



# Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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## Committee against Torture

### List of issues prior to submission of the fourth periodic report of Kenya\*

#### Specific information on the implementation of articles 1–16 of the Convention, including with regard to the Committee’s previous recommendations

##### Issues identified for follow-up in the previous concluding observations

1. In its previous concluding observations,<sup>1</sup> the Committee requested the State Party to provide information on the follow-up to the Committee’s recommendations on extrajudicial killings, enforced disappearances and excessive use of force; the National Human Rights Commission; and female genital mutilation (paras. 12 (a), 14 and 40, respectively). Noting that replies concerning the information sought by the Committee were provided on 13 June 2023,<sup>2</sup> and with reference to the letter dated 17 November 2023 from the Committee’s Rapporteur for follow-up to concluding observations,<sup>3</sup> the Committee considers that the recommendations included in paragraphs 12 (a) and 40 of the previous concluding observations have been partially implemented and that the State Party has not provided enough information on the measures taken to implement the recommendation set out in paragraph 14.

##### Articles 1 and 4

2. With reference to the Committee’s previous concluding observations,<sup>4</sup> please specify the legislative measures taken to amend section 4 of the Prevention of Torture Act (No. 12 of 2017) to ensure that the definition of torture includes a direct analogue to the language in article 1 of the Convention to cover “any other person acting in an official capacity” and that the list of purposes for torture contained in the Act is not of a limitative nature. Please indicate the steps taken to amend sections 7 and 8 of the Act to ensure that penalties applicable to acts of ill-treatment and to offences of attempted acts of torture and complicity in committing torture, which may be liable to a fine, reflect the grave nature of these crimes, in accordance with article 4 (2) of the Convention. Please indicate the steps taken to harmonize all domestic laws, including by amending section 36 of the Basic Education Act (No. 14 of 2013), to ensure the consistent application of appropriate penalties for acts of torture and other forms of ill-treatment.

\* Adopted by the Committee at its eighty-second session (7 April–2 May 2025).

<sup>1</sup> CAT/C/KEN/CO/3, para. 49.

<sup>2</sup> See CAT/C/KEN/FCO/3.

<sup>3</sup> See

[tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCAT%2FFUL%2FKEN%2F56681&Lang=en](http://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCAT%2FFUL%2FKEN%2F56681&Lang=en).

<sup>4</sup> CAT/C/KEN/CO/3, paras. 7 and 8.



## Article 2<sup>5</sup>

3. Please provide information on the measures taken to amend section 2 of the Prevention of Torture Act, which stipulates that torture has the meaning assigned to it in section 4 “unless the context otherwise requires”, to ensure that it is not interpreted as a derogation from the absolute prohibition on torture referred to in article 2 of the Convention. Please provide information on the measures taken to incorporate the principle of command responsibility or superior responsibility for the offence of torture and other ill-treatment, according to which hierarchical superiors are held criminally responsible for the conduct of their subordinates where they knew or should have known that the conduct was occurring, or was likely to occur, and they failed to take reasonable and necessary preventive measures.

4. With reference to the Committee’s previous concluding observations,<sup>6</sup> please provide information on any new measures taken by the State Party to ensure that all detainees enjoy all fundamental legal safeguards, in law and in practice, from the outset of their deprivation of liberty. In particular, please provide information on any measures to ensure that detained persons are afforded the rights: (a) to have ready access to an independent lawyer of their choice without delay and in full confidentiality, and to free legal aid if they do not have sufficient means to pay for legal representation; (b) to notify a relative or any other person of their choice of their detention and whereabouts; (c) to request and receive a confidential medical examination by an independent doctor, free of charge, or a doctor of their choice; and (d) to be brought promptly, within 24 hours, as provided by law, before a judge and to have the lawfulness of their detention reviewed by a court, in accordance with international standards. Please provide information on the measures taken to ensure that registers contain full and detailed information, including on interrogations and incidents in detention, and medical records for each detainee, and that registers are accessible to the lawyers of detained persons at any time, with their clients’ consent. Please indicate the control measures taken, including disciplinary sanctions, to ensure that law enforcement and other officials respect, in practice, from the moment of deprivation of liberty, all fundamental legal safeguards of detained persons. Please inform the Committee of the percentage of places of deprivation of liberty and of interrogation rooms that include a video monitoring system, as well as the efforts undertaken to include video monitoring systems in all such places.

