



International Convention on the Elimination of All Forms of Racial Discrimination

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Summary record of the 3123rd meeting

Held at the Palais Wilson, Geneva, on Wednesday, 4 December 2024, at 3 p.m.

Chair: Mr. Balcerzak

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The meeting was called to order at 3 p.m.

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

Combined eighth and ninth periodic reports of Kenya (CERD/C/KEN/8-9; CERD/C/KEN/Q/8-9)

1. *At the invitation of the Chair, the delegation of Kenya joined the meeting.*
2. **A representative of Kenya**, introducing her country's combined eighth and ninth periodic reports (CERD/C/KEN/8-9), said that her Government recognized the Convention as the centrepiece of the international system of protection against racial discrimination alongside other important instruments, such as the Durban Declaration and Programme of Action, the special procedures of the Human Rights Council and the International Independent Expert Mechanism to Advance Racial Justice and Equality in Law Enforcement. Kenya was making an important contribution to the global fight against racial discrimination through its role as Chair of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action, through which it sought to promote dialogue and cooperation among States and encourage them to develop and enhance their own measures to tackle discrimination. The country would use its seat on the Human Rights Council for the 2025–2027 period to champion the principles of equality and non-discrimination and call for concerted global action to end the scourge of racism.
3. The diversity of Kenya, which was home to 46 different ethnic groups, represented both a strength and a challenge. The Government had taken steps to recognize more ethnic groups, including the Pemba people, the Makonde people, the Shona community and Kenyans of Asian heritage, with a view to ensuring that all communities felt seen, heard and valued. Its commitment to providing refuge and support to persons fleeing conflict and persecution was demonstrated by the fact that the number of refugees and asylum-seekers in the country had almost doubled, increasing from around 490,000 in 2019 to more than 804,000 in 2024.
4. Discrimination on all grounds, including race, was prohibited under the Constitution, which also guaranteed equality before the law. Those provisions were reinforced by a number of laws, such as the Employment Act and the National Cohesion and Integration Act, that criminalized hate speech and discrimination. The judiciary was committed to ensuring that all persons, regardless of their background, had access to justice. Accordingly, efforts had been made to strengthen such access through the establishment of legal aid programmes and the organization of campaigns to raise awareness among the population of their rights in that area. Affirmative action policies had been implemented in the education and employment sectors in order to address the historical injustices faced by marginalized groups and promote their inclusion.
5. The Kenya National Commission on Human Rights and the National Cohesion and Integration Commission played vital roles in promoting equality and monitoring human rights violations. The National Cohesion and Integration Commission had been instrumental in fostering cohesion during election periods, when there was a high risk of ethnic tensions, by intensifying its efforts to monitor hate speech and curb incitement to violence. In view of the serious threat that hate speech presented to national unity, in 2022, the Government had developed the National Action Plan against Hate Speech to coordinate stakeholders' efforts to combat that phenomenon and ensure the domestic implementation of the United Nations Strategy and Plan of Action on Hate Speech. The Evidence Act had been amended to provide for the admissibility of electronic messages and digital material as evidence in legal proceedings, with the aim of facilitating the investigation of hate speech cases and the prosecution of perpetrators, promoting accountability and establishing a safer online environment.
6. The Government was developing a comprehensive national labour migration policy to enhance the protection of migrant workers. The Diaspora Policy 2024 had been adopted to address the challenges faced by Kenyans working abroad and promote their participation in national development. The consular services provided to such persons had recently been enhanced. As a migration hub, Kenya was affected by internal and cross-border trafficking.

The Government had sought to circumvent the challenges in that area, which included the lack of a centralized system for the collection of data by law enforcement authorities and the inadequacy of victim services, through cooperation with civil society and development partners. Civil society organizations, for instance, were now providing essential shelter to victims. The criteria for determining whether those victims were eligible for support through the National Assistance Trust Fund for Victims of Trafficking in Persons had been set out in the recently launched guidelines on the national referral mechanism. The Office of the Director of Public Prosecutions had provided training on the matter to prosecutors in eight regions and had prepared labour inspection guidelines in partnership with civil society.

