recommendations:

1. Government should invest more resources in technology to fight crime and provide refresher capacity development for security agencies.
2. Community participation on security issues should be enhanced through trainings and capacity assessment.
3. Government must allocate adequate resources to purchase modern equipment for the police and enhance their mobility by providing enough vehicles and fuel.
4. The citizens should take more responsibility and inform the security Stakeholders on threats to national security.
5. Lack of civic education and illiteracy are cited as the main inhibitors of the respect for rule of law on the part of citizens and requires interventions by both the national and county governments.
6. Government should deal decisively with corruption in security agencies to boost confidence among citizens and promote their cooperation and participation in security management.

Profiling of some communities (ethnic and or religious) as terrorists and their harassment affects patriotism.
1. Identify the achievements and challenges in the realization of National Unity in Kenya

**Achievements:** The participants in the survey listed the following as the main achievements;

- Curbing marginalization through equitable sharing of resources;
- Free primary education and subsidized secondary education for all;
- Promulgation of democratic Constitution in 2010;
- Gender equity in the executive and Legislature;
- The president is a symbol of national unity and focus on all tribes in Kenya;
- Sports has become a major tool in bringing citizens together e.g. athletics;
- Establishment of peace networks across the country to strengthen peace initiatives;
- Recruitment into the disciplined service reflects regional balancing.

There has been a great show of national unity among Kenyans anytime the Country has faced calamities such as the Westgate Mall attack, attacks at Garissa University and the killings of KDF soldiers in Somali. The Kenyans for Kenyans initiative to respond to famine in Turkana was cited as the biggest demonstration of National Unity.

**Challenges:** Respondents cited the following as challenges to National Unity:

- Slow implementation of the Constitution;
- Lack of inclusivity and equity in government appointments and resource allocation;
- Political parties based on regions or tribes;
- Parliaments’ frequent interference with the work of other institutions;
- Tribalism, ethnicity and nepotism;
- Marginalization of some citizens;
- Political leaders tend to divide citizens through hate speech in public forums and National Cohesion and Integration Commission is not balanced in handling cases of hate speech;
- Profiling of communities per region which limits opportunities.

There was a perception that government did not respond with equal zeal to Mpeketoni and Garissa University attacks as it did to the one at the Westgate Mall.
1. How well would you rate the collaboration between the national government and county governments in realizing the objects of devolution?

Participants from Wajir, Garissa, and Mandera counties rated collaboration at 30% while those from Trans-nzoia, Uasin Gishu, Bungoma and Nandi counties rated this at 25%.

Other counties within this range include Nyamira, Kisumu, Homa Bay, Siaya and Migori.

Participants drawn from the coast region Counties rated this at 50%.

The participants cited the following reasons for the rating: Deliberate delay and piecemeal disbursement of county funds; Refusal by the national government to fully devolve some of the functions such as health; Frequent clash between the national executive, national assembly, senate and the council of governors; and haphazard transfer of functions and encroachment into functions of different levels of government.

In addition, it was felt that counties were not adequately supported and their capacity enhanced by the national government prior to taking up their functions.

It was also felt that the opposition is not providing constructive oversight to government.
2. Identify the achievements and challenges facing devolution as a system of governance

**Achievements:** Participants identified the following as achievements of devolution so far: Sensitization and public awareness on devolution and sharing of resources; More resources have been devolved to the county level; The public can access resources; the levels of public participation in decision making (especially on allocation of resources) had comparatively improved under the devolved system of government; More employment opportunities had been created and there is a sense of belonging and entitlement among citizens that makes them desirous of knowing what government is doing. Generally, there was consensus that devolution had led to faster implementation of infrastructural projects such as construction of ECDE classrooms, murruming of roads, county offices, dispensaries etc.