5. In the light of the Committee’s previous concluding observations<sup>7</sup> and the State Party’s follow-up replies,<sup>8</sup> please provide information on the measures taken to ensure the functional independence of the Kenya National Commission on Human Rights, including by guaranteeing it an adequate budget that allows it to recruit staff, set up regional offices and fully execute its mandate in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). Please clarify the measures adopted to allow the Commission to conduct regular, unrestricted and unannounced visits to all places of deprivation of liberty, including those within the remit of the army and the National Intelligence Service, to communicate confidentially, during those visits, with any persons deprived of their liberty, and to ensure effective follow-up to the findings and recommendations of such systematic monitoring. Please indicate steps taken to give the necessary weight to the conclusions of the

<sup>5</sup> The issues raised under article 2 could also touch on issues raised under other articles of the Convention, including article 16. As stated in paragraph 3 of the Committee’s general comment No. 2 (2007) on the implementation of article 2, the obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment under article 16 (1) are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment in practice overlaps and is largely congruent with the obligation to prevent torture. In practice, the definitional threshold between ill-treatment and torture is often not clear. See also section V of the same general comment.

<sup>6</sup> [CAT/C/KEN/CO/3](#), paras. 9 and 10.

<sup>7</sup> Ibid., paras. 13, 14, 21 and 22. See also [CERD/C/KEN/CO/8-9](#), paras. 11 and 12.

<sup>8</sup> [CAT/C/KEN/FCO/3](#), paras. 30–33. See also the letter dated 17 November 2023 from the Rapporteur for follow-up to concluding observations, available at [tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCAT%2FFU L%2FKEN%2F56681&Lang=en](http://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCAT%2FFU L%2FKEN%2F56681&Lang=en).

Commission on individual complaints, including by communicating such conclusions to the Office of the Director of Public Prosecutions in cases where torture or ill-treatment is found to have occurred. Please provide updated information, including statistical data, disaggregated by year and by age group (minor or adult), sex and ethnic origin or nationality of the victim, on the complaints examined by the Commission in relation to alleged torture or ill-treatment, and specify how many such cases have been submitted to the competent authorities for prosecution, including the details of such cases. Please also clarify whether all human rights non-governmental organizations and institutions with a mandate to visit the country's places of detention to complement the monitoring undertaken by the Commission are granted access and under what conditions. Please provide information on any such organizations or institutions that have been denied access to places of detention. Please indicate whether the State Party has considered ratifying the Optional Protocol to the Convention, with a view to establishing a system of regular unannounced visits by national and international monitors, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.<sup>9</sup>

6. With reference to the Committee's previous concluding observations,<sup>10</sup> please provide information on the measures taken to prevent and combat all forms of violence against women, including femicide and domestic and sexual violence, especially those cases involving actions or omissions by State authorities or other entities that engage the international responsibility of the State Party under the Convention. In particular, please report on the steps taken to amend domestic legislation, including the Penal Code, the Protection against Domestic Violence Act (No. 2 of 2015) and the Sexual Offences Act (No. 3 of 2006), in order to: (a) criminalize marital rape; and (b) revise the definition of rape to include vaginal, anal or oral penetration using any body part or object. Please provide updated information, including statistical data, disaggregated by the age and ethnic origin or nationality of the victims, on the number of complaints of gender-based violence, on the investigations, prosecutions and convictions and the sentences imposed on perpetrators, on protection orders issued by Kenyan courts and the rate of compliance therewith, and on any redress provided to victims.<sup>11</sup> Please describe the steps taken to investigate allegations of involuntary sterilizations or other harmful practices in connection with the reproductive health and rights of HIV-positive women and women with disabilities, to identify and punish those involved in such practices and to provide adequate remedies for the victims.<sup>12</sup>

7. In the light of the Committee's previous concluding observations<sup>13</sup> and the State Party's follow-up replies,<sup>14</sup> please provide information on further measures taken to prevent and combat female genital mutilation and punish perpetrators, including by ensuring the effective implementation of the revised National Policy for the Eradication of Female Genital Mutilation and the strict enforcement of the Prohibition of Female Genital Mutilation Act (No. 32 of 2011) and the Children Act (No. 29 of 2022) criminalizing this harmful practice. Please provide updated information, including statistical data, disaggregated by the age and ethnic origin or nationality of the victims, on the number of complaints of female genital mutilation, the investigations, prosecutions and convictions, and the sentences imposed on perpetrators, including medical practitioners, and on any redress provided to victims. Please specify the steps taken to strengthen cross-border cooperation and increase awareness-raising among religious and traditional leaders and the general public about the criminal nature of the procedure, its adverse effects on the health of women and their human rights and the need to eradicate it and its underlying cultural

<sup>9</sup> CCPR/C/KEN/CO/4, paras. 4, 5, 28 and 29; and CCPR/C/KEN/Q/4, para. 14.

