



REFERENCE: BH/fup-141

6 August 2024

Excellency,

In my capacity as Special Rapporteur for Follow-up to Concluding Observations of the Human Rights Committee, I have the honour to refer to the follow-up to the recommendations contained in paragraphs 19, 41 and 49 of the concluding observations on the report submitted by Kenya ([CCPR/C/KEN/CO/4](#)), adopted by the Committee at its 131st session in March 2021.

On 14 June 2023, the Committee received the reply of the State party. At its 141st session (1 to 23 July 2024), the Committee evaluated this information. The assessment of the Committee and the additional information requested from the State party are reflected in the Addendum 1 (see [CCPR/C/141/2/Add.1](#)) to the Report on follow-up to concluding observations (see [CCPR/C/141/2](#)). I hereby include a copy of the Addendum 1 (advance unedited version).

The Committee considered that not all the recommendations selected for the follow-up procedure have been fully implemented and decided to request additional information on their implementation. Given that the State party accepted the simplified reporting procedure (LOIPR), the requests for additional information will be included, as appropriate, in the list of issues prior to submission of the fifth periodic report of the State party.

The Committee looks forward to pursuing its constructive dialogue with the State party on the implementation of the Covenant.

Please accept, Excellency, the assurances of my highest consideration.

Imeru YIGEZU

Special Rapporteur for Follow-up to Concluding Observations
Human Rights Committee

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Report on follow-up to the concluding observations of the Human Rights Committee

Addendum

Evaluation of the information on follow-up to the concluding observations on Kenya

Concluding observations (131st session): [CCPR/C/KEN/CO/4](#), 26 March 2021

Follow-up paragraphs: 19, 41 and 49

Information received from State party: [CCPR/C/KEN/FCO/4](#), 14 June 2023

Information received from stakeholders: [Centre for Civil and Political Rights](#), 17 August 2023; [Friends of the Earth Finland](#), 3 July 2024

Committee's evaluation: 19 [B] [C], 41 [C] and 49 [B]

Paragraph 19: Violence against women

The State party should:

(a) Continue and expand its efforts to prevent and address female genital mutilation, including through prosecution and punishment, awareness-raising, sensitization, cross-border cooperation and data collection;

(b) Take concrete steps to eradicate other harmful traditional practices, including wife inheritance, ritual cleansing and child marriage;

(c) Take all necessary measures to provide effective remedies to women who were victims of violence, including sexual violence, in the period surrounding the 2017 elections, and to punish such acts of violence;

(d) Strengthen its institutional and legal frameworks to address domestic violence, including the criminalization of marital rape, targeted measures to protect women from violence during the coronavirus disease (COVID-19) pandemic and the full and effective implementation of the Protection against Domestic Violence Act (Act No. 2 of 2015);

(e) Ensure that safe spaces are available to women who have been victims of violence in all parts of the State party's territory, including rural areas;

(f) Collect data on minority women subjected to violence in order to effectively target measures to ensure their protection.

Summary of the information received from the State party

(a) Following the 2019 presidential directive to end female genital mutilation by 2022, many counties, State and non-State actors have heightened collaborative approaches to implement anti-female genital mutilation programmes. Anti-female genital mutilation steering committees are now operational in all 22 counties classified as hotspots. The committees are required to monitor the situation and report to the relevant multi-agency technical committee. In 2022, with support from the United Nations Children's Fund, county action plans were developed to eliminate female genital mutilation and utilize an innovative mobile application to promote reporting. Collaboration between community-based organizations, law enforcement agencies and community policing agents, along with the adoption of a declaration and action plan to end cross-border female genital mutilation, have improved coordination, legislation and the policy framework on ending cross-border female genital mutilation.



(b) The Children Act, 2022, provides increased safeguards for at-risk children and enhances county government responsibilities and structures for child protection. The National Plan of Action to Tackle Online Child Sexual Exploitation and Abuse in Kenya, 2022–2026, was developed. In 2022, a total of 29,989 girls and boys who have experienced violence were reached by health, social work or law enforcement services.

