HATE SPEECH
Kenya’s National Action Plan Against Hate Speech
Hate speech in the Kenyan society reached heightened levels in 2007 when it was not even
recognized as a crime. The National Cohesion and Integration Commission (NCIC) was
established in 2007 to address the increase in hate speech following the post-election
violence of 2007-08. The NCIC is an independent body mandated to promote national
cohesion and integration. It is a government body that works to combat hate speech and
related offenses.

The NCIC has developed a plan of action to address hate speech in Kenya. The plan
recognizes that hate speech is a precursor to atrocity crimes, genocide, war crimes, and
crimes against humanity. The strategy recognizes that over the past 75 years, hate speech
has been a catalyst for violence.

The NCIC has identified the following six roadblocks to addressing hate speech in
Kenya:
1. Lack of awareness about the harms of hate speech
2. Lack of political will to address hate speech
3. Lack of capacity to address hate speech
4. Lack of resources to address hate speech
5. Lack of coordination among stakeholders
6. Lack of accountability for hate speech

The NCIC has also developed a wall of fame to recognize political aspirants who
demonstrate a commitment to promoting national cohesion and integration.

The NCIC has worked to develop specialized courts in Nairobi, Mombasa, Nakuru, Kisumu,
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Abbreviations and Acronyms

CoK  Constitution of Kenya
CSO  Civil Society Organization
DCI  Directorate of Criminal Investigation
HS   Hate Speech
ICC  International Criminal Court
KIPPRA Kenya Institute of Public Policy Research and Analysis
KNCHR Kenya National Commission on Human Rights
NCIC National Cohesion and Integration Commission
NSC  National Steering Committee on Peacebuilding and Conflict Management
OSAPG Office of the Special Advisor on Prevention of Genocide
FOREWORD

May I begin by reminding us about philosopher George Santayana’s quote that “Those who forget their history are condemned to repeat it.” Kenya remembers that the 2007 post-election violence was fueled by the hate that spread in physical meetings, radios, televisions and online platforms, to name but a few. This, among other factors, informed the creation of the National Cohesion and Integration Commission in 2008 and also the limitation placed on the right to freedom of expression in Article 33 of the 2010 Constitution of Kenya.

Since inception, the Commission has put in place several measures to prevent, combat and address the effects of hate speech including producing alternative narratives to hate speech. Sadly, hate speech, based on intolerance, ethnocentrism, discrimination and hostility, remains part of the political discourse in Kenya today. Information technology has significantly contributed to spreading and amplifying this severe conflict trigger. As such, hate speech continues to pose an urgent challenge to social cohesion and nation building.

With just months to the General Election, it is imperative that an ‘out of the box’ initiative be mooted and implemented to address the effects of past incidents and to prevent future occurrences. It is on this background that the Commission led the development of Kenya’s first National Action Plan against Hate Speech. Special appreciation goes to the UN Office of the Special Adviser on Prevention of Genocide for the support and guidance that bolstered our effort to deliver this Plan.

In acknowledging the importance of actions by individual stakeholders in the fight against hate speech, the Commission undertook consultations with various actors to consolidate this Plan of Action. The major thrust behind this initiative is to develop a comprehensive and coherent approach towards tackling hate speech in the country. To this end, the Plan sets stage for the generation of practical tools and the mobilization of a ‘no hate speech’ movement. It shall also enhance the synergistic efforts of stakeholders by improving their strategic capabilities in combating the increasing proliferation of hate speech.

The Commission in collaboration with stakeholders laid out the actions being currently undertaken by various actors but also set out commitments for both the short term (2-12 months) and the long term (12-26 months). The Plan advises on how to take optimum advantage of the available opportunities to advance a hate-free society.

I therefore welcome all stakeholders, individuals or organizations, who have the boldness to say ‘NO’ to hate speech to join us and Pamoja, we shall take Kenya to the hate-free zone.

REV. DR. SAMUEL KOBIA, CBS
CHAIRMAN, NATIONAL COHESION AND INTEGRATION COMMISSION
I. Introduction
In response to rising incidences of hate speech around the world, the UN Secretary-General Antonio Guterres launched the United Nations Strategy and Plan of Action on Hate Speech in June 2019. The strategy recognizes that over the past 75 years, hate speech has been a precursor to atrocity crimes, genocide, war crimes and crimes against humanity. When launching the United Nations Strategy and Plan of Action on Hate Speech, the UN Secretary-General Antonio Guterres referred to hate speech as an attack on tolerance, inclusion, diversity and the very essence of human rights norms and principles on which the United Nations are grounded. More broadly, he stated that hate speech undermines social cohesion, erodes shared values, and can lay the foundation for violence, setting back the cause of peace, stability, sustainable development and the fulfillment of human rights for all.

