



International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

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Implementation of the International Convention on the Elimination of All Forms of Racial Discrimination

List of themes to be taken up in connection with the consideration of the initial to fourth periodic reports of Kenya (CERD/C/KEN/1-4)

The following is a list of themes identified by the Country Rapporteur in connection with the consideration of the initial to fourth periodic reports of Kenya. The list is meant to guide the dialogue between the State party delegation and the Committee and *does not require written replies*. This is not an exhaustive list as other issues will be raised in the course of the dialogue.

1. Legal framework for the implementation of the Convention (arts. 1, 2, 3 and 4)

- (a) Domestic incorporation of the provisions of the Convention and other international treaties under the 2010 Constitution (CERD/C/KEN/1-4, para. 24);
- (b) Implementation of the 2010 Constitution, including the legislative changes relevant to the prohibition of racial discrimination (CERD/C/KEN/1-4, paras. 35, 44);
- (c) Specific criminal provisions on racial/ethnic segregation and on racial and ethnic motives of an offender as an aggravating circumstance (CERD/C/KEN/1-4, para. 42);
- (d) Updated information on the hate speech bill (CERD/C/KEN/1-4, para. 205).

2. Prevention of inter-ethnic violence (arts. 2, 4 and 5)

- (a) Long-term solutions and measures taken to address inter-ethnic tensions in Nairobi slums and to prevent ethnic clashes in general, as well as mechanisms in place to improve the physical security of all (A/HRC/WG.6/8/KEN/3, paras. 18-19);
- (b) Measures taken to guarantee the security of persons displaced by the 2007 post-election violence who wish to return to their homes (CERD/C/KEN/1-4, para. 131).

3. Equality before the law in the enjoyment of civil, economic, social and cultural rights (art. 5)

(a) Effective measures being taken to address discrimination against Nubians, Somalis, Coastal Arabs and other groups in the acquisition of Kenyan nationality, particularly in light of the provisions on nationality in the new Constitution (CERD/C/KEN/1-4, paras. 45, 132);

(b) Impact of affirmative measures in place (CERD/C/KEN/1-4, para. 209) and information on the implementation of the constitutional provisions calling for ethnic representation in political parties as well as in public organizations and bodies (CERD/C/KEN/1-4, para. 44);

(c) Impact of policies and measures adopted, such as the Constituencies Development Fund Act of 2003 and the Anti-Poverty Programme, on reducing ethnic and regional disparities in the enjoyment of economic, social and cultural rights, such as in the enjoyment of the right to health and to education (CERD/C/KEN/1-4, para. 53);

(d) Availability of ethnicity-based disaggregated data on economic, social and cultural rights, as gathered during the August 2009 census (CERD/C/KEN/1-4, para. 32);

(e) Progress made in the implementation of the National Land Policy and the extent to which it has addressed ethnic tensions relating to lands as well as grievances of some ethnic groups, including those who were forcibly evicted from their lands (CERD/C/KEN/1-4, paras. 57, 141, 201; A/HRC/WG.6/8/KEN/3, para. 65);

(f) Measures taken to improve conditions at the Dabaab refugee camp, including in light of the current drought (A/HRC/WG.6/8/KEN/3, para. 68).

4. Right of access to justice (art. 6)

(a) Avenues for seeking redress for racial and ethnic discrimination under the new Constitution as well as their availability and accessibility, particularly for vulnerable groups such as those in the Arid and Semi-arid Lands (ASALs) (CERD/C/KEN/1-4, paras. 95-96, 197); implementation of the National Legal Aid Scheme, including in rural and remote areas (CERD/C/KEN/1-4, para. 100);

(b) Outcomes of the activities of the Truth, Justice and Reconciliation Commission, including information on reparation for victims, amnesty granted, and recommendations for prosecution for race-related acts; updated information on the extension of the mandate of the Commission and the allocation of appropriate resources (A/HRC/WG.6/8/KEN/1, para. 26);

(c) Efforts undertaken to strengthen witness protection (A/HRC/WG.6/8/KEN/1, paras. 35-36);

(d) Cooperation with the International Criminal Court in the prosecution of the perpetrators of the 2007 post-election violence (CERD/C/KEN/1-4, paras. 25, 28).

5. Education (art. 7)

(a) Efforts, including activities carried out by the Ministry of Justice, National Cohesion and Constitutional Affairs, in continuing to foster understanding and to combat prejudices and stereotyping through education of the population as well as to strengthen human rights awareness and education, with particular emphasis on non-discrimination and respect for diversity (CERD/C/KEN/1-4, paras. 71, 78; A/HRC/WG.6/8/KEN/1, para. 62).