

01st February 2016,

Committee on Economic, Social and Cultural Rights (CESCR)
Office of the High Commissioners for Human Rights
Geneva, Switzerland

**RE: Supplementary information on Kenya scheduled for review by the
57th CESCR Session 22nd February – 4th March 2016.**

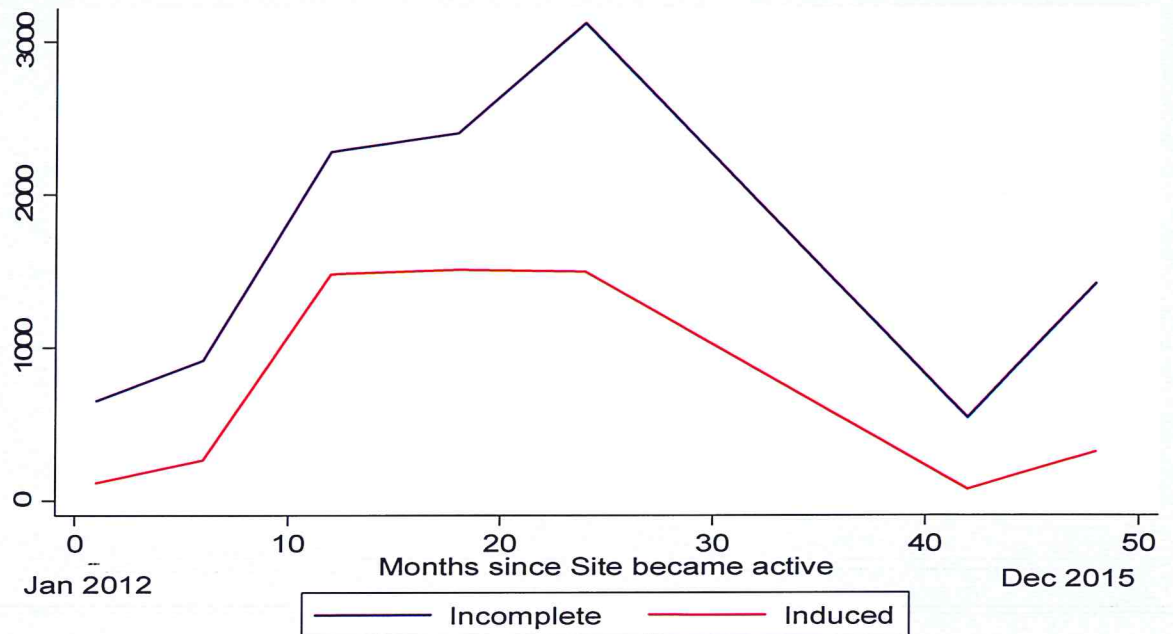
Dear Committee Members:

This shadow letter is intended to complement the periodic report submitted by the State of Kenya as well as the shadow letter submitted by Ipas Africa Alliance on 31st August 2015 for the Committees consideration during the 56th Pre-Sessional Working Group of the CESCR.

Under Article 12 of the Covenant on Economic, Social, and Cultural Rights (the Covenant), the government of Kenya has a responsibility to take measures to reduce maternal mortality and increase access to health care services for women. Specifically, **article 12** protects the right to the highest attainable standard of physical and mental health for all people, including women's ability to obtain necessary reproductive health care services that include safe, legal abortion care.

Ipas Africa Alliance has come upon new information that would be of use to the Committee as it considers Kenya's state party report. In our letter dated 31st August 2015, we notified the committee of the withdrawal of the National Standards and Guidelines on Provision of Safe Abortion. The Ministry of Health's letter dated 3rd December 2013 withdrawing the Standards and Guidelines and the subsequent memorandum dated 24th February 2014 prohibiting training of health care providers on safe abortion has continued to create confusion on service provision as different counties in Kenya are interpreting it liberally and others are interpreting it restrictively as a complete ban on the provision of safe and legal abortion. For instance, County Governments of Busia and Uasin Gishu have imposed a complete ban on the provision of training and services whereas Bungoma County continues to apply the Constitutional standards on safe and legal abortion. The disparities in the interpretation of the memo has contributed to a decline in the number of women seeking pre and post-abortion care services in Busia, Bungoma, Kakamega, Siaya, Trans Nzoia, Uasin Gishu and Vihiga between December 2013 and August 2015. This is further detailed in the graph below collected from sites that Ipas Africa Alliance is working in.

Figure 1: Cumulative Uterine Evacuation Caseload for the 7 counties in the period 2012-2015



Other than the decline in service seeking by women and girls in the seven counties, Iпас Africa Alliance Reproductive Health Coordinators, who work in the community, have shared cases of women and girls who have died due to inability to access safe and legal abortion following the withdrawal of the Standards and Guidelines. Iпас Africa Alliance is ready and willing to share this information with the Committee should you so require it.

In 2012, the Kenya National Commission on Human Rights (KNCHR) published a report on a Public Inquiry into Violations of Sexual and Reproductive Health Rights in Kenya¹. KNCHR recommended that the Government puts in place Standards and Guidelines on access to safe abortion as well as training of health care providers and police officers on the Constitutional provisions on safe and legal abortion at the national and county levels. KNCHR further recommended for the integration of safe abortion into the broader health financing and policy strategy of the Government.

Iпас Africa Alliance wishes to share with the Committee the Constitutional Petition No. 266 of 2015 filed at the High Court in Nairobi against the Attorney

¹ *Realizing sexual reproductive health and rights in Kenya: A myth or reality?*. A Kenya National Commission on Human Rights report of the Public Inquiry into Violations of Sexual and Reproductive Health Rights in Kenya, 2012.

General of Kenya, the Ministry of Health and the Director of Medical Services of Kenya by an adolescent rape survivor suffering from kidney failure as a consequence of unsafe abortion procured during the period of withdrawal of the Standards and Guidelines. The case seeks the court's interpretation on the scope of legal abortion in Kenya and a clarification as to the government's responsibility in ensuring access to safe legal abortion as provided under the Kenyan Constitution.

In light of foregoing, Ipas Africa Alliance hereby requests that this Committee poses the following additional questions to the State of Kenya during the 57th Session of the CESCR:

1. What steps has the Government put in place to reinstate and disseminate the revised National Standards and Guidelines for The Reduction of Maternal Mortality and Morbidity?
2. What is being done to ensure that health care providers receive training on providing comprehensive abortion care services?
3. What measures has the Government put in place to ensure sanctity of policy documents and guard against the arbitrary withdrawal of policies and guidelines that promote the health and lives of women and girls?
4. What measures has the Government put in place to provide remedy and justice for preventable deaths as a consequence of unsafe abortion?

We hope that this information will be useful during the Committee's review of the Kenya government's compliance with the Covenant.

Very Sincerely,



Liza .M. Kimbo | Director,
Ipas Africa Alliance