<sup>10</sup> CAT/C/KEN/CO/3, paras. 37 and 38.

<sup>11</sup> CEDAW/C/KEN/CO/8, paras. 22 and 23; and CEDAW/C/KEN/Q/8, para. 9.

<sup>12</sup> CEDAW/C/KEN/CO/8, paras. 46 and 47; CEDAW/C/KEN/Q/8, para. 21; and CRPD/C/KEN/QPR/2-4, para. 14.

<sup>13</sup> CAT/C/KEN/CO/3, paras. 39 and 40.

<sup>14</sup> CAT/C/KEN/FCO/3, paras. 34–46. See also the letter dated 17 November 2023 from the Rapporteur for follow-up to concluding observations.

justifications.<sup>15</sup> Please indicate the steps taken to eliminate the harmful practice of child rape (“beading”), which is prevalent among the Samburu ethnic group.<sup>16</sup>

### Article 3

8. With reference to the Committee’s previous concluding observations,<sup>17</sup> please provide updated information on the measures taken to effectively enforce section 21 of the Prevention of Torture Act and ensure, in practice, that no person is returned to a country where there are substantial grounds for believing that he or she would be in danger of being subjected to torture. Please indicate the steps taken to amend the Refugees Act (No. 10 of 2021), including section 19 (2), which allows for broad exceptions to the principle of non-refoulement on the basis of public morality, and provisions that include prisons, police stations and remand homes in the definition of transit centres, to ensure its full compliance with article 3 of the Convention. Please describe the measures taken to guarantee that all applicants for international protection at the border and in reception centres are promptly registered and referred to the appropriate asylum authorities and refugee status determination procedures. Please indicate whether individuals facing expulsion, return or extradition are informed that they have the right to seek asylum and to appeal a deportation decision. If so, please indicate whether such an appeal has suspensive effect. Please provide information on the plans and procedures in place to identify and immediately refer vulnerable asylum-seekers, including victims of torture, of trafficking in persons and of gender-based violence, as well as unaccompanied minors or children separated from their families, to the appropriate services and to ensure that their specific needs are taken into consideration and addressed in a timely manner.<sup>18</sup> Please provide detailed information on the implementation status of the multi-year Shirika plan to promote the socioeconomic inclusion of refugees by transforming the Dadaab and Kakuma refugee camps into integrated settlements where refugees would live alongside local communities, contribute to local economies and have access to government services.

9. Please provide updated data, disaggregated by year and the sex, country of origin or nationality and age group (minor or adult) of persons seeking asylum, on the number of: (a) asylum applications received during the period under review; (b) successful applications for asylum, refugee status or other forms of humanitarian protection, specifying how many applications were accepted on the grounds that the applicants had been tortured or were at risk of torture if returned or expelled; (c) persons extradited, expelled or returned and the countries to which they were sent; (d) appeals against decisions regarding expulsion; and (e) successful appeals, specifying the number of decisions regarding return or expulsion, as applicable, that were reviewed on the grounds that the applicants had been tortured or that there were substantial grounds for believing that they would be in danger of being subjected to torture if they were returned or expelled. Please indicate the number of returns, extraditions and expulsions carried out by the State Party during the reporting period on the basis of diplomatic assurances or the equivalent thereof, and specify the content that the State Party requires of any such assurances or guarantees and what measures have been taken in such cases with regard to subsequent monitoring. Please also indicate any instances where the State Party has offered such diplomatic assurances or guarantees, and the measures taken in such cases with regard to subsequent monitoring.

### Articles 5–9

10. Please provide information on any new legislation or measures that have been adopted to implement article 5 of the Convention. Please also indicate the measures that the State Party took during the period under review to comply with its obligation to extradite or prosecute (*aut dedere aut judicare*) individuals. In particular, please provide updated information on cases in which the State Party has agreed to extradite a person for torture or

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<sup>15</sup> E/C.12/KEN/Q/6, para. 25; CCPR/C/KEN/CO/4, paras. 18 and 19; CCPR/C/KEN/Q/4, para. 8; CEDAW/C/KEN/CO/8, paras. 18–21; and CEDAW/C/KEN/Q/8, para. 8.

<sup>16</sup> CEDAW/C/KEN/CO/8, paras. 18 and 19; and CEDAW/C/KEN/Q/8, para. 8.

<sup>17</sup> CAT/C/KEN/CO/3, paras. 25 and 26.

