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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Forty-first session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 36th MEETING

Held at the Palais Wilson, Geneva,
on Friday, 7 November 2008, at 3 p.m.

Chairperson: Mr. TEXIER

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6) *(continued)*

First periodic report of Kenya (E/C.12/KEN/1; List of issues to be taken up (E/C.12/KEN/Q/1); Written replies by the Kenyan Government to the list of issues to be taken up (E/C.12/KEN/Q/1/Add.1)) *(continued)*

1. *At the invitation of the Chairperson, the members of the Kenyan delegation resumed their seats at the Committee table.*

Articles 10 to 12 of the Covenant *(continued)*

2. Mr. KIHWAGA (Kenya), replying to the question on the reservation to paragraph 2 of article 10 of the Covenant, said that the Kenyan Government would reconsider its position once it had a clearer vision of budgetary allocations and could thus assess whether it was able to honour the obligation implied by withdrawing its reservation, which it hoped to be able to do in the near future.

3. Ms. MOHAMED (Kenya), having noted that polygamy was authorized by Kenyan law, stated that the number of polygamous families in the country was tending to decline, and that on average about 20% of the Muslim population practised polygamy. That reduction, seen in the population as a whole, was the result of government action to encourage monogamy, but also the economic situation which discouraged polygamy.

4. On the issue of women's property rights, while the practice of certain communities and economic factors in terms of employment and access to capital tended to favour men in that domain, the current law on succession made no such distinction between men and women, and recent jurisprudence from Kenyan courts supported women's property rights.

5. The CHAIRPERSON, speaking as a Committee member, noted that article 2, paragraph 1 envisaged progressive application that would make it possible to lift the reservation, whatever the current status of health protection for women, particularly in terms of reproductive health.

Articles 13 to 15 of the Covenant

6. Ms. WILSON asked what the Kenyan Government was doing to help the children of impoverished families living in urban areas, who, despite the provisions of the law on children guaranteeing free and compulsory basic education for all, were penalized by the cost of uniforms, school meals and transport. He also asked whether there were enough schools in the rural area.

7. Ms. Wilson wanted to know whether a policy was in place to progressively establish free secondary education, pursuant to the provisions of article 13, paragraph 2 (b) of the Covenant. She also enquired about the adult illiteracy rate in Kenya, and whether there were any adult literacy programmes.

8. Mr. MARCHAN ROMERO wanted to know why the Kenyan population, which was rich in cultural and ethnic diversity, had rejected a draft constitution that contained an entire chapter devoted to culture. He also wanted to know what intellectual property regimes were applied to the traditional knowledge of ancestral

people and whether there were specific regimes, other than those adopted in the framework of the World Intellectual Property Organisation, that protected such knowledge.

9. Mr. Marchan Romero also wanted to know why the Nubian people were no longer recognized as an ethnic group in Kenya, and asked what the delegation's position was with regard to International Labour Organization Convention 169 and the recent United Nations Declaration on the Rights of Indigenous Peoples. Lastly, he asked what languages Kenyan people could officially use in their dealings with courts and central Government.

10. Ms. BRAS GOMES, referring to items contained in the parallel report issued by the World Organisation against Torture and the exceptions listed in article 75 of the current Constitution, on land ownership, and referring also to the loss by the Ogiek people of their culture, means of subsistence and cultural identity, enquired about the current status of the national land policy drawn up in 2007, and steps taken to ensure that the use of property for general interest purposes did not violate the right of indigenous populations to preserve their cultural traditions and heritage.

11. Ms. BONOAN-DANDAN asked about the role of informal schools in which shanty-town children were educated, and why those children did not attend normal schools. She also wanted to know what the Government was doing to ensure education for the children of semi-nomadic families, and asked whether the delegation could confirm the alarming figure of 8,000 to 13,000 young girls who dropped out of school each year because they were pregnant. Lastly, recalling the recommendation made by the Kenyan Medical Research Institute regarding legislation on traditional therapies and remedies of indigenous peoples, Ms. Bonoan-Dandan asked what such legislation might consist of and how the Government had followed up the recommendation.

