

The Political and Civil Rights of Persons with albinism, particularly women impacted by albinism in Kenya

Submitted by Positive Exposure-Kenya, NGO based in Kenya¹

To: Committee on Civil and Political Rights [Review of the Republic of Kenya]

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Introduction

1. This report highlights prevailing challenges of civil and political rights of women impacted by albinism in Kenya in light of various developments, the most recent one being the country visit by the UN Independent expert on albinism and the recent general comment² by the CCPR on the right to life which underscores that “States parties to take special measures of protection towards persons in situation of vulnerability whose lives have been placed at particular risk because of specific threats. The report is a partial review on Kenya’s implementation of the

¹ Positive Exposure-Kenya an education , arts and advocacy organization www.positiveexposure-kenya.org that exists to promote the wellbeing of persons with albinism a community of high alert rights violations across Africa. In Kenya Persons with albinism (PWA) are misunderstood, marginalized, and even attacked and killed because of their genetic condition.

² https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1_Global/CCPR_C_GC_36_8785_E.pdf

International Covenant on Civil and Political Rights illuminating a number of contemporary concerns. The report cites several instances and examples of violations by the state and key recommendations to ameliorate the situation.

Questions for the Government of Kenya

2. What progress has there been following up on the recommendations of the UN independent Expert on albinism country visit in 2018 to prevent and protect persons with albinism, including women, from attacks – among other human rights goals?
3. What measures has the government put in place to support mothers whose children have been victims of attacks specifically?
4. What measures have the government put in place to support women and the girl child with albinism who are vulnerable to violence including ritual rape?
5. What measures have the government put in place to safeguard the socio-economic rights of mothers of children with albinism whose livelihoods have been affected by fear of attack of their children and who have had to curtail economic activity to protect them including walking them to and from school.
6. What measures have the government put in place to empower women with albinism and lift them out of poverty since poverty exacerbates vulnerability to attack? The current albinism program seems to focus on

eye-wear and sunscreen products but not matters of security as outlined above.

Issues

7. Persons with albinism, in particular women impacted by albinism, have fallen prey to ritual attacks and the consequent insecurities. With the SDG pledge to leave no one behind starting with the furthest behind, the following challenges need urgent action to ensure that the issue of gender and albinism becomes a non-issue in addressing civil and political rights.

8. **Sexual violence:** In Kenya a lot of myths have been construed around albinism, leading to various forms of discrimination against women and girls impacted by the condition. Women and girls with albinism are mainly victims of targeted acts of sexual violence spurred by the myth and misbelief that sexual intercourse with a woman with albinism can cure HIV/AIDS. Women & girls with albinism who have been sexually assaulted do not access justice because even when they report nobody takes it seriously therefore leading to further rape for rituals practice that goes unpunished by law. The government has failed to put measures that protect vulnerable groups to sexual offences.

9. **Equality & Non-Discrimination:** Persons with albinism face stigma and discrimination from cradle to the grave since they are killed at birth trafficked, face ritual-rape, and their body parts exhumed for rituals notwithstanding the social stigma the encounter on a day to day lives. There are no comprehensive special measures to prevent these

occurrences as recommended in the above general comment on the right to life by the ICCPR.

10. **Attacks & killings of Persons with albinism.** The reporting, investigation, arrest, prosecution and conviction of the perpetrators of these crimes against Kenyans with albinism remain rare. There has been little or no legal action on the Kenya 13 cases of attacks majority of the victims being women & children. This is because there lacks a specific measures to protect and promote the rights of persons with albinism. There have also been cases of Cross border while human or body parts trafficking which still remain unaddressed by the government mechanisms.