<sup>18</sup> CERD/C/KEN/CO/8-9, paras. 21 and 22; CCPR/C/KEN/CO/4, paras. 36 and 37; and CCPR/C/KEN/Q/4, para. 18.

related offences. Please also indicate whether the State Party has rejected, for any reason, the request of a State Party for the extradition of an individual suspected of having committed torture and whether it has started prosecution proceedings against such an individual as a result. If so, please provide information on the status and outcome of such proceedings. Please also inform the Committee of any extradition treaties concluded with other States Parties and indicate whether the offences referred to in article 4 of the Convention are included as extraditable offences in such treaties. Please give details of any treaties or agreements on mutual judicial assistance that the State Party has entered into. Please also indicate whether such treaties or agreements have led in practice to the transfer of any evidence in connection with prosecutions concerning torture or ill-treatment. If so, please provide examples.

#### **Article 10**

11. With reference to the Committee's previous concluding observations,<sup>19</sup> please provide up-to-date information on any educational and training programmes developed by the State Party to ensure that all law enforcement officials, prison staff, personnel of the National Intelligence Service, immigration and border control officers and members of the military are fully acquainted with the provisions of the Convention and the absolute prohibition of torture and are made aware that breaches will not be tolerated, that allegations of torture and ill-treatment will be investigated and that offenders will be prosecuted. Please indicate whether these training courses are mandatory or optional, how often they are conducted, how many law enforcement officials, personnel of the National Intelligence Service, members of the military, prison staff and immigration and border control officials have already completed them, what percentage of all such officials have completed them and what measures have been taken to train the remaining officials. Please provide details on the programmes used in the training of police officers and other law enforcement officials in non-coercive investigating techniques. Please further indicate whether the State Party has developed any methodology to assess the effectiveness of training and educational programmes in reducing the number of cases of torture and ill-treatment and, if so, please provide detailed information on that methodology. Please also provide information on the programmes aimed at training judges, prosecutors, forensic doctors and other medical personnel who deal with persons deprived of their liberty to detect the physical and psychological consequences of torture, to ensure the effective documentation of torture and to verify the admissibility of confessions. Please indicate whether these programmes include specific training on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), as revised. Lastly, please indicate the measures taken to give effect to the provisions of article 10 (2) of the Convention.

#### **Article 11**

12. Please describe the procedures in place for ensuring compliance with article 11 of the Convention and provide information on any interrogation rules, instructions, methods and practices, and arrangements for custody, that may have been introduced since the consideration of the third periodic report. Please indicate the frequency with which these rules, instructions, methods practices and arrangements are reviewed and report on the procedures in place for reviewing them.

13. With reference to the Committee's previous concluding observations,<sup>20</sup> please provide, for the period under review, annual statistics on the total capacity of all detention facilities and the occupancy rates, disaggregated by place of detention, sex, age and nationality of the detainee, stating the number of remand and convicted prisoners at each facility. Please provide information on the steps taken to address the overuse of prolonged pretrial detention, including efforts: (a) to ensure that the regulations governing pretrial detention are scrupulously respected and that such detention is resorted to only in exceptional circumstances, for limited periods and in accordance with the law, taking into

<sup>19</sup> CAT/C/KEN/CO/3, paras. 45 and 46.

<sup>20</sup> Ibid., paras. 15 and 16.

account the principles of necessity and proportionality; (b) to ensure systematic oversight of the lawfulness of pretrial detention by the Office of the Director of Public Prosecutions; and (c) to promote alternatives to pretrial detention and imprisonment, such as community service or victim compensation orders. Please provide statistical data for the period under consideration on the use of such alternative measures, particularly for children in conflict with the law.

14. Taking note of the Committee's previous concluding observations,<sup>21</sup> please provide detailed information on measures taken to improve conditions of detention in police stations, prisons and other places of detention. In particular, please indicate the steps taken to reduce overcrowding in places of detention, including through the use of alternatives to imprisonment both before and after trial, and to improve sanitation and the quality and quantity of food and water, as well as the healthcare provided to detainees, including psychiatric care.<sup>22</sup> Please inform the Committee about the measures taken to ensure that detainees have access to educational, recreational, vocational, physical and intellectual activities. Please describe the efforts made to address the special needs of: (a) children in conflict with the law, including with regard to rehabilitation and education services; (b) women deprived of their liberty, in particular pregnant women and women held in detention with their children; (c) persons with disabilities; (d) lesbian, gay, bisexual, transgender and intersex persons; and (e) older persons. Please provide information on measures adopted to ensure, in practice, the separation of pretrial detainees from convicted prisoners, minors from adults and men from women, and specify in which facilities detainees are not yet separated in this way. Please provide details on the State Party's legislation and practice regarding solitary confinement and indicate the maximum and average duration of solitary confinement. Please describe the steps taken to ensure that solitary confinement is not imposed on children and adolescents in conflict with the law or on persons with psychosocial or intellectual disabilities. Please specify whether solitary confinement and other isolation regimes are subject to any independent oversight mechanism or external supervision.