Hate speech in the Kenyan society reached heightened levels in 2007 when it was not even recognized as a crime. To date, the hate speech continues to be blamed for societal polarization and the attendant violence which results in the loss of lives, destruction of property and mass displacements among others. It is therefore imperative for all Kenyans to stand up against this vice. There is no better way to do this than to adopt a country plan of action against hate speech and related offences. The Plan acknowledges the role of the various stakeholders in combating hate speech and offers a coordination reference point where all these efforts can be synergized to achieve greater impact. The Plan will act as an accountability tool for the public to check the various stakeholders’ contributions.

The development of this national plan of action would not have been at a better time. Kenya faces a general election in just five months, necessitating timely and effective interventions on hate speech. The Plan has been developed through review of laws and regulations against hate speech and consultations with relevant stakeholders. If well executed, this Plan of Action will reinforce deterrence against hate mongering.

II. Background
Kenyan politics have been accompanied by large-scale violence since the reintroduction of multi-party elections in 1992. In 2007/08 post-election violence, over 1,500 lives were lost, about 650,000 people were displaced, and properties worth millions of Kenya shillings were destroyed. This is besides the severe psychosocial impact left on both perpetrators and victims of the said violence. In 2013, over 430 people died while in 2017 serious human rights violations were recorded. In all the electoral violence, sexual and gender-based violence was meted against members of the public as well as female political candidates.

It is a fact that electoral violence in Kenya does not exist in a vacuum. Politicians always take undue advantage of community grievances to polarize communities before, during and after elections. The notable grievances have included inequalities, land and boundary conflicts, competition for resources, and poor governance among others. This manipulation has routinely involved the creation and escalation of ethnic suspicion and hatred through hate narratives.

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2 United Nations Office on Genocide Prevention and the Responsibility to Protect
5 KNCHR, (2019) Silhouettes of Brutality. KNCHR
In 2007, the ICC charged Joshua Sang’ for spreading hate content via a vernacular radio station. By this time, the country had no law that defined nor criminalized hate speech. In 2008, the NCI Act was enacted, thereby establishing the NCIC to tame hate speech and promote national cohesion and integration. In defining hate speech, the Act highlights two main thresholds; the use or spread of content that is threatening, abusive or insulting, and the intent to stir up ethnic hatred. The Act also covers other offences related to hate speech namely Ethnic Contempt and Incitement to violence.

Section 77 of Kenya’s Penal Code also contains laws that relate to incitement to violence and disobedience of the law. The 2010 Constitution of Kenya expressly prohibits hate speech by stipulating that the right to freedom of expression does not extend to incitement to violence, hate speech and advocacy of hatred that constitutes ethnic incitement, vilification of others or incitement to cause harm. On the other hand, the 2nd schedule of the Media Act provides that quoting persons making derogatory remarks based on ethnicity, race, creed, color and sex should be avoided. In the bid to combat hates speech, the National Cohesion and Integration Commission sought to build the capacity of the media and the criminal justice system in hate speech management by developing the ‘Media guideline on hate speech’ and the ‘training manual for investigators and prosecutors’.

In the years following the 2007 violence, and with the establishment of so many social media platforms, hate speech shifted from mainstream to online media. In 2013 general elections, large numbers of threats and incitements to violence were reported on social media networks. Hootsuite 2021 reports that there were 59.24 million mobile connections and more than eleven million social media users in Kenya in January 2021. This number, equating to about 20% of the entire population, had grown by 2.2 million (+25%) between 2020 and 2021.

Despite uniting and connecting people on so many grounds, social media platforms are also contributing to spreading suspicion, disseminating inflammatory statements and spreading hate speech. In fact, 54% of the hate speech and related offences cases pending before court in Kenya in 2022 were perpetrated on social media. The perpetrators in these cases include politicians, journalists, bloggers, public officials, artists, and religious leaders among others. Some of the propagandists who mete hate speech are used as instruments for politicians and their parties.

Notably, the crime of hate speech is punishable by law. The NCI Act provides that ‘A person convicted of hate speech is liable to a fine not exceeding KES 1,000,000 or to imprisonment of up to 3 years, or to both.’ Unfortunately, while many suspected individuals are charged in court, this does not yield many successful convictions. Unfortunately, the failure to garner successful prosecutions cements impunity. Part of the problem is attributed to the backlog of cases in the Kenyan judiciary. In October 2021, the judiciary announced the setting up of five specialized courts in Nairobi, Mombasa, Nakuru, Kisumu and Eldoret to deal with hate speech cases in the run up to, and during, the 2022 general elections.

At the same time, the NCIC developed the wall of fame to recognize political aspirants who promote cohesion and wall of shame to dishonor political aspirants who perpetrate hate speech or related offences even before they are charged in court. Nonetheless, more needs to be done to address hate speech in Kenya. Finally, the Commission identified six roadblocks to peaceful coexistence namely lack of trust, sub-culture of violence, selfish leadership, ethnic polarization, untimely and inadequate response to emerging conflicts, and structural inequalities as shown in the figure below.
**I. Introduction**

Hate speech in the Kenyan society reached heightened levels in 2007 when it was not even
considered a crime. The existence of hate speech was seen as a normal part of the political
process, particularly in the run-up to elections. Hate speech was used as a tool to unite
politicians, journalists, bloggers, public officials, artists, and religious leaders among others.