**Challenges:** The following were the most prominent challenges that were cited. Citizens at the grassroots level do not understand how devolution works and therefore have unrealistic expectations from their County governments; The employment within the county is based on tribalism, clannism and nepotism. Corruption and abuse of office is high in counties with cases of inflated costs of internet, window curtains, wheelbarrows, Hospital gates among others being reported on; Cost of running devolution is quite high; Lack of effective accountability mechanisms and systems; Limited public participation on governance. There was also duplication of roles, weak oversight by county assembles, political bickering (senators and MCAs not being in good terms with county leaders, County Assembly members having conflicts with County executives – impeachment attempts), staffing weaknesses where skills are not aligned to duties. The process of formulating county plans especially CIDPs (and in very limited counties the spatial plans) was said to have been expert-centred and non-participatory leading to skewed priorities.

As a way forward an effective monitoring and evaluation system must be put in place to promote transparency and accountability. In addition, a legal and policy framework should be put in place to facilitate public participation and access to information. County planning should be as participatory as possible. The national government should fast-track capacity building for counties and ensure timely disbursement of funds.
1. Do you think the national government and county governments have put in place checks and balances to promote respect for the rule of law?

Checks & balances: There is in place adequate legal and institutional framework: Parliament, County Assemblies, the Judiciary and constitutional Commissions and independent offices play lead role in promoting the rule of law.

Despite the existence of these institutions, there is still lack of proper enforcement of the law. An example is institutional disregard to the laid down procedures in the Procurement process. There have also been instances where the doctrine of separation of power has been disregarded with abandon. Interference and or emasculation of the Judiciary, constitutional commissions and independent offices were also cited as challenge facing implementation of the rule of law. Others were public apathy and lack of confidence in public institutions, improper coordination between various public oversight institutions and negative ethnicity.

2. What recommendations would you make to both levels of government on adherence to the rule of law?

Recommendations: Citizens feel that political leaders break the law but are rarely punished. The law should apply to all people regardless of their position, class, race, religion, tribe or status. Other recommendations include: putting in place proper and elaborate accountability and monitoring mechanisms; invest in technology to fight crime; Digitize services across the public including courts; Empower independent institutions and offices with adequate financial and human resources to deliver their mandates. There should be sustained civic education focused on the national values and principles of governance to help address attitudinal issues among members of the public.
1. Identify measures the national and county governments have put in place to promote democracy and participation of the people

**Measures:** Include, Forums for the budgeting Process; community policing; sensitization of the public on democracy and public participation; involvement of the citizens in the decisions made within the National and County levels of government, the formulation of a national policy on public participation is underway, a law on access to information has been passed by the National Assembly.

Other measures include participation in free and fair elections; transparency in appointments and vetting and enhanced service delivery through avenues such as the Huduma Centres.

2. What challenges do the citizens face in regard to participation on national and county issues?

**Challenges:** Majority of the participants held the view that appointments and promotions in the public service were more based on ethnic consideration than merit.

Corruption was also cited as a factor influencing appointments and promotions. Other challenges include poor flow of vital information or complete lack of it; insecurity; insufficient funding and citizen’s lack of interest resulting from the feeling that most of their opinions and recommendations are not considered; Time frame to participate meaningfully is too short; The medium that is used to pass information to the public is not appropriate.

The participants recommended that a public Participation framework be put in place. Further, they emphasized the need for civic education to address attitudinal issues. Government at both levels should strengthen ties with civil society towards this end. The capacity building framework for counties developed by the Ministry of Devolution should be implemented.
1. In your opinion, how has human dignity been promoted and respected in Kenya? What challenges do the citizens face in regard to participation on national and county issues?

**Promotion and respect for human dignity:**

Human dignity in Kenya has been promoted through employment. This has seen groups accessing opportunities without discrimination; The current infrastructures in government and private offices and businesses has put into consideration the needs of persons with disability; Human dignity is promoted in the sense that the state advocates for the right of each person, especially the elderly, disabled, and the vulnerable in society. The state has established institutions that champion human rights in collaboration with other non-state actors; Laws have been implemented to prevent torture and human trafficking; Reforms in the penal facilities and living conditions have improved considerably; The Beyond Zero clinics have improved access to maternal healthcare;

The existence of a legal framework for the protection of human rights and Kenya’s adherence to the regional and international conventions on human rights are pointers towards respect for human rights. An example here is the legal provision on rights to bail. Courts have also revoked laws that undermine human rights as contained in the Bill of Rights in the Constitution (security amendment law 2014).

