



International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

Ninety-second session

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Item 4 of the provisional agenda

**Consideration of reports, comments and information submitted
by States parties under article 9 of the Convention**

List of themes in relation to the combined fifth to seventh periodic reports of Kenya

Note by the Country Rapporteur

1. The Committee on the Elimination of Racial Discrimination decided at its seventy-sixth session (see A/65/18, para. 85) that the Country Rapporteur would send to the State party concerned a short list of themes with a view to guiding and focusing the dialogue between the State party's delegation and the Committee during the consideration of the State party's report. The present document contains a list of such themes. It is not an exhaustive list; other issues may also be raised in the course of the dialogue. No written replies are required.

The Convention in domestic law and the institutional and policy framework for its implementation (arts. 2, 4, 6 and 7)

2. Updated information on the implementation of the 2010 Constitution, including the legislative amendments relevant to the prohibition of racial discrimination and on the process of reviewing the National Cohesion and Integration Act with regard to sanctions imposed for acts of racial discrimination; and updated information on legislative and other measures, including affirmative action programmes and policies, designed to redress any disadvantage suffered by individuals or groups because of past discrimination (CERD/C/KEN/5-7, paras. 9-11 and annex, para. 1; CERD/C/KEN/CO/1-4, para. 9).

3. Updated information on the absence of comprehensive anti-discrimination legislation and updated information on legislation that explicitly prohibits discrimination such as in housing (CERD/C/KEN/CO/1-4, para. 9; E/C.12/KEN/CO/2-5, paras. 19-20). Information on the implementation of the Vision 2030 development programme, including measures taken to address extreme poverty and to support regions and groups who have been historically disadvantaged; and more updated information on ethnic and regional disparities in the enjoyment of economic and social rights (CERD/C/KEN/5-7, paras. 41-42; CERD/C/KEN/CO/1-4, paras. 23 and 26).

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4. Clarification on mandates of the Kenya National Commission on Human Rights, the National Gender and Equality Commission, the Commission on Administrative Justice and the Media Council of Kenya, their functioning, including their degree of independence, their financing, their human resources and measures taken to follow up on their recommendations; and updated information on activities and investigations undertaken by the National Cohesion and Integration Commission relating to cases of racial discrimination (CERD/C/KEN/5-7, paras. 20-22, 57, 63, 140-144 and annex, para. 5; CERD/C/KEN/CO/1-4, para. 11).
5. Updated information on collecting accurate data on the racial and ethnic composition of the population (CERD/C/KEN/5-7, paras. 32-33 and table. I). Updated disaggregated statistical data and information on complaints of racial discrimination, including investigations of such complaints and prosecutions by prosecutors or domestic tribunals and/or other competent bodies; detailed information on convictions and sanctions imposed on the perpetrators and remedies for the victims; and updated information on raising awareness among the population, through mass education, of the legal prohibition of racial discrimination and of their right to equality and non-discrimination (CERD/C/KEN/5-7, para. 63; CERD/C/KEN/CO/1-4, para. 10 (c)).
6. Updated information on the process of reviewing hate speech legislation to ensure its compliance with article 4 of the Convention and on the actions taken to address and investigate cases of hate speech and racial propaganda, including statements attributed to political and public figures in the media and on the Internet; and more information on the media guidelines on hate speech (CERD/C/KEN/5-7, paras. 29, 54-59, 100-101 and annex, paras. 6-7; CERD/C/KEN/CO/1-4, paras. 12-13).
7. Updated information on the implementation of, and resources allocated to, the National Legal Aid and Awareness Programme and on the adoption process of the legal aid bill (CERD/C/KEN/5-7, para. 138 and annex, para. 3; CERD/C/KEN/CO/1-4, para. 10 (b)).
8. Updated and detailed information on educational and training programmes undertaken by the Kenya National Commission on Human Rights, the National Cohesion and Integration Commission, and any other relevant bodies, to create public awareness of the legal prohibition of racial discrimination and to promote national cohesion and reconciliation; the impact and outcome of such programmes; and an assessment of the Kenya National Integrated Civic Education Programme (CERD/C/KEN/5-7, paras. 141, 150-153 and annex, paras. 2 and 18; CERD/C/KEN/CO/1-4, paras. 10 (a) and 24).
9. Information on specific training for law enforcement officers, armed forces personnel, prison officers and civil officers on the rights enshrined in the Convention and the impact of such training on the treatment of members of ethnic minorities (CERD/C/KEN/5-7, para. 23).

Situation of ethnic minorities and indigenous people (arts. 2-7)

10. Updated information on the activities of the task force established to implement the recommendations of the Truth, Justice and Reconciliation Commission; information on prosecutions and sanctions applied in cases related to the post-election violence in 2007; and remedies and compensation granted to victims, including restorative justice measures applied (CERD/C/KEN/5-7, annex, paras. 8-9; CERD/C/KEN/CO/1-4, paras. 14-15).
11. Measures taken to implement the decision of the African Commission on Human and People's Rights on providing redress to the Ogiek and Endorois indigenous communities, who have been victims of forced evictions; and information on the outcome of the consultations and studies undertaken by the task force appointed to implement that decision (CERD/C/KEN/5-7, annex, para. 11; CERD/C/KEN/CO/1-4, para. 17).