Despite uniting and connecting people on so many grounds, social media platforms are also
contributing to spreading suspicion, disseminating inflammatory statements and spreading
confusion, which create a conducive environment for hate speech.

In the years following the 2007 violence, and with the establishment of so many social media
platforms, hate speech became a new and highly potent form of communication. With
approximately 2.2 million social media users in January 2021 in Kenya, this number, equating
to about 20% of the entire population, had grown by 2.2 million (+25%) between 2020 and
2021.

In Kenya, hate speech is defined as incitement to violence, dissemination of inflammatory
speech or related offences even before they are charged in court. Nonetheless, more needs to
be done to ensure that hate speech is frowned upon.

**II. Background**

At the same time, the NCIC developed the wall of fame to recognize political aspirants who
perpetrate hate speech. This initiative aims to celebrate and acknowledge the contributions
of political aspirants who promote cohesion and respect for diversity.

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**ROADBLOCKS TO PEACEFUL ELECTIONS IN KENYA**

**LACK OF TRUST**
- Low trust levels between communities.
- Declining public trust in government institutions.
- Distrust among leaders.

**SUB-CULTURE OF VIOLENCE**
- People use violence to express dissent.
- Some politicians encourage the imposition of violence on people of opposing political persuasions.

**SELFISH LEADERSHIP**
- Political actors put self-interest above national interest.
- People protect selfish leaders simply because they belong to the same tribe.

**ETHNIC POLARIZATION**
- Hate related speech increases during campaigns.
- Media escalates conflict by disregarding conflict sensitive reporting.
- Social media intensifies polarization.

**UNTIMELY & INADEQUATE RESPONSE TO CONFLICT**
- Delayed response to conflict.
- Citizens do not report incidents timely.
- Inadequate coordination & synergy between peace actors.

**STRUCTURAL INEQUALITIES**
- Kenya remains an unequal society.
- Historical injustices have not been fully addressed.
- Some pre-existing community conflict remain unresolved.

**National Cohesion and Integration Commission**
Objectives

Kenya’s National Action Plan against Hate Speech include the objectives, the actors contributing to combating hate speech, the priorities, commitments, challenges and opportunities in the process of hate speech management.

The objectives of this National Action Plan are to:

1. Provide a platform for synergy building among stakeholders who prevent and counter hate speech in Kenya
2. Guide the implementation of hate speech management in Kenya

III. Mapping of actors involved in addressing hate speech in Kenya

There is an array of stakeholders who work towards preventing, countering and addressing the effects of hate speech in Kenya. All these actors bring different and distinct qualities to the process of combating hate speech.

<table>
<thead>
<tr>
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<th>FOCUS</th>
<th>ONGOING ACTIVITIES</th>
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<tbody>
<tr>
<td>NCIC</td>
<td>Investigation</td>
<td>• Carry out research and inquiry on hate speech and related offences</td>
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<td>• Gather evidence on perpetrators of hate speech</td>
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<td>• Attend court as witnesses and to track the court process</td>
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<tr>
<td>Monitoring</td>
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<td>• Procure and distribute monitoring gadgets to investigations agencies</td>
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<td></td>
<td>• Monitoring of Public spaces, mainstream and social media to detect incidences of hate speech</td>
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<td></td>
<td></td>
<td>• Deployment of peace and cohesion monitors particularly during electioneering periods</td>
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<tr>
<td>Empowerment of various</td>
<td></td>
<td>• Training of Investigators, Prosecutors, criminal justice actors, local security actors</td>
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<tr>
<td>stakeholders</td>
<td></td>
<td>• Public Awareness and sensitization</td>
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<td>Community empowerment</td>
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<td>• Undertake conflict prevention</td>
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<td></td>
<td></td>
<td>• Address ethnic discrimination and structural inequalities</td>
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<td></td>
<td></td>
<td>• Build capacity of communities and institutions to promote cohesion</td>
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<td></td>
<td></td>
<td>• Lobby for cohesion friendly legal frameworks</td>
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<td></td>
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<td>• Commission scientific research into national cohesion and integration</td>
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<td>Conciliation</td>
<td></td>
<td>• Develop tools to govern the conciliation process of hate speech</td>
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<td></td>
<td></td>
<td>• Constitute a conciliation committee as need arises</td>
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<td></td>
<td></td>
<td>• Undertake conciliation between perpetrators and complainants of hate speech</td>
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I. Introduction

Kenya’s National Action Plan against Hate Speech

The development of this national plan of action would not have been at a better time. Kenya faces a general election in just five months, necessitating timely and effective interventions on hate speech. The Plan has been developed through review of laws and regulations against hate speech. If well executed, this Plan of Action against hate speech and related offences will contribute to law reforms on hate speech; undertake criminal proceedings against perpetrators of hate speech based on evidence collected; recommend investigation of hate speech perpetrators; contribute to law reforms on hate speech.

