



International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination 114th session

Geneva, 25 November–13 December 2024

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 eighth and ninth periodic reports of Kenya

Note by the Country Rapporteur

1. The Committee on the Elimination of Racial Discrimination decided at its seventy-sixth session¹ 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.

Statistics

2. Updated and disaggregated data on the ethnic composition of its population. Information on reliable and updated statistics on the socioeconomic situation and representation in education, employment, healthcare, housing, and public and political life, disaggregated by sex, ethnic origin, including Indigenous Peoples, and status as migrants, asylum-seekers, refugees, internally displaced persons and stateless persons. Measures taken to improve the capacity of the Kenya National Bureau of Statistics to collect data disaggregated by ethnicity.²

The Convention in domestic law and the institutional and policy framework for its implementation (arts. 1 and 2)

3. Information on the application of the Convention by domestic courts. Information on training courses and awareness-raising campaigns on the Convention and anti-discrimination legislation.

4. Information on the definition of "ethnic discrimination" and its compatibility with article 1 (1) of the Convention. Information on the implementation of the National Cohesion and Integration Act of 2008 and the status of the National Cohesion and Peace Building Bill of 2021.³

5. Measures taken to strengthen the capacity of the Kenya National Commission on Human Rights to carry out its mandate, in particular information on the technical, financial

¹ A/65/18, para. 85.

² CERD/C/KEN/CO/5-7, para. 8; and CERD/C/KEN/8-9, para. 107.

³ CERD/C/KEN/CO/5-7, para. 10; and CERD/C/KEN/8-9, paras. 5–7.



and human resources allocated to the institution. Information on the measures taken to ensure the implementation of the Commission's recommendations.⁴

6. Information on implementation of legislative and other measures, including affirmative action programmes and policies, designed to combat discrimination against minorities and Indigenous Peoples and to ensure the enjoyment of their rights enshrined in the Convention. Measures taken to ensure that counties implement the minority recruitment requirements of the County Governments Act of 2012,⁵ and those taken to encourage private corporations and business to embrace diversity in their workforce.

Acts of racial discrimination, racist hate speech and incitement to racial hatred (arts. 2 and 4)

7. Information on measures taken to ensure compliance and harmonization of the State party legislation with article 4 of the Convention.⁶ Measures taken to prevent and combat racist hate speech and incitement to hatred, including in the media and on other public platforms, such as those on the Internet. Specific measures taken to combat racist hate speech by politicians and public figures.⁷

8. Information on measures adopted to strengthen the independence of the National Cohesion and Integration Commission, as well as information on its functioning and resources allocated to it.⁸ Information on the new National Cohesion and Peace Building Commission included in the National Cohesion and Peace Building Bill that is under consideration.

Situation of ethnic minorities and Indigenous Peoples (arts. 2, 5 and 7)

9. Measures taken to protect the rights of Indigenous Peoples, in particular to ensure legal protection of their collective rights to own, develop, control and use their lands and resources. Measures taken to ensure prior consultation with Indigenous Peoples and their participation in decision-making processes on issues that affect them.⁹

10. Measures taken to address the alleged continuing forced evictions of Indigenous communities, including Ogiek, Endorois and Sengwer peoples, from their traditional lands. Information on compensation granted to Indigenous communities affected by forced evictions and to ensure the protection of their rights. Measures taken to prevent, investigate, prosecute and sanction acts threatening the physical security and property of Indigenous peoples.¹⁰

11. Measures taken towards redistribution of land, including measures to promote multi-ethnic settings and operationalize the mechanisms for addressing land problems in the State party. Information on the Minimum and Maximum Land Holding Acreage Bill of 2015.¹¹

12. Information on measures taken to address the issue of informal settlements, to promote a mix of ethnic groups in housing and to improve the living conditions of ethnic minority groups. Information on the implementation of the Kenya Slum Upgrading Programme and on the Second Kenya Informal Settlements Improvement Project.¹²

13. Measures taken to implement the judgments of the African Court on Human and Peoples' Rights in the matter *African Commission on Human and Peoples' Rights v. Republic of Kenya* (Ogiek case). Measures taken to implement the decision of the African Commission

⁴ CERD/C/KEN/CO/5-7, para. 12; and CERD/C/KEN/8-9, para. 8.

⁵ CERD/C/KEN/CO/5-7, para. 18; and CERD/C/KEN/8-9, paras. 44–47.

⁶ CERD/C/KEN/CO/5-7, para. 14 (a).

⁷ CERD/C/KEN/8-9, paras. 16–19.

⁸ CERD/C/KEN/CO/5-7, para. 14 (b).

⁹ Ibid., para. 20 (b) and (c); and CERD/C/KEN/8-9, paras. 48–52.