7. The Kenya National Bureau of Statistics had established statistics offices in all 47 counties, two sampling frames for censuses and surveys and various databases containing socioeconomic statistics. In 2022, the Kenya statistical quality assurance framework had been launched to support the continuous improvement of data quality. The Kenya Strategy for Development of Statistics 2024–2027 would focus on adopting modern technologies, promoting collaboration among actors within the national statistical system and enhancing capacity-building.

8. Measures had been implemented to protect the collective land rights of Indigenous Peoples and guarantee that they were consulted before any decisions affecting them were made. The Government had developed a national strategy on reducing emissions from deforestation and forest degradation, one of the aims of which was to improve the lives of Indigenous Peoples by recognizing them as strategic rights holders in forest conservation and supporting the development of nature-based microenterprises.

9. The Government recognized that socioeconomic disparities, ethnic tensions and land issues continued to represent obstacles to the achievement of full equality. While the relevant legal and institutional frameworks were in place, efforts needed to be made to address the capacity constraints, resource limitations and societal attitudes that were hindering their implementation. There was also a need to adopt a more comprehensive approach to combating racial discrimination. To that end, the Government planned to request support from the Office of the United Nations High Commissioner for Human Rights (OHCHR) and other stakeholders in developing a revised version of the National Policy and Action Plan on Human Rights. Those efforts would be informed by the OHCHR practical guide on developing national action plans against racial discrimination.

10. International partners could help eliminate racial discrimination in Kenya by assisting with the development of policies and regulations to combat racial and ethnic discrimination and the strengthening of the capacity of human rights institutions to monitor and address that phenomenon. Support for the collection and analysis of disaggregated data to improve understanding of the nature and extent of racial discrimination and to inform policy interventions, would also be welcome. The Government was interested in holding exchanges with other States on best practices in addressing racial discrimination and promoting equality. It would greatly appreciate financial assistance to support programmes aimed at addressing the root causes of racial discrimination through the promotion of social inclusion, economic empowerment and access to justice for marginalized communities.

11. Her Government firmly believed that eliminating racial discrimination was essential for building just and equitable societies. It remained committed to working tirelessly with the Committee and the international community to achieve that goal.

12. **A representative of the Kenya National Commission on Human Rights** said that she wished to thank the Government of Kenya for its efforts to adopt the Commission's recommendations relating to racial discrimination, in particular those on migrant workers and access to legal aid for individuals belonging to ethnic groups. The Government provided the Commission with a good working environment, and the two parties had worked together to develop initiatives aimed at promoting access to justice. Nonetheless, further cooperation and policy reforms would be required to ensure that the issues pertaining to migrant workers were adequately addressed. The Government should also take steps to properly implement court rulings concerning the country's Indigenous communities.

13. **Ms. Boker Wilson** (Country Rapporteur) said that she would like to know whether the State party had taken steps to adopt comprehensive anti-discrimination legislation, with

a clear definition of racial discrimination that covered direct, indirect, multiple and intersecting forms of discrimination and all grounds of discrimination listed in article 1 (1) of the Convention. It would be useful to learn whether efforts had been made to provide judges, prosecutors and law enforcement officers with anti-discrimination training, with the aim of promoting the application of the Convention by the courts. In that connection, the Committee would be grateful if the delegation could provide a list of cases in which the courts had applied or invoked the Convention. She wondered whether the State party would consider giving effect to the recommendation in paragraph 10 of the Committee's previous concluding observations (CERD/C/KEN/CO/5-7) that the definition of "ethnic discrimination" in the National Cohesion and Integration Act should be brought into line with the holistic and inclusive definition of "racial discrimination" in article 1 (1) of the Convention. She would appreciate information on the steps taken since 2022 to increase the financial, technical and human resources allocated to the Kenya National Commission on Human Rights.

14. Further details of the legislative measures, programmes, policies and affirmative action implemented to combat discrimination against minority groups and Indigenous Peoples and guarantee their enjoyment of the rights established under the Convention would be appreciated. It would be useful to have updated information on the use of the Equalization Fund, which had been set up to help provide basic services in marginalized areas.