The Plan acknowledges the role of the National Cohesion and Integration Commission (NCIC) in the reduction of hate speech and the facilitation of national conversations that reach out to everyone regardless of their ethnicity, religion, region or race. The NCIC has worked with the Government and Co-ordination Ministry of Interior and Co-ordination of National Government to establish and maintain a witness protection program for witnesses in hate speech cases; and train and capacity build CSOs and grassroots organizations.

Furthermore, the Ministry of Interior and Co-ordination of National Government has been critical in facilitating the reduction of hate speech through resolution of community disputes through District Peace Committees, National Government Administration Officers and nyuma kumi.

II. Mapping of Actors Engaged Addressing Hate Speech in Kenya

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| NCIC  | Collaboration and Partnerships | • Lead a multi-sectoral team on elimination of hate speech  
• Lobby for partnerships in dealing with hate speech  
• Undertake hotspot mapping and scenario building  
• Develop and implement National strategies |
| Ministry of Interior and Co-ordination of National Government | Monitoring | • Set up of National Command Centre on Election Security |
| | Hate Speech Prevention | • Prevent hate speech through resolution of community disputes through District Peace Committees, National Government Administration Officers and nyuma kumi |
| | Fostering national unity | • Provide the lead on national cohesion by using the presidency as a symbol of National unity  
• Initiate and realize national conversations that reach out to everyone regardless of their ethnicity, religion, region or race |
| National Steering Committee on Peacebuilding and Conflict Management (NSC) | Peace building and conflict management | • Set up and build the capacity of county peace forums  
• Monitor elections  
• Train and capacity build CSOs and grassroots organizations  
• Generate and implement Peace dividend programs in communities |
| ODPP | Prosecution | • Undertake criminal proceedings against perpetrators of hate speech based on evidence collected  
• Recommend investigation of hate speech Perpetrators;  
• Contribute to law reforms on hate speech |
| Directorate of Criminal Investigations | Investigation | • In conjunction with the NCIC carry out investigations on hate speech  
• Collect and provide intelligence on hate speech  
• Facilitate witnesses during prosecution |
| Witness Protection Agency | Provide Witness Protection | • Establish and maintain a witness protection program for witnesses in hate speech cases;  
• Provide testimonial evidence to the justice system on behalf of witnesses of hate speech |

Hate speech in the Kenyan society reached heightened levels in 2007 when it was not even a precursor to atrocity crimes, genocide, war crimes and crimes against humanity. When launching the United Nations Strategy and Plan of Action on Hate Speech, the UN Secretary-General stated that hate speech undermines social cohesion and is grounded in underlying structural inequality. In response to rising incidences of hate speech around the world, the UN Secretary-General, in June 2019, stated that hate speech undermines social cohesion and is grounded in underlying structural inequality.
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<td>Judiciary</td>
<td>Case Determination and management</td>
<td>• Hear and determine hate speech cases&lt;br&gt;• Establish practice directions on hate speech&lt;br&gt;• Set up special courts on hate speech</td>
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<tr>
<td>Treasury</td>
<td>Financial Support</td>
<td>• Provide resources to NCIC and other government stakeholders involved in combating hate speech&lt;br&gt;• Facilitate collaboration with the international community and development partners willing to support mitigation of hate speech</td>
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<tr>
<td>Social media Platforms (FB, Twitter)</td>
<td>Regulation</td>
<td>• Generate regulations that discourage hate speech perpetration on their various platforms</td>
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<td></td>
<td>Monitoring</td>
<td>• Monitor their platforms for breach of their regulations on hate speech&lt;br&gt;• take proactive steps to limit spread of hate speech online by using other tools available to them such as warnings for misinformation etc.&lt;br&gt;• Ensure content moderation in local languages</td>
</tr>
<tr>
<td>Political parties and Coalitions</td>
<td>Accountability</td>
<td>• Require their members to subscribe to the Peace and Political Decency Charter&lt;br&gt;• Investigate their members who commit hate speech&lt;br&gt;• Put in place measures to sanction members who perpetrate hate speech&lt;br&gt;• Take responsibility on behalf of their members&lt;br&gt;• Punish the deviant political party members and aspirants&lt;br&gt;• Promote messages of inclusion and rights</td>
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<td>Peace champions</td>
<td>• Organize awareness raising forums targeting political aspirants&lt;br&gt;• Undertake public and civic education&lt;br&gt;• Award badges of honor to the best performing aspirants in promoting cohesion and integration</td>
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<td>Parliament</td>
<td>Legal Frameworks</td>
<td>• Generate laws that enable effective handling of hate speech&lt;br&gt;• Institute legislation Oversight for other key Government actors&lt;br&gt;• Organize sensitization and awareness raising efforts on hate speech</td>
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<tr>
<td>Civil society (secular and religious)</td>
<td>Monitoring</td>
<td>• Monitor mainstream and social media to detect incidences of hate speech&lt;br&gt;• Deploy peace and cohesion monitors particularly during electioneering periods&lt;br&gt;• Undertake social media monitoring for hate speech</td>
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<td></td>
<td>Advocacy</td>
<td>• Advocate and lobby for laws and policies that combat hate speech&lt;br&gt;• Speak out against instances of hate speech&lt;br&gt;• Spread counter-narratives</td>
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<td>Public Awareness</td>
<td>• Organize sensitization forums on the negative impact of Hate Speech&lt;br&gt;• Disseminate public information and raise awareness on hate speech</td>
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<td></td>
<td>Promoting of cohesion and integration amongst Kenyans</td>
<td>• Build capacity of Social Media Influencers&lt;br&gt;• Preach peace and condemn violence from their pulpits&lt;br&gt;• Stop politicians from using their pulpits to spread hate speech</td>
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<tr>
<td>Private Sector</td>
<td>Financial Support</td>
<td>• Investigate and pull down hate speech posts</td>
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<td>Workplace Policies</td>
<td>• Develop workplace policies against Hate Speech</td>
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<td></td>
<td>Monitoring</td>
<td>• Monitor and compile evidence for prosecution</td>
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<tr>
<td>Communication Regulatory Bodies e.g. MCK, CAK etc.</td>
<td>Accountability</td>
<td>• Develop and enforce regulations against Hate Speech&lt;br&gt;• Monitor mainstream and social media&lt;br&gt;• Discipline their members whenever they perpetrate Hate Speech&lt;br&gt;• Build capacity of State actors&lt;br&gt;• Regulate the media and communication industry</td>
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<td>Mainstream Media</td>
<td>Sensitization</td>
<td>• Provide platforms to sensitize the public on effects of Hate Speech&lt;br&gt;• Provide evidence and witness in Hate Speech cases</td>
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<td></td>
<td>Monitoring</td>
<td>• Monitor and report before, during and after elections&lt;br&gt;• Deploy investigative journalists&lt;br&gt;• Train community radio stations and other media actors</td>
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<td>Ministry of education</td>
<td>Education and Values</td>
<td>• Incorporate Hate Speech in the educational curriculum&lt;br&gt;• Develop short audio programs on cohesion and integration&lt;br&gt;• Promote Amani Clubs with a special component on deterrence of hate speech&lt;br&gt;• Foster Character development education&lt;br&gt;• Undertake mentorship and leadership trainings for children and youths</td>
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**IV. Priorities for addressing hate speech (short and long term)**