(c) The Independent Policing Oversight Authority recorded and processed a total of 195 cases of sexual and gender-based violence between 2017 and 2022, where police inaction or negligence in the performance of duty had occurred or where police officers were found to have committed sexual offences.

(d) The following measures have been put in place to address sexual and gender-based violence, including domestic violence: (i) the development of a rapid reference guide on the prosecution of sexual and gender-based violence cases; (ii) the establishment of a sexual and gender-based violence court in Shanzu, adopting a survivor-centred approach with specially trained prosecutors and support staff; and (iii) the establishment of a committee to review the Sexual Offences Act, 2006, and other related laws and to review and oversee the implementation of policies, guidelines and rules related to the efficient administration of justice, among other functions.

(e) and (f) The Government is working closely with non-State actors to ensure that safe spaces are available to all women who have been victims of violence in all parts of the country. There are three government-led safe shelters, and one is under renovation. There are currently no data available on minority women subjected to violence. The existing data reflect reported cases of sexual and gender-based violence.

Summary of the information received from stakeholders

(a) Most people are unaware of the action plan to end cross-border female genital mutilation and there is a need to strengthen the monitoring systems. More training is needed for law enforcement and health workers on identifying, preventing and managing possible cases of female genital mutilation. Challenges with mobile and Internet connectivity where the digital mobile application has been implemented may prevent people from reporting cases. Alternative ways of reporting cases of female genital mutilation are needed.

(b) There is still no comprehensive strategy to eliminate harmful cultural practices or a draft national action plan to end child marriage. While the Children Act, 2022, does prohibit child marriage, it needs to be fully implemented.

(c) Implementation of the standard operating procedures on investigation and prosecution of serious offences committed by police officers for cases of sexual violence is slow. There are now thirteen specialized courts in the country. The Chief Justice has directed the courts, when dealing with cases of sexual and gender-based violence, to implement a no adjournment policy and to expedite trials. No plans or programmes have been developed to ensure reparation for victims and survivors of violence, including sexual violence, in the period surrounding the 2017 elections. The Victim Protection (Trust Fund) Regulations, 2020, have been finalized and launched, but are not adequately resourced.

(d) The Government has yet to review the Sexual Offences Act, 2006, to recognize marital rape as a crime. The Protection against Domestic Violence Act, 2015, is not being fully and effectively implemented and there are gaps in access to essential services. Funding from both the national and county governments for gender-based violence prevention, response and monitoring is inadequate.

(e) The amount of human and financial resources allocated to the safe houses in Meru and Migori is significantly lacking. Nairobi county government is set to construct a safe house. Many private safe houses rely on well-wishers rather than government resources. The three government-led safe houses are not sufficient or well resourced.

(f) In June 2021, the State party adopted a gender-based violence indicator in the Government's performance monitoring framework to track the enforcement and implementation of laws and policies on gender-based violence. The Government has allocated additional resources to prevention and response.



Committee's evaluation

[B]: (a)–(e)

While welcoming the State party's continued efforts to prevent and address female genital mutilation, the Committee regrets that specific information on the prosecution and punishment of female genital mutilation was not provided. It is concerned about the need for increased awareness of the action plan to end cross-border female genital mutilation, additional training for law enforcement and health workers, and alternative means of reporting cases of female genital mutilation. The Committee reiterates its recommendation and requests further information, including statistical data, on the prosecution and punishment of female genital mutilation.

The Committee welcomes the efforts to increase child protection, including through the prohibition of child marriage. Nevertheless, it regrets the lack of information on steps taken to eradicate other harmful traditional practices, including wife inheritance and ritual cleansing, and requests information in this regard. The Committee is concerned about reports indicating the lack of a comprehensive strategy to eliminate harmful cultural practices and that the Children Act, 2022, has allegedly not been fully implemented. It reiterates its recommendations and requests further information in this regard.