15. The Committee would welcome an update on the percentage of counties that were complying with section 65 of the County Governments Act, which established that a minimum of 30 per cent of entry-level positions in county governments should be reserved for candidates from minority ethnic groups, and the impact that that measure had had. She would be grateful for information on the status of the bill that would amend the Public Service (Value and Principles) Act to establish the requirement for public bodies to report on the composition of their staff. With regard to the private sector, she would be interested to hear about the effect that the National Action Plan on Business and Human Rights and the Employment Act had had in the fight against inequality and discrimination in the workplace.

16. She wished to know what challenges were preventing the State party from providing the Committee with updated statistics on the population, including on the socioeconomic situation of members of ethnic groups and Indigenous communities, their access to education, employment and healthcare and their representation in public and political life. Information on any measures taken to improve the capacity of the Kenya National Bureau of Statistics would be welcome. In view of the State party's comments in paragraph 107 of the report that data from individual counties offered a good indication of whether the rights of different ethnic groups were being realized, she wished to know what could be inferred from that data with regard to the enjoyment by ethnic groups and Indigenous Peoples of their rights under the Convention.

17. She would appreciate the delegation's comments on reports that members of the Ogiek community continued to be forcibly evicted from the Mau Forest, despite the ruling by the African Court on Human and Peoples' Rights that such evictions constituted a violation of that group's rights. While the State party had rejected the resulting claims for compensation, the Committee wished to remind it that it still had responsibility to remedy the situation. Accordingly, information on any measures taken to ensure that the Ogiek community were able to remain on their ancestral land and that individuals harmed by the evictions would receive adequate reparation would be welcome.

18. It would be helpful to learn what had been done to ensure accountability for the violations by the Kenya Forest Service of the human rights of members of the Sengwer community. She wished to know how many cases concerning Indigenous Peoples were currently before the local and regional courts, what their status was and what reparations had been awarded in such cases. She wondered what measures had been taken, in law and in practice, to prevent, investigate, prosecute and sanction acts that threatened the physical security and property of Indigenous Peoples and to guarantee those Peoples' right to prior consultation on decisions affecting them.

19. Data on the patterns of land ownership and acquisition would be appreciated, as would information on the steps taken to ensure the fair redistribution of land among ethnic groups and the implementation of mechanisms for addressing land issues. She would be grateful for

up-to-date information on the legal limits imposed on the amount of land that could be owned or leased by an individual or group. The Committee would also welcome an update on the status of the Kenya Slum Upgrading Programme and the second Kenya Informal Settlement Improvement Project.

20. **A representative of Kenya** said that Kenyan judges demonstrated a strong commitment to international human rights law and proactively applied the Convention. In the case *Ol Pejeta Ranching Limited v. David Wanjau Muhoro*, for instance, the Court of Appeal had relied heavily on the Convention to reach its decision that Mr. Muhoro, a black manager, had been subjected to unlawful racial discrimination by being paid less than his white counterparts. Another landmark case was *Koki Muia v. Samsung Electronics East Africa Limited*, in which the Employment and Labour Relations Court had directly applied articles 1, 2, 3 and 4 of the Convention to rule that the company's decision to award a promotion to foreign workers rather than a more qualified Kenyan employee was discriminatory and inconsistent with international human rights standards. In other cases, the courts had not explicitly invoked the Convention but had applied the provisions of the Constitution that were consistent therewith, demonstrating the extent to which the principle of non-discrimination was deeply woven into the fabric of the Kenyan justice system.

21. The Government recognized the Kenya National Commission on Human Rights as a vital pillar of the country's human rights protection system. The Commission's independence was provided for under articles 59 and 249 of the Constitution, which established that its actions should be guided only by that instrument and the provisions of Kenyan law. The Government appointed commissioners based on their qualifications and sought to ensure that they had diverse expertise and came from a wide range of backgrounds, in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). Those commissioners were supported by a team of highly qualified professionals, including investigators, legal experts and human rights specialists. The Commission had been provided with the modern office space, equipment and technology required to guarantee the efficiency and independence of its operations. The Government recognized, however, that the Commission's current budget might be insufficient to ensure fulfilment of its increasingly complex mandate. That situation had arisen owing to the economic downturn in the country, which had led to the introduction of budget cuts in all sectors. The Commission's budget had fallen from 500 million Kenya shillings in the 2023/24 financial year to 478 million shillings in 2024/25; comparable institutions, such as the Commission on Administrative Justice, had also seen decreases. The Government was actively pursuing strategies to improve the economy and stabilize financial flows, which would allow for an increase in funding for the Commission. In the meantime, the Commission should take advantage of the favourable human rights environment in Kenya to seek financial support from other partners in order to ensure the effective implementation of its mandate.