15. With reference to the Committee's previous concluding observations,<sup>23</sup> please provide data regarding deaths in custody during the period under consideration, disaggregated by year, place of detention, sex, age, ethnic origin or nationality of the deceased and cause of death. Please provide detailed information on the number and outcomes of investigations conducted in such cases, specifying whether forensic medical assessments, including autopsies, were performed, and on the number of deaths suspected of having been caused by assaults committed or tolerated by government officials involving the excessive use of force or the failure to provide detainees with needed medical attention and timely treatment. Please also provide information on the number of sentences pronounced, the criminal and disciplinary penalties imposed and the steps taken to prevent the recurrence of such acts. Please indicate whether relatives of deceased persons received compensation in any such cases. Lastly, please describe the steps taken to reduce the incidence of inter-prisoner violence in penitentiary institutions, including efforts to recruit and train a sufficient number of prison personnel, to investigate all incidents of violence and to ensure that prison officials were held accountable in cases when they failed to take reasonable measures to prevent and respond to such violence.

16. In the light of the Committee's previous concluding observations,<sup>24</sup> please provide information on the number, and living conditions, of persons deprived of their liberty in psychiatric hospitals and other institutions for persons with psychosocial or intellectual disabilities. Please describe the steps, including legislative measures, taken to move away from the involuntary hospitalization and forced institutionalization of persons with psychosocial or intellectual disabilities and indicate whether other forms of care are being used, such as community-based rehabilitation services and outpatient care programmes. Please specify the measures taken to ensure that instruments of restraint and force are used in accordance with the law, under appropriate supervision, for the shortest time possible

<sup>21</sup> Ibid., paras. 17 and 18.

<sup>22</sup> CCPR/C/KEN/CO/4, paras. 30 and 31; and CCPR/C/KEN/Q/4, para. 15.

<sup>23</sup> CAT/C/KEN/CO/3, paras. 17–20.

<sup>24</sup> Ibid., paras. 31 and 32.

and only when strictly necessary and proportionate. Please explain the steps taken to prohibit and prevent medical treatment of and scientific experimentation on persons with psychosocial or intellectual disabilities without their free, prior and informed consent. Please indicate the measures taken to ensure that psychiatric hospitals are adequately monitored and to ensure the effective, prompt and impartial investigation of all complaints of ill-treatment of persons with psychosocial or intellectual disabilities with a view to bringing those responsible to justice and providing redress to victims.<sup>25</sup>

### Articles 12 and 13

17. With reference to the Committee's previous concluding observations,<sup>26</sup> please report on the measures taken to ensure the effective enforcement of the Prevention of Torture Act, including efforts to disseminate it widely to judges and prosecutors and to finalize and roll out the reference guide and charge sheets developed by the Office of the Director of Public Prosecutions. Please describe the steps taken to ascertain that all allegations of acts of torture or ill-treatment by State officials, especially by police officers, prison staff and members of the military and the National Intelligence Service, in places of deprivation of liberty and during policing activities, are promptly, effectively and impartially investigated and duly prosecuted as torture or ill-treatment, and that perpetrators are punished appropriately if found guilty. Please indicate the measures taken to ensure that the Independent Policing Oversight Authority and the Kenya National Commission on Human Rights are allocated sufficient financial and human resources to carry out their mandates effectively, in particular with regard to the investigation of complaints of torture and ill-treatment by law enforcement officers. Please clarify whether the State Party has set up an effective, independent, confidential and accessible complaints mechanism in all places of detention, and describe the measures taken to protect victims of torture and their relatives, as well as witnesses and investigators, against any form of intimidation or reprisals that their complaints may provoke.<sup>27</sup>

18. Please provide annual statistical data for the period under consideration, disaggregated by type of offence, by the sex, age group (minor or adult) and ethnic origin or nationality of victims and by the services to which the persons accused of committing acts of torture belong, on: (a) the number of complaints received by prosecutors or other competent authorities regarding offences such as actual or attempted acts of torture or ill-treatment or complicity, and participation or acquiescence in such acts; (b) the number of complaints that have led to criminal or disciplinary investigations, and the number of cases dismissed; (c) the number of ex officio investigations opened into the above-mentioned offences; (d) the number of prosecutions carried out; and (e) the number of convictions secured, including the penal and disciplinary sanctions imposed, specifying the length of any prison sentences.