While noting with satisfaction the efforts of the Independent Policing Oversight Authority to investigate and prosecute serious offences committed by police officers, the Committee is concerned that progress in cases of sexual violence is slow. Furthermore, the Committee regrets that allegedly, no plans or programmes have been developed to ensure reparation for women who were victims of violence in the period surrounding the 2017 elections. It reiterates its recommendation and requests additional information on the number of prosecutions and convictions handed down for cases of violence in the period surrounding the 2017 elections.

The Committee welcomes the various measures taken to address sexual and gender-based violence. Nevertheless, it regrets the continued failure to criminalize marital rape and requests further information in this regard. The Committee is also concerned about reports indicating that the Protection against Domestic Violence Act, 2015, is not being fully and effectively implemented and that gaps remain in access to essential services. It reiterates its recommendation.

While welcoming the efforts to ensure that safe spaces are available to all women who have been victims of violence, the Committee is concerned about the alleged lack of financial and human resources available for both private and government-led safe houses. It reiterates its recommendation and requests further information on whether the State party plans to increase the number of safe houses and the resources available to them.

[C]: (f)

While noting the information provided, the Committee is concerned that data on minority women subjected to violence remain unavailable. It reiterates its recommendations.

Paragraph 41: Forced evictions

The State party should ensure that all evictions are carried out in accordance with national and international standards, including by:

(a) **Putting in place a sustainable system of equitable land tenure to prevent forced evictions;**

(b) **When there is no alternative to forced evictions, taking all necessary measures to implement effective protections, including the need for adequate notice and prior and meaningful consultation with and the provision of adequate compensation and/or resettlement of those affected. In that regard, it should effectively implement the Land Laws (Amendment) Act (Act No. 28 of 2016), including the safeguards contained in section 152G;**



(c) **Strictly upholding the moratorium declared during the COVID-19 pandemic and all judicial decisions on evictions;**

(d) **Improving compensation and resettlement among those affected by evictions, including through enacting the Evictions and Resettlement Bill of 2012 into law without delay;**

(e) **Ensuring the investigation, prosecution, conviction and punishment of all individuals who breach the law during evictions.**

Summary of the information received from the State party

The Constitution protects the right to adequate housing. Sections 152B to 152I of the Land Laws (Amendment) Act, 2016, introduced procedures on how to humanely evict unlawful occupiers from public, private and community lands. The Nairobi City County Evictions, Resettlement and Demolitions Control Bill, 2020, seeks to make it illegal to carry out evictions on weekends and during the rainy season. It also proposes that demolitions of unauthorized structures in the capital should be carried out between Monday and Friday, during regular working hours. If the Bill is passed, the county government will be required to resettle evictees from public land and the lands executive will be required to prepare a resettlement plan for those affected.

Summary of the information received from stakeholders

The Government launched the National Land Information Management System and digitalized land records to ease property registration and introduce transparency in land administration and management. It is also in the process of amending the National Land Commission Act, 2012, to enable the Commission to process claims concerning historical land injustices. In November 2021, some 40,000 people were forcefully evicted from their dwellings, which were then demolished. They have not been offered compensation or alternative locations for resettlement and they were not given adequate notice of the evictions. On 15 October 2022, more than 600 residents in Nairobi County were issued with eviction notices to vacate a State-owned piece of land within three days, despite a court order directing that the eviction notice be put on hold. On 9 April 2024 the Forest Service began a process to forcefully evict indigenous Sengwer people. Sengwer were not informed of any decision taken by the National Land Commission as legal basis of the forced eviction, and they were only informed orally 13 days prior to the Forest Service guards burning the houses of Sengwer on 29 April to evict them from Embobut forest glades.

No cases concerning individuals who have allegedly breached the law during evictions have been brought to court. A task force was established to register community land; 23 counties have already received inventories of community land and the number of registered communities is steadily increasing.