Other measures that the government has introduced to promote human dignity include the establishment of a rapid response unit at Kasarani Police Station to deal with cases of harassment of women (e.g. public stripping), slum upgrading programs and cash transfers to elderly as well as disability fund. Women Enterprise Fund, Youth Enterprise Development Fund and Uwezo fund are also social protection schemes meant to economically empower the target vulnerable groups and dignify their livelihoods.
2. Are the current measures towards the promotion and respect for human dignity adequate?

It was the view of majority of the respondents that the current measures towards promotion and respect for human dignity are inadequate. This is because there are many loopholes within the county and national government that do not enhance human dignity which include:

- There is increased illness, hunger and homelessness; Many people in the country live below the poverty line; The economy of Kenya has failed to generate sufficient jobs; hence, most of the people are jobless;
- Conditions in maternal healthcare facilities are detestable and lack adequate equipment; Kenyans hold the view that corruption is the greatest obstacle to realization of human dignity in the country.
- Places of detention such as police cells are in a pathetic condition, sometimes holding large numbers of suspects. Staff welfare especially housing for police and prison is not adequate and to the standards and this compromises their dignity. Others have to share rooms and yet they have families residing there.
- Social protection schemes targeting youth, women and PWDs have experienced low uptake largely due to lack of awareness and limited skills.

Recommendations: A number of recommendations were proposed:
- Increased investment to housing programs for police and prisons staff,
- Increased investment in slum upgrading programs to cover slums in other towns,
- Increase representation for women, youth and persons with disabilities,
- Review of training curriculum for the police to mainstream disability,
- Social safety nets to be accompanied with a skills development component
1. What progress has been made towards the promotion and protection of citizenship having regard to the following Human Rights?

A rights-based approach has been applied in the development plans at both National and County levels. There is evidence the laws and policies adequately catered for human rights. In addition, the introduction of problem-based budgeting promotes allocation to human rights outcomes.

Other positives include the enactment of the national human rights policy and action plan, increasing funding to the National Human Rights Institution and the initiative to review the death penalty. Kenya has also reported to all human rights treaty bodies though with some delays.

Participants interviewed indicated that implementation of the laws and policies was the problem. The participants further observed that other than the police and actors in the health sector, a majority of violators of human rights were private actors. They also observed that a good number of the private actors violated rights with impunity because they received protection from actors in the public sector, especially the police and the judiciary.

Children were cited as the most likely victims of rights violations. On the other hand, the constitution has independent commissions and offices that play an oversight role relating to protection of human rights such as KNCHR.

2. Right to life; Freedom of expression; Economic, social and cultural rights; Right to work; Social Security and protection; and Civil and Political rights

Right to Life: Constitutional provisions criminalizing abortion has gone a long way in protecting right to life. The provision of the penal code and existence of law enforcement agencies play a role in protecting the right to life. However right to life is threatened by increased cases of disappearances. Incidences of extra judicial killings have reduced. The greatest threat to this right is the acts of terrorism and killings by terror gangs.

Freedom of expression: Media has provided forums for the citizens to air their opinion on matters affecting them. Attempts to gag the media are cited as a threat to the enjoyment of this right. Limiting media freedom also has an impact on the right to information.

Economic, Social and Cultural rights: The Law provides for the right to own property. It further observed that the Primary school level curriculum has promoted native languages by allowing children at elementary level to be taught their culture and language.
National schools were also said to be serving as platform for integrating different cultures and values. Actualizing these rights requires prioritization and adequate allocation of resources. The performance of the economy is therefore a critical factor to the realization of economic, social and cultural rights. During the period under review, the cost of doing business in Kenya was said to have greatly reduced. Removal of trade barriers and creation of economic blocks were also said to have increased business opportunities for Kenyans.

**Social security and protection:** The Government has established programmes such as Hunger safety net, Food security, Orphans and Vulnerable children fund, cash transfer program for the elderly and the affirmative action in procurement of government services. The latest has been the payment of examination fees for learners in public schools as a measure of ensuring that all of them sat for exams and acquired certificates. This is meant to complement Free Primary Education (FPE) and Free Day Secondary Education (FDSE) Programmes.