22. Education on human rights law, including the Convention and other relevant instruments, formed part of the initial training delivered to police officers, who were taught to identify discriminatory practices and apply the principles of the Convention in their daily work. The Department of Justice ran regular training sessions for other government bodies on human rights treaties, including their obligations under the Convention. The National Cohesion and Integration Commission organized capacity-building sessions for the staff of county public service boards to stress the importance of adhering to the legal frameworks for the promotion of equality in the workplace. The Commission played a key role in running training programmes and public awareness-raising campaigns aimed at fostering peace among different communities and championing the principles of diversity, inclusion and non-discrimination in the workplace. The Kenya Judiciary Academy organized programmes to raise judges' awareness and promote the application of regional and international human rights treaties, including the Convention.

23. While the country did not have a specific anti-discrimination law, provisions on the prevention and prohibition of discrimination were contained in a number of laws, including the Constitution, the HIV and AIDS Prevention and Control Act, the Employment Act and the National Gender and Equality Commission Act.

24. Affirmative action aimed at providing redress for the historical injustices faced by minority groups and Indigenous Peoples was provided for under the Constitution. The

National Land Commission was responsible for investigating and providing redress for historical land injustices linked to colonialism and other discriminatory practices. It had received more than 3,000 claims for redress, of which 126 had been resolved. It had also resolved more than 5,000 land disputes through traditional and alternative means of dispute settlement. A framework for the recognition and registration of the ancestral land of Indigenous Peoples had been established under the Community Land Act. The National Action Plan on Business and Human Rights sought to address issues such as land-grabbing, displacement and the exploitation of natural resources without Indigenous Peoples' free, prior and informed consent.

25. Outstanding students from marginalized communities, including Indigenous groups, could obtain scholarships through the National Government Affirmative Action Fund to cover their tuition fees, accommodation and other expenses. Financial challenges meant that it had not yet been possible to complete some of the projects launched under the Equalization Fund. In 2023, the Kenya Social Protection Policy had been developed to address the socioeconomic risks faced by Kenyans. Members of Indigenous communities had free access to primary and secondary education and maternity services. Overall, while progress had been made, the Government's efforts to support Indigenous communities continued to be hampered by funding constraints and implementation bottlenecks.

26. A comparison of the 2016 and 2023 ethnic and diversity audits revealed an increase in the number of county governments that were failing to comply with section 65 of the County Governments Act. In 2023, for instance, 34 such governments had been in breach of the Act. Professionals from ethnic minorities were often reluctant to apply for positions in county governments owing to the poor quality of infrastructure at the county level, the lack of clear guidance on inter-county transfers, the perceived unattractiveness of rural counties, insecurity and unfavourable conditions in certain parts of the country. In 2023, the Government had taken steps to address those issues by amending the County Governments Act to establish the requirement for all county public service boards to implement strategies for the elimination of all forms of discrimination and create plans to rectify the existing imbalances. Measures were being taken to implement standardized guidelines on recruitment to county-level positions, career progression policies, frameworks governing inter-county transfers and set salary structures. The National Cohesion and Integration Commission stood ready to support those efforts and was also working with the private sector to promote diversity, inclusion and non-discrimination within businesses.

27. **Ms. Boker Wilson** said that more detailed information on the content of the training provided to judges would be welcome, as would a more precise explanation of the issues affecting the Equalization Fund. It would be helpful to learn whether sanctions had been imposed on the 34 county governments that were in breach of section 65 of the County Governments Act.