This national action plan lays out the following short term and long-term commitments. Short term commitments will be implemented within 2 to 12 months while long term commitments will be implemented within 12 to 26 months.

**V. Plan of Action**

This plan of action details the activities that shall be undertaken under each commitment and specifies the roles of different stakeholders in the implementation process.

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### KENYA'S NATIONAL PLAN OF ACTION ON HATE SPEECH

#### SHORT TERM PRIORITIES

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<thead>
<tr>
<th>Commitments</th>
<th>Proposed activities</th>
<th>Outcome</th>
<th>Responsible actors</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monitor and analyze hate speech</td>
<td>Monitor, collect, record, analyze and report hate speech in public spaces</td>
<td>Increased deterrence in perpetrating hate speech in public spaces</td>
<td>NCIC, DCI, Ministry of Interior, Kenya National Committee on Prevention of Genocide and Mass Atrocities &amp; CSOs</td>
</tr>
<tr>
<td></td>
<td>Monitor, collect, record, analyze and report Hate Speech on social media</td>
<td>Reduced hate content on social media</td>
<td>CSOs, Media Agencies &amp; NCIC</td>
</tr>
<tr>
<td>Engage and support victims of Hate Speech</td>
<td>Offer psychosocial support for Victims of Hate Speech</td>
<td>Increased levels of social reconciliation</td>
<td>CSOs, Religious organizations and NCIC</td>
</tr>
</tbody>
</table>
## SHORT TERM PRIORITIES