19. In the light of the Committee's previous concluding observations<sup>28</sup> and the State Party's follow-up replies,<sup>29</sup> please inform the Committee about further measures taken to ensure that prompt, impartial and effective investigations are undertaken into all allegations relating to extrajudicial killings, enforced disappearance and the excessive use of force by law enforcement officers and military personnel, and that the alleged perpetrators are prosecuted and the victims adequately compensated. Please indicate whether steps were taken: (a) to incorporate all forms of enforced disappearance into criminal law with associated penalties that are proportionate to the severity of the offence; and (b) to amend the sixth schedule of the National Police Service Act (Act No. 11 of 2011), which allows for the use of firearms by law enforcement officers to protect property, to ensure that it is fully compliant with the Convention, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement. Please indicate whether mandatory training is

<sup>25</sup> CRPD/C/KEN/QPR/2-4, paras. 11 and 12.

<sup>26</sup> CAT/C/KEN/CO/3, paras. 29 and 30.

<sup>27</sup> CCPR/C/KEN/CO/4, paras. 28 and 29; and CCPR/C/KEN/Q/4, para. 14.

<sup>28</sup> CAT/C/KEN/CO/3, paras. 11 and 12.

<sup>29</sup> CAT/C/KEN/FCO/3, paras. 5–29. See also the letter dated 17 November 2023 from the Rapporteur for follow-up to concluding observations.

regularly provided to all law enforcement officials on the use of force to ensure that they apply non-violent measures prior to any use of force when controlling demonstrations and that they respect the principles of legality, necessity, proportionality and accountability. Please respond to the allegations of unnecessary and excessive use of force, including lethal force, against, and mass arbitrary arrests and enforced disappearances of, peaceful protesters during the protests that occurred between March and July 2023 and between June and August 2024. Please provide data on the investigations conducted, prosecutions initiated and sentences handed down to perpetrators in such cases. Please indicate whether the National Coroners Service, which should be tasked with supporting investigations into extrajudicial killings or deaths in custody, was operationalized.<sup>30</sup>

#### **Article 14**

20. With reference to the Committee's previous concluding observations,<sup>31</sup> please indicate whether the State Party has taken measures to ensure in practice that victims of torture or ill-treatment, including those who suffer from permanent disabilities as a result of torture, may seek and obtain prompt, fair and adequate compensation and as full rehabilitation as possible, including in cases where the civil liability of the State Party is involved.<sup>32</sup> Please provide statistical data on redress and compensation measures, including means of rehabilitation, ordered by the courts or other State bodies and actually provided to victims of torture or ill-treatment or to their families during the period under review. Please include data on the number of applications for State compensation for torture and ill-treatment, the number of claims that were time-barred owing to the courts' inaction, the number of applications granted and the range of awards in successful cases. Please clarify whether the State Party has taken legislative and administrative measures to ensure that victims of torture and ill-treatment have access to effective remedies and can obtain redress in cases in which the perpetrators have not been identified or found guilty of an offence. Please also provide information on any ongoing rehabilitation programmes for victims of torture and ill-treatment and on the resources allocated to those programmes.

21. With reference to the Committee's previous concluding observations,<sup>33</sup> please provide information on the measures taken to ensure the full and effective implementation of all the recommendations of the Truth, Justice and Reconciliation Commission, including efforts to fully operationalize the Restorative Justice Fund, which would allow victims of the grave human rights violations that occurred in the context of the 2007 elections to obtain full redress. Please report on the steps taken to provide access to remedies for victims of serious human rights violations, including torture and ill-treatment, extrajudicial killing, enforced disappearance, arbitrary detention and sexual and gender-based violence by police officers, committed after the elections of 2007 and in the context of the 2017 elections, and indicate whether the regulations governing the Victim Protection Fund were approved by the Parliament. Please describe the measures taken, including the investigation, prosecution and punishment of all perpetrators, in particular police and security officers, to address impunity for the violence that occurred in earlier election cycles.<sup>34</sup>

#### **Article 15**

22. Please describe the measures taken, including disciplinary measures, to ensure that the exclusionary rule with regard to evidence obtained under torture is fully implemented by all judges, in line with section 9 of the Prevention of Torture Act. Please provide up-to-date statistics on the number of: (a) cases in which defendants have alleged that their confessions were extracted under torture; (b) cases dismissed by the courts owing to the introduction of evidence or testimony obtained through torture or ill-treatment; and

<sup>30</sup> CCPR/C/KEN/CO/4, paras. 24, 25, 44 and 45; CCPR/C/KEN/Q/4, paras. 12 and 23; and communication KEN 4/2024 (all communications mentioned in the present document are available from <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>).