28. **Ms. McDougall** (Country Task Force) said that she would like to know what steps were being taken to address the discriminatory attitudes that remained prevalent at the county level of government. She wondered whether county governments were filling positions that should be reserved for individuals from ethnic minorities with candidates from dominant ethnic groups and, if so, whether the national Government continued to fund those positions.

29. **Mr. Yeung Sik Yuen** said that he would welcome information on the case concerning the eviction of members of the Endorois community from their land and the steps taken by the State party to implement the relevant decision of the African Commission on Human and Peoples' Rights.

30. He wished to know what the main difficulties had been in implementing the amendment to the Evidence Act that provided for the admissibility of electronic records and the use of digital signatures as evidence and whether that change had been accompanied by a shift in the burden of proof.

31. **Ms. Tlakula** (Follow-up Coordinator) said that the State party had not provided additional information on the recommendations selected for follow-up in the Committee's concluding observations on the fifth to seventh periodic reports of Kenya (CERD/C/KEN/CO/5-7), including its recommendation to provide statistical data, disaggregated by sex, on the socioeconomic situation and representation in education,

employment, healthcare, housing and public and political life of ethnic groups, including Indigenous Peoples. From the data provided in the State party's eighth to ninth periodic reports, it was clear that there had been a decline in the enrolment of girls in preschool and primary education since 2019; she would like to know the reasons for that trend. Moreover, the employment statistics provided were not disaggregated by gender, except for internship placements, which showed fewer women than men – an anomaly compared to general trends. She noted the lack of gender-disaggregated data in health and housing statistics, as well as the absence of information on the representation of ethnic groups, including Indigenous persons, in public and political life.

32. **Ms. Shepherd** said that much of the discussion around the topic of reparation for seized land in Kenya had focused on measures the State had taken domestically. However, in the case of the Mau Mau, for example, she would like to know the current status of the Government's demand for reparations from the United Kingdom for colonial-era atrocities.

33. **A representative of Kenya** said that the amendment to the Evidence Act aimed to define electronic evidence and establish the threshold and criteria for its admissibility. The amendment was based on standards drawn from international instruments, in particular the Council of Europe Convention on Cybercrime.

34. **A representative of Kenya** said that the curriculum of the Judiciary Academy included a course on human rights principles, covering regional and international frameworks. Judges received training on various human rights treaties, enabling them to incorporate the principles set out in those treaties in their judgments. Article 2 (6) of the Constitution provided for the integration of all international treaties ratified by Kenya into domestic law and chapter 4 of the Constitution, containing the Bill of Rights, was heavily influenced by international human rights standards. As a result, even when courts did not explicitly reference specific treaties, their reliance on the Constitution implicitly incorporated international principles. On the issue of financial constraints on the Equalization Fund, current economic challenges had hindered the allocation of adequate resources to affirmative action platforms targeting marginalized areas.

35. Regarding sanctions for non-compliance with county government regulations, the majority population in a given county often belonged to a single ethnic group. That created challenges in implementing the legal provisions requiring 30 per cent representation from other communities in the workplace, including difficulties in recruiting individuals from other ethnic groups and the practical issues of displacing existing employees to meet the quota. There were also attitudinal challenges, with individuals preferring to work within their own ethnic communities. Efforts had been made to change that mindset through awareness-raising campaigns. Sanctioning was a complex task, however, as if penalties were imposed on employment boards, the payment of those sanctions would ultimately be funded through county resources, further straining local budgets.

36. **A representative of Kenya** said that there were several legal safeguards that protected the collective rights of Indigenous Peoples to own, develop, control and use land, including the Constitution, which recognized community land ownership, and the Community Land Act, which provided a framework for recognizing, protecting and registering community land. Relevant measures taken during the reporting period included the establishment of community land committees, the deployment of community land registrars and the conduct of public awareness campaigns in 23 of the 24 counties with community land. A review of the national land policy was under way to address evolving land management challenges, and national guidelines on free, prior and informed consent had been adopted to ensure Indigenous communities' informed participation in projects affecting their lands.