<table>
<thead>
<tr>
<th>Commitments</th>
<th>Proposed activities</th>
<th>Outcome</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Engage and support victims of Hate Speech</td>
<td>Undertake conciliation between perpetrators and victims of Hate Speech</td>
<td>Reduced retaliation and violence</td>
<td>NCIC</td>
</tr>
<tr>
<td></td>
<td>Conduct gender analysis and interventions to empower women and youth against gender hate speech</td>
<td>Women and youths empowered to engage and mitigate effects of hate speech</td>
<td>National Gender and Equality Commission, Ministry of Public Service, Gender and Youth Affairs, CSOs</td>
</tr>
<tr>
<td></td>
<td>Implement policy initiatives through law enforcement, judicial and other public officials.</td>
<td>Improved community trust in government to handle hate speech</td>
<td>National Police Service, DCI, ODPP, Judiciary, Ministry of Interior.</td>
</tr>
<tr>
<td></td>
<td>Recognize and reward the institutions fighting hate speech and shame the perpetrators/ spreaders of hate speech</td>
<td>Increased knowledge on the dangers of hate speech</td>
<td>NCIC, Media, CSOs</td>
</tr>
<tr>
<td></td>
<td>Enhance access to justice by providing legal aid and fairness to victims of Hate Speech</td>
<td>Increased deterrence on the commission of hate speech and relates offences</td>
<td>Judiciary, Law Society of Kenya, CSOs, KNCHR</td>
</tr>
<tr>
<td>Convening Relevant actors</td>
<td>Build partnerships to lay policy and programmatic interventions against hate speech</td>
<td>Sufficient financial and technical resources to combat hate speech</td>
<td>NCIC, Ministry of Interior and Coordination of local Government</td>
</tr>
<tr>
<td>Engage new and traditional media</td>
<td>Generate and disseminate online/ alternative narratives against hate speech</td>
<td>Dilute hate content on online platforms</td>
<td>CSOs, NCIC</td>
</tr>
<tr>
<td></td>
<td>Empower social media users (bloggers, citizen journalists etc.) to engage responsibly online</td>
<td>More responsible use of social media</td>
<td>NCIC, CSOs, Media</td>
</tr>
<tr>
<td></td>
<td>Build the capacity of mainstream media journalists to report using conflict sensitive means</td>
<td>Increased utilization of peace journalism</td>
<td>Media, NCIC, CSOs</td>
</tr>
<tr>
<td></td>
<td>Strengthen self-regulation and codes of conduct</td>
<td>Reduced hate speech from members or users</td>
<td>Political Parties, Media, IT Companies</td>
</tr>
<tr>
<td></td>
<td>Promote values of tolerance, non-discrimination and cohesion through public engagement</td>
<td>Enhanced resilience among the public against manipulation through hate speech</td>
<td>Media, CSOs &amp; KNCHR</td>
</tr>
<tr>
<td>Research and Technology</td>
<td>Undertake research on the use of social media for hate speech perpetuation</td>
<td>Increased knowledge on the irresponsible use of social media and the mitigation factors</td>
<td>Academia, NCIC, KIPPRA</td>
</tr>
</tbody>
</table>
# SHORT TERM PRIORITIES

<table>
<thead>
<tr>
<th>Commitments</th>
<th>Proposed activities</th>
<th>Outcome</th>
<th>Responsible actors</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Research and Technology</strong></td>
<td>Operationalize an early warning and rapid response system across the country</td>
<td>Increased prevention of violence</td>
<td>NSC, NCIC</td>
</tr>
<tr>
<td></td>
<td>Undertake a national survey of the status of cohesion in the country (social cohesion Index)</td>
<td>Increased knowledge on the indicators of social cohesion</td>
<td>NCIC, KIPPRA</td>
</tr>
<tr>
<td></td>
<td>Promote the use of technology in the monitoring and analysis of hate speech incidences on social media and support actions against hate speech</td>
<td>Improved tracking of hate speech on online spaces</td>
<td>Tech Companies</td>
</tr>
<tr>
<td><strong>Advocacy</strong></td>
<td>Highlight trends of hate speech</td>
<td>Enhanced awareness on the dangers of hate speech</td>
<td>NCIC, Academia</td>
</tr>
<tr>
<td></td>
<td>Carry out campaigns against hate online and offline</td>
<td>Reduced incidences of hate speech</td>
<td>CSOs, NCIC</td>
</tr>
<tr>
<td></td>
<td>Lobby for adoption of relevant policies and guidelines</td>
<td>Empowered legal and policy frameworks to combat hate speech</td>
<td>CSOs, NCIC</td>
</tr>
<tr>
<td></td>
<td>Express solidarity with targeted/vulnerable groups</td>
<td>Improved capacity for atrocity preventions</td>
<td>CSOs, NCIC</td>
</tr>
<tr>
<td></td>
<td>Develop workplace policies against perpetration and perpetuation of hate speech</td>
<td>More safer spaces and reduced hate speech at workplaces</td>
<td>ALL</td>
</tr>
<tr>
<td></td>
<td>Enact relevant laws to improve hate speech management in Kenya</td>
<td>Effective institutions and agencies</td>
<td>Government of Kenya, Parliament, &amp; Government Agencies</td>
</tr>
<tr>
<td></td>
<td></td>
<td>More responsible social media</td>
<td></td>
</tr>
<tr>
<td><strong>Leveraging on Partnerships</strong></td>
<td>Map the capacity of institutions involved in hate speech management and generate policy options for improvement</td>
<td>Improved capacities of institutions that counter hate speech</td>
<td>CSOs, NCIC</td>
</tr>
<tr>
<td></td>
<td>Train the justice sector actors on hate speech management</td>
<td>Improved enforcement process and hate speech case management</td>
<td>NPS, Judiciary, ODPP</td>
</tr>
</tbody>
</table>
VI. Challenges and Opportunities for implementation

A. Challenges
The country has faced several challenges in its effort to combat hate speech. These are discussed below:

- Uncoordinated actions from various actors on hate speech: The lack of coordination of key state and non-state actors across the country results into the duplication of activities and functions. The potential for synergy exists and should be taken advantage of.