<sup>31</sup> CAT/C/KEN/CO/3, paras. 47 and 48.

<sup>32</sup> CCPR/C/KEN/CO/4, paras. 28 and 29; and CCPR/C/KEN/Q/4, para. 14.

<sup>33</sup> CAT/C/KEN/CO/3, paras. 23 and 24.

<sup>34</sup> CEDAW/C/KEN/CO/8, paras. 24 and 25; CEDAW/C/KEN/Q/8, para. 10; CCPR/C/KEN/CO/4, paras. 8, 9, 18 and 19; and CCPR/C/KEN/Q/4, paras. 3 and 9.

(c) cases that have been investigated and the outcomes of those investigations, specifying whether forensic medical examinations of alleged victims were carried out, the sentences handed down to those found guilty and the redress and compensation granted to victims.

### Article 16

23. With reference to the Committee's previous concluding observations,<sup>35</sup> please report on the measures taken to ensure that the death penalty is imposed only for the most serious crimes, in line with international legal standards that limit its application to crimes of extreme gravity involving intentional killing.<sup>36</sup> Please indicate whether the State Party is considering the possibility of reviewing its policy, with a view to abolishing the death penalty in law or taking affirmative steps to formalize the moratorium on the application of the death penalty. Please inform the Committee of efforts made to commute all death sentences to alternative penalties and to ensure that conditions of detention for condemned prisoners do not constitute cruel, inhuman or degrading treatment or punishment by taking immediate steps to strengthen legal safeguards and guarantees of due process in all phases of the proceedings and concerning all offences. Please provide the Committee with updated data for the reporting period, disaggregated by sex, age at the time of the offence and ethnic origin or nationality of the victim, on the number of: (a) death sentences pronounced, including against minors and persons with psychosocial or intellectual disabilities, specifying the courts responsible and the crimes for which those sentences were handed down; (b) death penalty cases in which a pardon or commutation was granted; and (c) prisoners held on death row, clarifying whether they are subjected to more stringent detention conditions than the rest of the prison population.<sup>37</sup>

24. Please respond to the numerous allegations of threats, harassment, intimidation, assault, arbitrary arrest and detention, prosecution and conviction on trumped up politically motivated charges, enforced disappearance, torture and ill-treatment and extrajudicial executions of human rights defenders, media workers and civil society activists who are critical of the Government. Please indicate the measures taken to ensure the effective protection of such individuals and groups to enable them to carry out their work. Please provide statistical data for the reporting period on the number of related complaints, the outcomes of any investigations opened following those complaints and the sentences and penalties handed down.<sup>38</sup> Please describe the steps taken to fully investigate the killing of journalist Arshad Sharif in Nairobi in October 2022, and prosecute and punish those responsible, in line with the ruling of the Kenyan High Court, which found, in civil proceedings, that the use of lethal force by law enforcement officers was "unlawful", "arbitrary" and "disproportionate".<sup>39</sup> Please also comment on the alleged abduction in May 2023 and subsequent enforced disappearance from Nairobi of Rwandan human rights defender and refugee Yusuf Ahmed Gasana, and his alleged extraordinary rendition to Rwanda, where he is believed to be currently detained.<sup>40</sup>

25. In the light of the Committee's previous concluding observations,<sup>41</sup> please provide information on the measures taken to review the constitutional and legislative framework to ensure clear and harmonized provisions, policies and guidelines to govern access to safe and legal abortion, as permitted under section 26 of the Constitution. Please indicate the steps taken to repeal sections 158–160, 228 and 240 of the Penal Code criminalizing acts relating to the provision of abortion services and specify whether the State Party intends to undertake additional legal reforms to broaden the circumstances in which abortion is permitted, in particular where carrying a pregnancy to term would cause the pregnant woman or girl substantial pain or suffering, most notably where the pregnancy is the result

<sup>35</sup> [CAT/C/KEN/CO/3](#), paras. 33 and 34.

<sup>36</sup> International Covenant on Civil and Political Rights, art. 6 (2); and Human Rights Committee, general comment No. 36 (2018), para. 35.

<sup>37</sup> [CCPR/C/KEN/CO/4](#), paras. 22 and 23; and [CCPR/C/KEN/Q/4](#), para. 11.