**Civil and political rights:** The measures hitherto taken to protect and promote these rights include; existence of and support to the office of the registrar of political parties; Legal and constitutional provisions for multi-party democracy; Rights of arrested persons and the right to run for any political office. The expansion of the Bill of rights in the Constitution is perhaps the greatest step towards safeguarding all the categories of rights.

On the contrary participants felt that there were certain actions of the state that were injurious to the realization of both economic and Social rights as well as civil political rights. Among these included the ‘downgrading’ of the ministry of justice to a department which meant reduction of funding to its programmes and activities, ‘disenfranchising’ of minorities and border communities (these were subjected to rigorous; sometimes dehumanizing vetting processes before they could be issued with identification documents); and amendments to security laws.

The treatment of refugees and asylum seekers was also singled out as clawing-back gains made in promotion of human rights. Several respondents alleged that refugees and asylum seekers were harassed and forced to bribe authorities.

In 2014 alone, according to the Refugee Consortium of Kenya (see petition 382 of 2014) about 300 children were separated from their families in Nairobi after their parents were forced into camps. This exposed them to serious risk of violations. Attempts at amending the Public Benefits Organizations Act and Media Laws were also viewed as action by state to curtail fundamental freedoms.
3. What recommendations would you make to the national government to ensure human rights are respected?

**Recommendations:** The following measures if put in place can enhance better protection of human rights: Strict enforcement of the law on incidences of violation; Implementation of the two-third gender rule on both elective and appointive positions; Improvement in the ethnic and regional balance in the public service; Empowerment of public oversight institutions with financial and human resources; Build the capacity of citizens to claim their rights through civic education, demonstration of political goodwill by political leaders towards protection, respecting and fulfilment of rights, curbing corruption and ensuring equitable distribution of resources vertically and horizontally. In addition, government should strengthen measures to deal with human trafficking as a number of respondents felt that it had not done enough in dealing with cases of and akin to human trafficking involving the middle east.

The government should also improve the level of implementation of recommendations from various committees and treaty bodies that it has accepted.
1. Are you satisfied with the measures put in place to ensure equitable access to opportunities and services? Justify your answer with recommendations.

The participants interviewed were generally satisfied with the measures government is putting in place to promote access to opportunities. The country has made progress towards enhancement of equity. The progress is as a result of the devolved system of governance, equalization fund and affirmative action measures.

2. Discrimination, Favoritism, Clannism and Tribalism have been cited as the greatest challenges facing the country and thus hindering efforts towards equity. Do you agree with this statement? Propose ways these challenges can be reduced.

Majority of Participants agreed with this statement and noted that the measures are not sufficient and that they are hindered by tribalism, nepotism and marginalization. Political bickering over control of resources was also cited as impeding equity. An attempt by members of the National Assembly to take charge of equalization fund is a case in point.

Recommendations: The state should set up effective systems and institutions for accountability that are independent from manipulation by the executive at both national and county levels. Private and public institutions should have checks and balances to ensure that all tribes, ethnic groups, minority, disabled, women and youth are represented in employment. There should be a mechanism that publicizes all employees in private and public sectors and ensure that all people are represented. These would enhance transparency in the service industry.

A comprehensive baseline survey should be undertaken to determine the Status of equity across counties to provide a benchmark for evaluating progress moving forward.

1. Do you think the country has made progress towards enhancement of equality? Where possible provide any recommendations for improvement.

Citizens believe that little progress has been achieved towards realization of equality in the country. In their view, the gap between the rich and the poor keeps widening each year. However, they cited the existence of institutions like the National Gender and Equality Commission as a pillar towards realization of equality.

Recommendations: The government should audit the impact of the institutions mandated with promotion of equality in the country. Further, the government must be fully committed to implement the provisions in the Bill of Rights under the Constitution.
40% of the respondents stated that this is partly achieved. However, a widely held view was that devolution has contributed greatly to enhancement of equality in the country. The establishment of Huduma centers, E-procurement and other services through electronic platforms has made it easier for citizens to transact business and receive services in a much more efficient manner. It was noted that other than the Leadership and Integrity Act, 2012, Parliament had enacted the Public Service (Values and Principles) Act, 2015 which guides public servants in the discharge of their duties.