¹⁰ CERD/C/KEN/CO/5-7, para. 20 (a); and CERD/C/KEN/8-9, paras. 53 and 54.

¹¹ CERD/C/KEN/CO/5-7, para. 24; and CERD/C/KEN/8-9, paras. 63–70.

¹² CERD/C/KEN/CO/5-7, para. 26; and CERD/C/KEN/8-9, paras. 71–75.

on Human and Peoples' Rights, condemning the expulsion of the Endorois people from their land.¹³

14. Specific measures taken to ensure access to healthcare and education for all ethnic communities, Indigenous Peoples and persons with albinism, without discrimination.¹⁴

15. Measures taken to protect persons with albinism from violence, discrimination and stigmatization.¹⁵

16. Specific measures taken to prevent statelessness and the results of the measures taken to ensure access to birth registration for members of ethnic and national minorities, including the Nubians. Information on measures taken to standardize registration procedures and issuance of official identification documents.¹⁶

Situation of migrants, asylum-seekers and refugees (arts. 2 and 5)

17. Information on the Refugees Act of 2021 and its implementation, in particular with regard to the principle of non-refoulement and the refugee determination procedure.¹⁷ Measures taken to ensure that reception facilities provide adequate food, shelter and health services.

18. Measures taken to protect and 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, the right to birth registration, and access to decent livelihoods. Information on measures taken to develop a long-term strategy for the durable solution of local integration of refugees.¹⁸

19. Information on the implementation of the National Plan of Action for Combating Human Trafficking (2013–2017). Information on the number of cases and investigations of trafficking in persons, sanctions imposed on the perpetrators and remedies provided to victims. Measures adopted to provide adequate protection to victims of trafficking in persons. Measures taken to combat trafficking in persons¹⁹ and abuse of Kenyan migrant workers abroad.

Access to justice (arts. 5 and 6)

20. Measures taken to facilitate access to justice for ethnic minority groups and Indigenous Peoples, as well as persons with albinism. Measures taken to ensure effective remedies for victims of racial discrimination, including the implementation of the Legal Aid Act of 2016 and the National Action Plan on Legal Aid (2017–2022). Information on the financial resources allocated and the number of staff working for legal aid services.²⁰

21. Information on the updated number of cases of racial discrimination, including cases of racist hate speech and racially motivated crimes, including administrative procedures initiated and investigations, complaints, prosecutions, convictions, sentences and sanctions imposed for acts of racial discrimination. Information on compensatory measures available to the victims as a result of convictions or sanctions.²¹

22. Measures taken to ensure that police and other law enforcement officers do not engage in racial discrimination, including racially motivated violence and practices that amount to ethnic profiling, including in counter-terrorism initiatives. Measures taken to ensure fundamental legal safeguards for suspects of terrorism, particularly when suspects are of foreign descent or foreign nationals.²²

¹³ CERD/C/KEN/8-9, para. 54.

¹⁴ CERD/C/KEN/CO/5-7, para. 22; and CERD/C/KEN/8-9, paras. 55–59.

¹⁵ CERD/C/KEN/CO/5-7, para. 34; and CERD/C/KEN/8-9, paras. 93–97.

¹⁶ CERD/C/KEN/CO/5-7, para. 28; and CERD/C/KEN/8-9, paras. 76–80.

¹⁷ CERD/C/KEN/8-9, paras. 104 and 105.

¹⁸ CERD/C/KEN/CO/5-7, para. 38.

¹⁹ Ibid., para. 32; and CERD/C/KEN/8-9, paras. 85–91.

²⁰ CERD/C/KEN/CO/5-7, para. 16; and CERD/C/KEN/8-9, paras. 33–41.

²¹ CERD/C/KEN/CO/5-7, para. 14 (c); and CERD/C/KEN/8-9, paras. 20–24.

²² CERD/C/KEN/CO/5-7, para. 30; and CERD/C/KEN/8-9, paras. 81–84.

23. Updated information on measures taken to implement the recommendations made by the Truth, Justice and Reconciliation Commission. Information on remedies provided to those affected by the 2007 post-election violence and by the violence during the 2017 general elections.²³

Combating racist prejudice and stereotypes (arts. 2 and 7)

24. Measures taken to raise awareness among the public, civil servants and law enforcement officials of the importance of cultural diversity, tolerance and inter-ethnic understanding. Policies adopted, including in school curricula, on human rights education and education about the history and culture of ethnic and national minorities, including Indigenous Peoples, in the State party and their contribution to society.

²³ [CERD/C/KEN/CO/5-7](#), para. 36; and [CERD/C/KEN/8-9](#), paras. 98–100.