11. **Funds for albinism inadequate** There have been complaints on the management of funds allocated for persons with albinism raising such issues as the availability of sunscreen as an essential drug in the smallest health unit , the current model leaves it at the district hospital making it impossible for majority to access it, The issue of Tax exemption and cash transfers is ambiguous. All these provisions have no legal backings and therefore remain ad hoc with majority not benefitting and at the pleasure of the government. While such specific or special measures are often temporary, there are situations that call for permanent measures “including by virtue of a particular impairment or the structural barriers of society. Examples of specific measures include outreach and support programmes, allocation and/or reallocation of resources, ...advancement and empowerment measures,” etc. (see

General comment 6 on article 5 of the CRPD by the CRPD Committee)

Persons with albinism in Kenya and the ICCPR

12. All persons with albinisms are entitled to all rights enshrined in the ICCPR and many of these are reflected in the country's constitution.
13. Chapter 4 of the new Constitution of Kenya 2010 represents the Bill of Rights which is the framework for social, political, economic and cultural policies in Kenya. It provides for the recognition and protection of the human rights and fundamental freedoms to preserve the dignity of individuals and communities and to promote social justice and the realization of the potential of all human beings.
14. The fundamental freedoms in the bill of rights belong to each individual and are not granted by the state. These freedoms include right to life, equality and freedom from discrimination. Article 27.4 says 'the state shall not discriminate directly or indirectly against any person on any ground including race, sex, pregnancy, marital status, health status, ethnic or social origin, color, age, disability religion, conscience, belief, culture, dress, language or birth), human dignity, freedom and security of the person, privacy, (.....,,,,,So that persons with albinism should not be deprived their right to life for ritual killings.....) protection of right to property, (...so that mothers of children with albinisms are not thrown out of their matrimonial homes and properties). Other relevant articles are 43 on economic and social rights, 45 on family, 46

on consumer rights (... so that PWAs have access to information, quality and sufficiency of consumer goods e.g. sunscreen which is very critical in prevention of cancer), Article 49 on access to justice(... so that those with albinism have access to justice and legal redress and litigation on cases that involve their rights violations....) .

15. Further interpretation on the articles that is critical to PWAs is found in articles 53 on the rights of the child and articles 54 on the rights of persons with disabilities and article 56 on the minorities and marginalized groups
16. The types and extent of marginalization of Persons with Albinism has a gender dimension. PE-Kenya has evidence that women are impacted more than men for various reasons. One, by virtue of being mothers and caregivers of children and people with albinism and two by being in the category of most marginalized in social, political and economic sectors in Kenya. From our assessment political and civil marginalization ranks as the two most critical forms.
17. A recent country visits to Kenya by the UN independent expert on albinism noted that Kenya has recorded significant success in responding to attacks against persons with albinism and discrimination in the health sector but must do much more in other areas like access to justice, & gross human rights violations.

Recommendations

- **Special measures in current albinism fund** should be written, and elaborated. Should include measures going beyond basic health care to include special measures for security, access to justice and

empowerment of women. This may mean the funds ought to be increased, and attached permanently to policy so that it is not reneged easily or at the mercy of personalities or politics.

- **Special measures within and outside of the albinism fund should include:**
- **Judicial remedy to deal with cases:** The government should also establish a credible judicial mechanism to deal with the albinism related cases and to address the needs of the victims and survivors of attacks who have not yet received any justice or compensation.
- The government should reinforce Sections 32, 33, and 34 of the Persons with Disabilities Act 4 Sections 18 (access to education), 21 (accessibility and mobility requiring all building proprietors to comply within 5 years), 22 (requiring all public buildings be accessible to persons with disabilities), and sections 29 and 30 (providing for assisted voting and accessibility of polling stations).
- **Establishment of Victim support services**
- Government to carry out a **comprehensive situational analysis** on the safety & security of Parsons's with albinism.
- **Training public officials, particularly law enforcement** agents and healthcare providers, in regards to sensitivity and equal treatment of members of the albinism community.
- The Government should repeal all legislation that is discriminatory and additionally **adopt a national action plan** on albinism to combat all forma of discrimination against persons with albinism in line with the regional action plan on albinism adopted by the AU in July 2019.