- Proliferation of Online hate speech: This remains a major challenge for the NCIC going forward, particularly as internet penetration continues to grow across Kenya and as the COVID-19 pandemic sends more people online than ever before.

- Use of pseudo names and accounts: Online hate mongers use fake and pseudo names and accounts therefore making it difficult to identify them

- Electronic evidence Act: The Kenyan law allows electronic and digital evidence provided that the threshold set by the law is met. It is therefore not automatic for the same to be admissible as there are a further set of requirements that must be met before the same is admissible. This is provided for in Section 106 B of the Evidence Act. The provisions are quite technical but the most important thing to note is that electronic evidence on its own will not be admitted unless it has been authenticated usually by an expert.

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### KENYA’S NATIONAL PLAN OF ACTION ON HATE SPEECH

#### LONG TERM PRIORITY

<table>
<thead>
<tr>
<th>Commitments</th>
<th>Proposed activities</th>
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<th>Responsible actors</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address root causes, drivers and actors of hate speech</td>
<td>Ensure equitable representation of all gender and ethnic groups in public employment</td>
<td>Enhanced feelings of belonging to Kenya by all gender and ethnic communities</td>
<td>State and private institutions</td>
</tr>
<tr>
<td></td>
<td>Implement conflict prevention, mediation and transformation</td>
<td>Increased reconciliation within the society</td>
<td>NCIC, CSOs, National and County Governments</td>
</tr>
<tr>
<td></td>
<td>Audit of public service delivery by ethnicity</td>
<td>Enhanced Equality and equity across the nation</td>
<td>NCIC, CSOs, Public Service Commission, Commission on Administrative Justice</td>
</tr>
<tr>
<td>NCIC, CSOs, Public Service Commission, Commission on Administrative Justice</td>
<td>Establish Amani Clubs in more schools</td>
<td>More safe spaces for negotiating solutions to existing conflicts</td>
<td>NCIC, Ministry of Education</td>
</tr>
<tr>
<td></td>
<td>Integrate cohesion principles in the school curriculum</td>
<td>Reinforce the impact of education on future generations</td>
<td>KICD, Ministry of Education</td>
</tr>
<tr>
<td></td>
<td>Establish clubs for youths who are out of school and infuse cohesion in informal programs such as rites of passage</td>
<td>Established safe spaces for youths who are out of school</td>
<td>Youth groups, Elders Councils and religious leaders</td>
</tr>
</tbody>
</table>
• Weak legal backing when it comes to the war on hate speech: NCIC is unable to fulfil its mandate due to lack of clarity on hate speech laws. Hate speech vs free speech. Kenya also suffers from weak implementation of laws and prosecution processes.

• Jurisdictional challenges: Some of the individuals who propagate hate speech in Kenya whether online or offline do not live in Kenya making it hard for Kenyan courts to prosecute the suspects since they operate in a different jurisdiction.

• Inadequate understanding of what constitutes hate speech by the public: Kenyan citizens do not understand comprehensively what constitute hate speech and what is freedom of association and expression. Between 2018 and 2022, over 70% of the complaints filed at the Commission were dismissed or referred to other agencies because they did not constitute hate speech as defined by the NCI Act.

• Limited investigative capacity: There is limited capacity to investigate hate speech in Kenya due to existing inadequacy in human resource, financial and equipment requirements. The problem is further compounded by lack of digital software that are crucial for detection and tracking of online hate speech.

• Interference with the investigations and prosecution of cases: Most hate speech suspects are politicians or individuals allied with powerful politicians. Political interference has influenced the enforcement, investigations and/or judicial processes during the processing of hate speech cases. This is aggravated by the fact that the NCI Act can be repealed on the floor of Parliament.

• Intimidation of key witnesses: The prosecution witnesses on hate speech cases face intimidation from perpetrators or their representatives, or are influenced to withdraw their testimonies. There are cases where witnesses withdrew, citing threats, intimidation from perpetrators or their representatives, or are influenced to withdraw their testimonies.

• Limited funding for the hate speech work: NCIC is underfunded and understaffed making it more difficult to monitor hate speech across the country.

• Low trust in Government institutions charged with dealing with issues of hate speech: There is a perception bias by the public against the Commission. The fact that few prosecutions have ended in successful convictions cements this negative bias.

• Definition of hate speech is limited to ethnicity, race and religion leaving out a major issue that plays out during elections. There is no clear focus on dealing with hate speech that centers on women. Gender based violence is rampant during elections and one of the major tools used against women is hate speech/slur.
B. Opportunities for the Management of Hate Speech

Legal Framework: Kenya has several laws and policies which support the fight against hate speech. These include but are not limited to the Constitution of Kenya, the NCI Act, the Media Act, the Computer Misuse and Cybercrimes Act, Kenya Information and Communications Act, and the Penal Code.