Committee's evaluation

[C]

While welcoming the information provided, the Committee regrets the lack of specific information on the current status of the Nairobi City County Evictions, Resettlement and Demolitions Control Bill, 2020, and when it is likely to be enacted. It requests further information in this regard. The Committee is also concerned at reports indicating that: (a) forced evictions continue to take place without sufficient notice; (b) no compensation or alternative location for resettlement was allegedly offered to the 40,000 people who were forcefully evicted in November 2021; and (c) no cases of violations committed during evictions have been brought to court. The Committee reiterates its recommendations and requests information on the status of the amendment of the National Land Commission Act, 2012. It also requests information on any funding allocated to communities to ensure fair and just compensation for the land lost due to the Government's acquisition and for the resettlement of squatters, including statistical information on the number of communities and persons who have received compensation and who have been resettled.



Paragraph 49: Participation in public affairs

The State party should intensify efforts to provide remedies to all victims of violence in the context of the 2017 elections, including guarantees of non-repetition. The State party should also take all necessary steps ahead of the 2022 elections to prevent violence and ensure the effective and independent functioning of the Independent Electoral and Boundaries Commission. In addition, it should adopt all measures necessary to ensure transparency in voting and in vote-counting procedures.

Summary of the information received from the State party

During the 2022 general election campaign, those found guilty of harassing or intimidating female candidates faced severe penalties, including disqualification. There was a significant reduction in documented human rights violations and abuses, particularly election-related sexual and gender-based violence, during those elections. The National Police Service ensured meticulous deployment of law enforcement officers across the country during the electoral period. Security officers were trained on public order management and the responsible use of force and firearms while ensuring crowd control. Government ministries, departments and agencies involved in election preparedness for 2022 came together to form the National Multi-Agency Consultative Forum on Election Preparedness, sharing technical knowledge and expertise. The Judicial Committee on Elections provided a platform for collaboration and to prepare for the resolution of electoral disputes and the training of judges, magistrates and other judicial officers on the electoral process. The Office of the Registrar of Political Parties, together with the Independent Electoral and Boundaries Commission, established a joint technical advisory committee to address emerging concerns affecting the election. The Directorate of Criminal Investigations seconded investigators to the Independent Electoral and Boundaries Commission to enhance investigation and prosecution of breaches of security and election malpractices during the election period.

Summary of the information received from stakeholders

Some 12 Kenyan police officers will face charges of crimes against humanity concerning the brutal crackdown on post-election protests in 2017. To date, the Government has not developed a plan to ensure reparation for victims of violence in the context of the 2017 elections and the victims have not received financial assistance, medical care or counselling. The Independent Electoral and Boundaries Commission quickly posted the results of the 2022 election on its public website, increasing transparency and access to data. The National Police Service increased efforts to ensure effective election preparedness. Seven incidents of police brutality were reported during the elections. The Independent Electoral and Boundaries Commission released an evaluation report on the 2022 elections, indicating that the late enactment of some laws had made it difficult to implement them effectively and that funding had been dispersed late. Commissioners of the Independent Electoral and Boundaries Commission were also recruited late, resulting in disorganization and inconsistent decision-making and communications.

Committee's evaluation

[B]

The Committee welcomes the State party's efforts ahead of and during the 2022 election period to prevent violence and ensure the effective and independent functioning of the Independent Electoral and Boundaries Commission and to ensure transparency in voting and in vote-counting procedures. While also welcoming the information that 12 police officers will face charges for crimes committed during the post-election protests in 2017, the Committee regrets the lack of information provided on efforts to provide remedies to all victims of violence in the context of the 2017 elections, including guarantees of non-repetition, and that victims have allegedly not received financial assistance, medical care or counselling. The Committee reiterates its recommendations in this regard.



Recommended action: A letter should be sent informing the State party of the discontinuation of the follow-up procedure. The information requested should be included in the State party's next periodic report.

Next periodic report due: 2028 (country review in 2029, in accordance with the predictable review cycle).