37. The African Commission on Human and Peoples' Rights had issued a decision in the *Endorois* case in 2010, but the case had not been brought before the Court of Justice of the African Union. Four of the six key recommendations made by the Commission in its decision had been implemented, including the registration of the Endorois Welfare Council and the granting of community access to Lake Bogoria, a world heritage site of the United Nations Educational, Scientific and Cultural Organization (UNESCO). The Baringo county government had facilitated benefit-sharing with the Endorois community, including investments in schools and clinics. The Ogiek case had been brought before the Court of

Justice of the African Union, and the Court had issued several decisions in that regard, pursuant to which a public apology had been issued in July 2022 and efforts were under way to identify, delimit and grant collective land titles in collaboration with the National Land Commission.

38. Significant progress had been made in processing title deeds, with over 5.1 million titles issued since 2013, compared to only 6 million over the previous five decades. The Government had also developed a land sector gender policy and issued a training manual for rural women's land rights, settling over 24,000 landless households between 2010 and 2023. The Land Laws Amendment Act had introduced humane procedures for evictions, requiring compliance with strict legal provisions. In situations where the State had to protect forest ecosystems from illegal settlement, genuine Indigenous inhabitants had been offered compensation for resettlement. In the case of *Joseph Latoya and 21 others v. Attorney General and five others*, the court had ruled that land ownership in Kenya required formal legal processes, including allocation, transfer or title registration, and claims to forest land like the Mau Forest must comply with strict procedures under the Forests Act, which the applicants in the case had failed to do.

The meeting was suspended at 4.50 p.m. and resumed at 5 p.m.

39. **Ms. McDougall** said that, while Kenya had a strong legislative framework, access to justice was denied if effective outcomes were not realized in cases such as those of the Ogiek and the Endorois. The Government must respect the spirit of decisions, including those that were non-binding, to ensure justice for Indigenous communities dispossessed of their lands and denied recourse since the colonial period. She would be interested to learn more about measures taken to finally provide relief and reparations for historical injustices, including precolonial injustices.

40. The Truth, Justice and Reconciliation Commission had made significant recommendations regarding abuses during the 2007 and 2017 electoral processes. However, most of its recommendations remained unimplemented. She wondered why their implementation had been limited, despite reduced electoral violence in recent years.

41. Regarding persons with albinism, she acknowledged the Government's policy initiatives addressing their physical and social needs but would welcome information on efforts to facilitate their full access to justice. She also wondered why the protection of people with albinism near border areas remained insufficient.

42. The Legal Aid Act of 2016 and National Action Plan on Legal Aid were praiseworthy, but it was unclear why a new plan had not been developed when the Action Plan had ended in 2022, whether the system had been assessed and continued to function and how resources had been allocated to it. She would welcome information on the number of cases handled through the legal aid system, both criminal and civil, and the criteria for receiving legal aid.

43. While the initiative requiring 30 per cent representation from marginalized communities in the civil service was commendable, its implementation was lacking. She would be grateful for details on how the Government planned to move forward with implementing the initiative, and wondered whether development programmes could be developed to support job creation in underserved areas.

44. It would be useful to receive a full account of the measures taken to ensure that police and other law enforcement officials did not engage in racial discrimination or actions motivated by ethnic prejudices, including racially motivated violence and practices that amounted to ethnic profiling. She was also concerned about reports of human rights violations by security forces during counter-terrorism operations, including extrajudicial killings, torture and disappearances. She would welcome details of the measures taken to ensure compliance with legal standards during such operations, in particular with regard to foreign terrorism suspects.

45. Lastly, she would appreciate comprehensive data on cases of hate speech, racial discrimination and racially motivated crimes, including in relation to investigations, prosecutions, sanctions and reparation.

46. **A representative of Kenya** said that the National Action Plan against Hate Speech had contributed to a significant reduction in hate speech since 2022. It had been particularly effective in reducing hate speech by politicians, artists and other public figures, although challenges remained in tackling hate speech on social media.

47. The National Cohesion and Integration Commission had carried out an ethnic audit of employment and had found that only 13 out of 47 counties were in full compliance with the provision under the County Governments Act that 30 per cent of vacant posts at the entry level should be filled by candidates who were not from the dominant ethnic community. The Commission was actively working with governors of non-compliant counties to bring to them into compliance with the 30 per cent rule. The Commission planned to conduct a further audit on the employment practices of State-owned enterprises and the national Government.