12. Ms. KIMANID (Kenya), replying to the questions raised on education, said that the Government subsidized the purchase of textbooks by schoolchildren, and that the requirement to wear school uniform had been abolished in Kenya. In regions where food security was most under threat, programmes had been put in place to guarantee distribution of a school meal to the most impoverished pupils. Moreover, a system of mobile schools implemented in 2006 was enabling teachers to follow nomadic pupils as they moved about. The Kenyan Government had also established free secondary education since the report under consideration had been submitted. In addition, a portion of the funds allocated to local development was now earmarked for school transport, which would enable the most deprived children to reach school.

13. On the issue of informal schools in shanty towns, the Government had taken advantage of the schools that had been spontaneously organized by their inhabitants before free primary education was established in the country; and it was subsidizing the teachers already operating there. Those informal schools were tending to disappear as free primary education became established.

14. With regard to girls' education, given the contradictory messages emitted by the country's various religious authorities on the subject of contraception for young girls attending school, the only step the Government had been able to take thus far involved encouraging young girls to return to school after giving birth. Reproductive health was a highly controversial subject in Kenya, and the authorities

could not impose contraceptive use; but they had established compulsory sex education at school and were hopeful of making further progress in that area.

15. Ms. MOHAMED (Kenya) recognized that the number of girls interrupting their school education because of pregnancy was alarming, but said that the situation should improve thanks to the implementation of a policy to put them back in school after giving birth. The public authorities had basically decided to emphasize information and prevention of early pregnancy. Nonetheless, as already noted, Kenya was a country where the religious authorities still had a great deal of influence and often issued messages condemning the various contraceptive methods.

16. Secondary education had been provided free since the start of 2008, and the intention was to issue free textbooks and uniforms to pupils, as had already been done at the primary level. On the question of the languages that Kenyan people could officially use in their dealings with courts and central Government, Ms. Mohamed pointed out that English was the official language and Swahili the national language. Kenyans who did not speak either of those two languages could use interpreter services wherever possible.

17. The Ogieks were one of the last remaining groups of hunter-gatherers who depended for their subsistence on the Mau forest. Unlike other population groups, they had never been subject to expulsion measures because they had always lived in the forest and did not engage in environmentally harmful practices. Other groups had been forced to leave the forest, but in each case the people concerned had settled there illegally. That expulsion policy aimed to protect the country's natural resources because the forest only covered 10% of Kenyan territory, and all water courses originated in the Mau forest.

18. Mr. GITAU (Kenya) said that over 1,000 primary schools had been created in the country between 2003 and 2006, and the proportion of pupils completing primary school had risen from 66% in 2006 to 71% in 2007, thanks mainly to a higher enrolment rate among young girls, who had been encouraged by the public authorities to continue their schooling. The adult literacy rate was 79%, but there were marked disparities between rural zones (75.7%) and urban areas (90%). There was a vast adult literacy programme covering the entire country. With regard to the distance covered by schoolchildren to get to school, taking all regions as a whole, nearly 35% of pupils walked less than 2.9 km, while 5.1% had to walk more than 5 km. To rectify that situation, the public authorities had implemented a school building policy.

19. Mr. OWADE (Kenya) said that the draft constitution had again been rejected for purely political reasons and that its content had never been called into question. As the delegation had already indicated, Kenya had at least 42 officially-registered ethnic groups, and the Nubians were included in the "Other groups" category on the census forms. Official recognition of the Nubian people as an ethnic group had never been raised as an issue. They were not subject to any discrimination, had access to all public services on an equal footing with other population groups, and were employed in both the public and private sectors.

20. Ms. ONUKO (Kenya) said that her country had gone through difficult times and that it had not yet been appropriate to ratify ILO Convention No. 169.

21. Mr. MULESHE (Kenya) said that most of the population made use of traditional medicine. Although traditional treatments and remedies were officially

recognized and authorized, the Government wanted to regulate the sector, because public health institutions and patients should be able to clearly identify the ingredients of traditional preparations and ensure that no chemical product was added.

22. Ms. KIMANI (Kenya) said that the land policy reform introduced in 2007 aimed to promote property rights for minorities, vulnerable groups and nomads, and guarantee access to land. The coalition Government was determined to implement that reform as soon as possible.

23. The CHAIRPERSON thanked the Kenyan delegation and announced that the Committee had completed its review of Kenya's first periodic report.

24. *The Kenyan delegation withdrew.*

The first part (public) of the meeting rose at 4.10 p.m.