12. Information on measures taken to address the alleged continuing forced evictions of indigenous communities, including Ogiek, Samburu and Sengwer people, from their traditional lands by the Kenyan Forest Services; measures taken to ensure prior consultation with indigenous peoples and their participation in decision-making processes on issues that affect them; information on the compensation granted to indigenous communities affected by forced evictions and the measures taken to ensure that they do not lead to further socioeconomic marginalization or impoverishment.
13. Updated information on policies and procedures for conducting evictions of people living in informal settlements and on measures taken to ensure that the affected people are consulted and benefit from appropriate resettlement; and information on the enactment of the community land bill and the evictions and resettlement bill (CERD/C/KEN/5-7, paras. 109-112 and annex, para. 13; CERD/C/KEN/CO/1-4, para. 19).
14. Updated and detailed information on the outcome of the work undertaken by the National Land Commission task force appointed in 2014 and on the stage of enactment of a draft bill on the resolution of historical land injustices (CERD/C/KEN/5-7, annex, para. 12; CERD/C/KEN/CO/1-4, para. 18).
15. Updated information on the implementation of the Kenya Citizenship and Immigration Act 2011 and of the Integrated Population Registration System; and on measures taken to implement the recommendations made by the African Committee of Experts on the Rights and Welfare of the Child in respect of the right of Nubian children to acquire national identity papers (CERD/C/KEN/5-7, paras. 50 and 82 and annex, para. 15; CERD/C/KEN/CO/1-4, para. 21).
16. Updated information on the implementation of the constitutional provisions for the promotion of marginalized groups, including ethnic minorities, ensuring that legislation on political parties and elections to be adopted by the State party enables the representation of ethnic minorities in elected organs so that smaller ethnic groups are represented in elected bodies, in the judiciary and in government bodies and civil service jobs; and on the compliance of Kenyan counties with the 30 per cent quota system in the public services provided in the County Governments Act (CERD/C/KEN/5-7, paras. 20, 32-37, 48-49 and annex, para. 14; CERD/C/KEN/CO/1-4, para. 20).
17. Measures taken to address the lack of provision of, and access to, public services in marginalized areas; and updated information on the special measures adopted to reduce the inequalities among ethnic groups and migrants in areas such as education, employment, provision of services and housing, as well as other areas of public life (CERD/C/KEN/5-7, annex, para. 17; CERD/C/KEN/CO/1-4, paras. 9 and 23).
18. Information on measures taken to protect human rights defenders, particularly those working to defend the rights of indigenous peoples or the victims of the post-election violence in 2007 from reprisals, intimidation and threats; and on measures taken to prevent and investigate possible cases of harassment and punish the perpetrators.
19. Information on support to civil society organizations through the Public Benefits Act 2013, or other measures.

Situation of non-citizens, including migrants, asylum seekers and refugees (arts. 2-7)

20. Updated information on the State party's asylum policy, in particular towards Somalian asylum seekers; on the adoption of the refugees bill 2014; and updated information on the implementation of the 2013 tripartite agreement with Somalia and the Office of the United Nations High Commissioner for Refugees on the voluntary repatriation of refugees to Somalia and the measures taken to ensure full compliance with the principle of non-refoulement (CERD/C/KEN/5-7, annex, para. 19).

21. Information on the decision to close Dadaab refugee camp and on the measures taken to ensure a proper and voluntary resettlement of the people living there; and information on the decision of the High Court blocking the plan to close the camp and declaring the Government plan unconstitutional.
22. Updated information on the measures taken to protect refugees and asylum seekers from violence by the military and the police, including data on investigations carried out and sanctions recommended by the Independent Policing Oversight Authority in relation to complaints about disciplinary or criminal offences committed by members of the Police Service, in particular in the context of counter-terrorism operations at the Somali border; and the measures taken to investigate such violence, prosecute those responsible and provide victims with effective remedies (CERD/C/KEN/5-7, annex, para. 19).
23. Measures taken to ensure that non-citizens, including refugees and asylum seekers, fully enjoy their rights guaranteed under the Convention, including the right of children to access education.
24. Updated information on the resettlement of internally displaced persons and the measures taken to address the challenges they face in terms of reintegration, including in relation to employment, access to basic services and resolution of land claims; and information on the living conditions of internally displaced persons, who remain in camps, including access to basic services and implementation of their economic, social and cultural rights (CERD/C/KEN/5-7, annex, para. 10; CERD/C/KEN/CO/1-4, para. 16; E/C.12/KEN/CO/2-5, paras. 11-12).
25. Updated information on the fund established by the Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act No. 56 (2012), and on the protection granted by the national policy on the prevention of internal displacement, protection and assistance to internally displaced persons (CERD/C/KEN/5-7, annex, para. 10).
26. Updated information on the task force formed under the Department of Immigration to analyse data on the Makonde people in Kwale County and the Swahili-Shirazi to determine whether they are eligible for declaration as citizens of Kenya (CERD/C/KEN/5-7, para. 51).
27. Updated information on the Integrated Population Registration System database (CERD/C/KEN/5-7, para. 82).