48. The recommendations of the Truth, Justice and Reconciliation Commission had not been effectively implemented because no institution had been tasked with overseeing their implementation. However, the bill to amend the National Cohesion and Integration Act, currently pending its second reading before Parliament, would confer such a mandate upon the National Cohesion and Integration Commission. Once the bill had been enacted, the Government would be better able to monitor and assess progress in implementing the recommendations of the Truth, Justice and Reconciliation Commission, particularly in relation to discrimination, historical injustices and structural inequalities.

49. **A representative of Kenya** said that the Office of the Director of Public Prosecutions had worked with stakeholders to develop policy documents to ensure that terrorism investigations were conducted in a manner that respected human rights. The policy documents had been disseminated to law enforcement officers in all counties with the aim of ensuring that they did not engage in racial discrimination or racially motivated violence when conducting investigations into terrorism or the financing of terrorism.

50. The Office of the Director of Public Prosecutions had provided training for police officers, prosecutors and National Cohesion and Integration Commission personnel on the investigation and prosecution of police officers suspected of committing human rights violations in the performance of their duties. All claims against law enforcement officials were subjected to effective scrutiny by the Independent Policing and Oversight Authority, a civilian body. The Authority operated a hotline for victims to call and register their complaints. It investigated all allegations of misconduct against police officers and forwarded investigation files to the Office of the Director of Public Prosecutions. Kenya thus had robust mechanisms to ensure that police officers adhered to guidelines and statutory requirements when investigating terrorism and the financing of terrorism.

51. In the run-up to the 2022 general election, election security arrangements had been put in place with the participation of various government agencies. The Government had published a handbook and developed a legal compendium on electoral justice. It had provided training for election managers in all 47 counties and more than 300 constituencies. Significant resources had been allocated to that training. As a result of the Government's efforts, the level of violence reported during the 2022 election had been low, with only 50 election offences reported for the whole country.

52. **A representative of Kenya** said that the national cohesion and peacebuilding bill was at an advanced stage of the legislative process. Having passed its first reading, it had been referred to the parliamentary committee on national cohesion and equal opportunity. The committee had engaged with members of the public and incorporated their views and those of other key stakeholders. The bill was scheduled for second and third readings. The main purpose of the bill was to bring the National Cohesion and Integration Act into line with international human rights standards, including the definition of racial discrimination under article 1 of the Convention. As the Act currently defined ethnic groups primarily on the basis of social and cultural characteristics, it was hoped that a broader definition would offer more comprehensive protection to individuals and groups facing discrimination on the grounds of race, colour, descent or national or ethnic origin. Aligning the Act with international standards would also strengthen the country's commitment to human rights and provide a clearer legal framework for the effective implementation of anti-discrimination laws.

53. **A representative of Kenya** said that, during the colonial era, the Talai and Kipsigis communities had been dispossessed of their lands in order to make way for tea plantations. For many years they had sought redress for that historical injustice, demanding the restoration of their rights and compensation for their losses. The Government of Kenya had approached the United Kingdom authorities, who had shown reluctance to accept responsibility for that country's involvement in colonial-era injustices. Subsequently, the Government had set up the National Land Commission to examine historical injustices and formulate recommendations. The Commission had duly recommended the Talai and Kipsigis peoples should be compensated for the loss of land and livelihoods, that the land should be returned to the original owners and that community development projects should be implemented in the affected areas. However, the companies that currently owned the plantations had taken legal action, and several cases were pending before the courts.

54. The National Legal Aid Service was attached to the Office of the Attorney General and Department of Justice. It had been set up some years previously and currently functioned in seven counties, where it implemented the National Legal Aid Policy by providing free legal aid to indigent, marginalized and vulnerable persons. It had 36 staff members and a budget of 23 million shillings.

55. Although operating under financial constraints, the Office of the Attorney General was working on a strategy to deploy, during 2025, two state counsels to each county to support the organization of legal aid. Part of the reason for that measure was that the Chief Justice had ruled that children in conflict with the law could not participate in court proceedings unless they were represented.