Existence of other organizations that seek to combat Hate Speech and willingness to build synergy: Hate speech management can leverage on the work of other agencies like CSOs, Religious Organizations, Media and the Private Sector. The religious sector presents a consistent weekly opportunity to engage the masses. CSOs have substantial capacity to raise awareness and lobby for policy adoption.

The private sector can offer financial support to hate speech management efforts. Mass media has the capacity for wide outreach across the country.

Strategic Partnerships: There is room to strike and benefit from non-traditional partners in the fight against hate speech. These include UN agencies, IT companies, international organizations and mainstream government including the Ministry of ICT.

VII. Conclusions

This National Action Plan is the first step towards providing a comprehensive and coherent approach towards tackling hate speech in the country. It acknowledges the unique strengths and contributions of each actor, including the community, in this fight. Using a whole of society approach in the implementation of this Plan of Action will accelerate the attainment of its objectives by reducing duplication of efforts, providing guidelines and emphasizing points of synergy between actors.

This National Plan of Action is a living document that will be updated consultatively on periodic basis by all the relevant stakeholders.
VIII. References


KNCHR, (2019) Silhouettes of Brutality. KNCHR
NCIC, (2022) Hate Speech Hotspot Mapping. NCIC
United Nations Office on Genocide Prevention and the Responsibility to Protect
United Nations Office on Genocide Prevention and the Responsibility to Protect
VIII. References

- The provisions are quite technical but the most important thing to note is that before the same is admissible. This is provided for in Section 106 B of the Evidence Act.

- Electronic evidence Act: The Kenyan law allows electronic and digital evidence to be used in court. However, there are concerns about the admissibility of such evidence and the standards for its collection and presentation.

- COVID-19 pandemic sends more people online than ever before. This has increased the scope for hate speech and incitement to violence.

- Uncoordinated actions from various actors on hate speech: The lack of coordination of state and non-state actors across the country results into the duplication of activities and one of the major tools used against women is hate speech/slur.

- There is a perception bias by the public against the Commission. The fact that few prosecutions have ended in successful convictions cements this negative bias.

- Low trust in Government institutions charged with dealing with issues of hate speech:
  - Weak legal backing when it comes to the war on hate speech: NCIC is unable to fulfil its mandate due to lack of clarity on hate speech laws. Hate speech vs free speech.

- There are cases where witnesses withdrew, citing threats, intimidation from perpetrators or their representatives, or are influenced to withdraw their testimonies.

- NCIC Act can be repealed on the floor of Parliament.

- During the processing of hate speech cases. This is aggravated by the fact that the interference has influenced the enforcement, investigations and/or judicial processes. Suspects are politicians or individuals allied with powerful politicians. Political intimidation, or fear of reprisals particularly of cases involving high profile politicians.

- Some of the individuals who propagate hate speech in Kenya also suffers from weak implementation of laws and prosecution processes.

- Its mandate is to plan, monitor and evaluate the implementation of national policies and programmes aimed at promoting social cohesion and integration. It acknowledges the unique strengths, requirements. The problem is further compounded by lack of digital software that are required for the work of the Commission.

- The NCIC is underfunded and understaffed. There is a general lack of resources available to handle hate speech cases.

- Websites and platforms that are used to spread hate speech are usually by an expert.

- Legal Framework: Kenya has several laws and policies which support the fight against hate speech. The Media Act, the Computer Misuse and Cybercrimes Act, Kenya Information and Communication Technology (ICT) Act, and the National Cohesion and Integration (NCI) Act.

- There are challenges in the enforcement of these laws due to weak implementation and resources.

- Most cases of hate speech involve politicians or individuals allied with powerful politicians. Political intimidation, or fear of reprisals.

- The NCIC is unable to fulfill its mandate due to lack of clarity on hate speech laws. Hate speech vs free speech.

- There is a perception bias by the public against the Commission. The fact that few prosecutions have ended in successful convictions cements this negative bias.

- NCIC Act can be repealed on the floor of Parliament.

IX. Recommendations

- Strategic Partnerships: There is room to strike and benefit from non-traditional partners in the fight against hate speech.

- Using a whole of society approach towards tackling hate speech in the country. It acknowledges the unique strengths and contributions of each actor, including the community, in this fight. Using a whole of society approach in the implementation of this Plan of Action will accelerate the attainment of its objectives by reducing duplication of efforts, providing guidelines and emphasizing points of synergy.

- Mass awareness and lobby for policy adoption.

- Religious Organizations, Media and the Private Sector. The religious sector presents a synergetic opportunity for hate speech management. The private sector can offer financial support to hate speech management efforts. Mass media has the capacity for wide outreach across the country.

- CSOs have substantial capacity to raise awareness and lobby for policy adoption.

- The private sector can offer financial support to hate speech management efforts. Mass media has the capacity for wide outreach across the country.

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