<sup>38</sup> [CCPR/C/KEN/CO/4](#), paras. 42 and 43; [CCPR/C/KEN/Q/4](#), para. 22; and [CEDAW/C/KEN/CO/8](#), paras. 12 and 13.

<sup>39</sup> See communication KEN 2/2023 and "Kenya: UN expert urges full accountability for Pakistani journalist's killing after landmark ruling", OHCHR press release, 25 September 2024.

<sup>40</sup> See communication KEN 2/2024 and "Kenya and Rwanda must provide information about disappeared human rights defender: Special Rapporteur", OHCHR press release, 11 July 2024.

<sup>41</sup> [CAT/C/KEN/CO/3](#), paras. 41 and 42.

of rape or incest or where the pregnancy is not viable. Please provide information on the measures taken to reinstate the standards and guidelines for reducing morbidity and mortality from unsafe abortion in Kenya and the national guidelines on the management of sexual violence.<sup>42</sup>

26. With reference to the Committee's previous concluding observations,<sup>43</sup> please report on the steps taken to decriminalize sexual relations between consenting adults of the same sex. In this regard, please include information on the 2019 High Court ruling on petitions No. 150 of 2016 and No. 234 of 2016 (consolidated), which upheld sections 162 and 165 of the Penal Code criminalizing sexual relations between consenting adults of the same sex. Please also elaborate on the measures taken to protect lesbian, gay, bisexual, transgender and intersex persons against harassment, discrimination and violence, including against violations perpetrated by law enforcement officers and vigilante groups, and to provide access to justice and remedies for victims.<sup>44</sup>

### **Other issues**

27. In the light of the Committee's previous concluding observations,<sup>45</sup> please provide updated information on the measures taken by the State Party to respond to threats of terrorism. Please describe whether those measures have affected human rights safeguards in law and in practice and, if so, how they have affected them. Please also describe how the State Party has ensured that counter-terrorism measures are compatible with all its obligations under international law, especially the Convention. Furthermore, please indicate what training is provided for law enforcement officers in this area; the number of persons who have been convicted under legislation adopted to combat terrorism; the legal safeguards provided and the legal remedies available in law and in practice to persons affected by counter terrorism measures; and whether there have been complaints of the non-observance of international standards in applying measures to combat terrorism and, if so, what the outcome was. Please indicate the steps taken to revise the Prevention of Terrorism Act in order to strictly define acts of terrorism and ensure that it is not used to restrict the rights enshrined in the Convention. Please provide information on the status of the review of the Security Laws (Amendment) Act (No. 19 of 2014), following the 2016 rulings by the High Court on the unconstitutionality of certain sections. Please provide information on the measures taken to ensure that all allegations of human rights violations, including torture and ill-treatment, extrajudicial killing, enforced disappearance, arbitrary arrest and detention, sexual and gender-based violence, extortion, forcible relocation and refoulement, committed by State officials in the context of counter-terrorism operations are promptly, impartially and effectively investigated, that those responsible are duly prosecuted and punished and that victims have access to effective remedies and full reparation.<sup>46</sup>

### **General information on other measures and developments relating to the implementation of the Convention in the State Party**

28. Please provide detailed information on any other relevant legislative, administrative, judicial or other measures taken since the consideration of the State Party's previous periodic report to implement the provisions of the Convention or the Committee's recommendations. Such measures may include institutional developments, plans or programmes. Please indicate the resources allocated and provide statistical data. Please also provide any other information that the State Party considers relevant.

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<sup>42</sup> [CCPR/C/KEN/CO/4](#), paras. 20 and 21; [CCPR/C/KEN/Q/4](#), para. 10; [CEDAW/C/KEN/CO/8](#), paras. 38 and 39; [CEDAW/C/KEN/Q/8](#), para. 18; and [E/C.12/KEN/Q/6](#), para. 32.

<sup>43</sup> [CAT/C/KEN/CO/3](#), paras. 43 and 44.

<sup>44</sup> [CCPR/C/KEN/CO/4](#), paras. 12 and 13; [CCPR/C/KEN/Q/4](#), para. 5; and [E/C.12/KEN/Q/6](#), para. 11.

<sup>45</sup> [CAT/C/KEN/CO/3](#), paras. 27 and 28.

<sup>46</sup> [CERD/C/KEN/CO/8-9](#), paras. 27 and 28; [CCPR/C/KEN/CO/4](#), paras. 16 and 17; and [CCPR/C/KEN/Q/4](#), para. 7.