56. **Ms. McDougall** said that she welcomed the information provided on the training of police involved in counter-terrorism investigations and on civilian oversight. However, she wished to point out that such training would only be effective if disciplinary measures were imposed on officers who failed to apply the training. In that regard, she wished to know what indicators the authorities used in order to evaluate the effectiveness of the training, and what the findings of such evaluations had been. It was important to avoid ethnic profiling in counter-terrorism investigations, as it seemed that certain population groups felt targeted and questioned the legitimacy of counter-terrorism initiatives.

57. **Ms. Boker-Wilson** said that she was particularly interested in receiving information on the measures the State party had taken to comply with the judgment of the African Court on Human and People's Rights in the matter of the Ogiek people, especially in the light of the three-month deadline set by the Court. With regard to that case, she wished to point out that many courts, experts and studies had emphasized that conservation was never a good basis for the removal of an Indigenous People from its territory. The rationale behind the judgment of the African Court was that Indigenous Peoples were in the best position to conserve the environment, as they depended on it for their survival. She would also appreciate a response to her question regarding the human rights violations allegedly committed by the Kenya Forest Service against the Sengwer people.

58. **Ms. Tlakula** said that the Committee would appreciate an update on the case, described in paragraph 16 of the periodic report, in which two Members of Parliament had been charged with hate speech. It would also like to know what had happened in the case of the three high-ranking officials who had been named on a "list of shame" in the run-up to the 2022 election. The delegation might provide an update on the 250 complaints of ethnic or racial discrimination, hate speech and ethnic contempt that the National Cohesion and Integration Commission had received between January 2017 and June 2018, including on any sanctions that had been imposed.

59. **Ms. Stavrinaki** said that she would like to know what the authorities had done to investigate corruption cases and what the impact of such cases might be for inter-ethnic relations. Given the negative impact of climate change on Indigenous Peoples and ethnic groups, especially women and young people, she wondered whether the Government had adopted any policies or measures to identify the most vulnerable populations and to increase their resilience.

60. **Ms. Shepherd** said that the Government should not be content to accept the refusal of the United Kingdom to engage on the issue of reparations. She encouraged the State party

to join forces with other groups around the world, such as the Reparations Commission of the Caribbean Community, with a view to obtaining justice for the atrocities committed under colonial rule.

61. Given the appalling violence that continued to be visited upon persons with albinism, she wished to know why the State party's efforts to contain that violence had failed to yield the expected results. She urged the State party to intensify its efforts, especially through awareness-raising and education.

62. **Mr. Yeung Sik Yuen** said that he wished to know whether the officials of the National Legal Aid Service, as employees of the Office of the Attorney General, would face a conflict of interest if a litigant wished to sue the Government. He would be interested to know the number of cases in which legal aid had been provided.

63. **Mr. Diaby** said that, in the light of concerns expressed by civil society that the police had used excessive force against Indigenous rights defenders and members of ethno-religious minorities, he wished to know whether police officers who were deployed to Haiti first received training on international human rights law, including the Convention.

64. **A representative of Kenya** said that the National Legal Aid Service, although attached to the Office of the Attorney General, was semi-autonomous. Its officers worked exclusively to provide legal aid and therefore faced no conflict of interest.

65. **A representative of Kenya** said that initiatives under the National Action Plan on Legal Aid had included the creation of regulations and substantial client outreach in 12 counties, including 7 marginalized ones. During the implementation period of the Action Plan, many people, including more than 1,000 prisoners, had benefited from legal aid.

66. **Ms. McDougall** said that she would be interested to know whether legal aid was available to aggrieved individuals and groups in both criminal and civil proceedings.

67. **A representative of Kenya** said that legal aid was available in criminal cases. It might also be provided in civil cases deemed to be of public importance, especially constitutional petitions in which the plaintiffs sought redress or compensation or the determination of their constitutional rights.

68. **A representative of Kenya** said that, in respect of the 250 complaints received by the National Cohesion and Integration Commission between January 2017 and June 2018, 44 cases of hate speech, 64 cases of ethnic contempt and 9 cases of discrimination were under investigation. One case had resulted in a conviction.

The meeting rose at 6 p.m.