1. To what extent has the Country made progress in ensuring fair treatment and just sharing of available opportunities, services and resources?

2. Make recommendations that can be adopted to ensure that all Kenyans have access to efficient, affordable and adequate social services

Recommendations: The benefits of the Services offered at the Huduma centers should be replicated at the Ward level to benefit citizens at the grassroots. County assemblies must strengthen their oversight functions to curb wastage of resources and tax payer’s money. The government should empower citizens to effectively undertake the role of oversight and participation in the management of their affairs at both National and County levels through civic Education. Access to information in accessible formations should be considered for meaningful participation by the citizens.

Participants also recommended that the TJRC report should be fully implemented. Office of the Auditor General should be well financed, resourced and protected from unnecessary interference by politicians and other leaders.

Government ministries, departments and agencies at all levels should be enabled to adopt human rights based approaches in their work through training and appropriate facilitation.

Participants also recommended that the TJRC report should be fully implemented.
1. To what extent are citizens at the County level involved in decision making on matters affecting them?

The participants in this survey acknowledged that public participation in policy making had been enhanced by both the county and the national government. Participation has been possible due to the civic education provided by the government and civil society organizations. There are various forums for public participation at the two levels of government. These include the budget making and planning processes, legislation and policy processes among others.

2. Do you think the citizens have been empowered to adequately participate in decision making in the Country?

Challenges: Public participation in most counties has not been meaningful due to a number of reasons. These include; lack of public participation legislation in most counties has occasioned a situation where public participation is routinely conducted to meet the constitutional requirement. As a result, policy formulation processes have faced the challenge of elite capture and sometimes a total absence of grassroots stakeholders. The citizens have not been adequately empowered with knowledge and skills to participate meaningfully in governance matters; The medium of communication between county governments still experience barriers like language and short notices given for feedback; For a long time the absence of access to information law has impeded public participation and civilian oversight.

Recommendations: A structured national civic education training program should be put in place; A public participation legislation and guideline should be put in place; Structural measures must be put in place to enable persons with disabilities, youth and Women to participate without any form of discrimination.

1. How effective are the current measures put in place to ensure open and responsible management of public resources and processes?

The respondents said there are good measures in place including policy and legislation framework but the level of impunity in the country hampers implementation of such measures. Citizens have not been adequately empowered to report on cases of mismanagement of public resources. They raised concerns on the effectiveness the whistle blowers law.
1. Identify achievements and challenges faced in the protection of the marginalized (Women, Children, Youth, Persons with disabilities and Older Persons)

Key Achievements include: The Constitution has set the one third gender rule; There is legislation in place for protection against domestic violence and amendments to the Children’s’ Act. The government has also been able to consider persons with disability when it comes to employment opportunities. Further, the government has established safety nets for the marginalized and vulnerable groups including dedicated funds to provide start-up capital for business enterprises. Other measures include, free maternal care, free basic education to all children and the affirmative action slots in representative positions.

Challenges: Participants in the survey held the view that the government has failed in providing employment opportunities for the youths and persons with disabilities and to control child abuse in the country. At the same time, many of the social protection financial schemes were reportedly being mismanaged and not benefiting the target groups.

Another observation was that there are too many social protection schemes and funds and policies that overlap and conflict each other. There is need for harmonization of the schemes and policies so as to ensure prudent utilization of resources and sustainable impact in the lives of the target groups. Access to information remains a challenge to the citizens thereby impeding their ability to exercise their oversight role.
1. Identify the progress made to address the following violations: corruption, professional misconduct, abuse of the rule of law and impunity.

Among the most notable measures identified by participants included the establishment and support to public oversight institutions such as EACC, Office of the Director of Public Institutions, Auditor General, and Controller of budget, Commission on Administrative Justice, and IPOA among others. Promotion of the independence of Parliament and County Assemblies as well as the Judiciary was also cited as a step in the right direction towards promotion of good governance. The ongoing devolution of the oversight institutions was lauded. Participants held the view that by bringing the institutions closer to people, reporting on corruption and abuse of office was going to be easy and effective. However, there were mixed views regarding to the effectiveness of the institutions. Some participants felt that they lacked in independence and commitment to address the violations. Some were even harsher stating that some of the independent offices were appendages of the executive.

2. Suggest ways the violations above can be minimized or eliminated completely

Recommendations: To make the measures more effective, the government should; Strengthen institutions like EACC and grant them independence; allocate enough budget to such institutions; Provide Civic education for effective Citizen engagement and participation on matters of governance. The national and county government should establish a method of rewarding people with good virtues to champion good governance; Primary and secondary curriculum should discourage such malpractices. Closer collaboration between public oversight institutions and civil society should be encouraged.

1. How effective are the current strategies by government to promote professionalism, honesty, ethical behaviour and truthfulness?

The participants observed that the strategies put in place to enhance the above virtues are good but institutions and individuals who could execute that mandate are influenced by powerful people. It was observed that the implementation of chapter six of the constitution on leadership and integrity has not been to the letter and spirit. They cited lack of political will to reign in on powerful people who violate the provisions of this law.
SUSTAINABLE DEVELOPMENT

The participants were mainly of the view that the devolved units lacked the capacity to adequately incorporate the principle of sustainable development in their development projects. The participants lauded the national government for the efforts it had put in place to promote environmental sustainability.

They were, however, critical of the economic development models that the government had initiated, stating that the priorities were misplaced and too much money was being invested on projects that were not immediately necessary. The respondents noted that the factors inhibiting attainment of sustainable development have not been addressed and are further enhanced by the following aspects; Conflicting legislations e.g. KWS Act does not allow de-forestation while Kenya forest service act allows; Those engaged in logging and charcoal burning are not given alternative sources of livelihood; Environmental friendly sources of energy are expensive or unavailable in some areas; corruption and land-grabbing, population bulge among others. Government capability was questioned regarding ability to handle severe incidences of natural disasters, disease, violence and insecurity.

The extractive sector has recently emerged as a viable economic alternative. There are however concerns that government at both levels are not adequately prepared to deal with un-intended effects of extractives and to ensure maximum benefits to local communities.

Recommendations: The government should increase resource allocation to ensure the relevant bodies mandated to handle such responsibilities are able to carry out their duties to maximum satisfaction; efforts at population control should be stepped up. There should be put in place preventive measures against disasters as opposed to reactive ones. Disaster preparedness should not just be a matter of what happens when disasters occur but what should be done to limit their occurrence and their impact. Equally important, the laws dealing with conservation and extractives should be harmonized and any inconsistencies removed. An awareness campaign on extractives should be initiated across the country to help manage expectations among citizens. This is urgent since already, rumours are being peddled about oil in Turkana and Elgeyo Marakwet Counties that if not well managed have potential to occasion violence.
PART 2: KEY RECOMMENDATIONS

To the National Government

1. Invest more resources in technology to fight crime as well as improve the welfare of the security officers particularly the police

2. Put in place a structured national civic education program to empower citizens to take an active role in governance and promotion of human rights

3. The President, reporting on the state of the nation, should address the implementation of the national values and principles of governance as well as progress made in fulfilling the international obligations of the republic as provided for under Article 132 (1)(c)(iii)

4. Audit the impact of institutions mandated with the promotion of equality in the country

5. Deal decisively with corruption and abuse of power

6. Develop capacities of MDAs to adopt HRBA in their work

To Parliament

1. Allocate not less than three hundred million shillings annually for the implementation of the national human rights policy and action plan.

2. Take a leading role in promoting national cohesion and integration and rule of law and provide through budgetary allocation a fund to promote cohesion and integration at county levels.

3. Approve budgets and fund the police operations directly from the exchequer.

4. Put in place a public participation framework.
5. Finalize the enactment of the Access to Information Law.

**To County Governments**

1. Enforce the legislative provisions of 30% of job opportunities in the counties to applicants from other counties.

2. Allocate resources to enhance the participation of the people on matters of good governance.

3. Put in place mechanisms that promote good governance, transparency and accountability in the management of the resources allocated by the national government as well as revenue generated at the county level.