



REFERENCE:KF/fup-115

10 December 2015

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 examination of the third periodic report of Kenya.

At the end of its 105th session, the Committee transmitted its concluding observations to your Permanent Mission. You may recall that, in paragraph 26 of the concluding observations, the Committee requested the State party to provide within one year further information on the specific areas of concern identified in paragraphs 6, 13, 16 of the concluding observations.

On 9 February 2015, the Committee received the reply of the State party. At its 115th session, held in October 2015, the Committee analysed this information and adopted the following decisions:

- **Paragraph 6: [B2]:** The Committee welcomes the representation of women in significant governmental positions and the fact that the National Gender and Constitutional Commission is undertaking a survey on the implementation of “rule of two-thirds” in the private sector and expects that comprehensive data will be included in the State party’s next report. The Committee regrets that the “rule of two-thirds” is still not fully applied and that women remain underrepresented in the public sector in Kenya. Additional information is required on measures taken to strengthen efforts to increase the participation of women in the public and private sector, including on the developments of the Working Group established by the Attorney General to achieve full implementation of Article 81 (b) of the Constitution. Please also respond to allegations of violence faced by women running for election in 2013.

- **Paragraph 13: [C1]:** The Committee regrets that available data indicates that only a small number of cases have been prosecuted and convictions have been rare. The Committee reiterates its previous recommendations and urges the State party to thoroughly investigate all cases of post-election violence and adequately compensate the victims. Additional information is required on measures taken,

His Excellency
Mr. Stephen Ndungu Karau
Ambassador Extraordinary and Plenipotentiary
Permanent Representative
Fax: 022 731 29 05

since 25 July 2012 to implement the Committee's recommendation. The State party should also provide updated statistical information on the number of pending cases before Court, convictions and acquittals since 25 July 2012. Updated information is also required on the initiative to establish the International Crimes Division (ICD) of the High Court, which "would try those suspects who have not yet been taken to The Hague".

- **Paragraph 16 [B2]:** With regard to overcrowding in detention centres, the Committee welcomes measures taken by the State party, including some increase in the use of alternative measures to detention and the 2013 Presidential Pardon, which allowed the release of more than 4,000 detainees. Additional information is required on measures taken to guarantee the systematic use of alternatives to imprisonment; the criteria for eligibility for the different forms of alternatives to imprisonment; and statistical information from the last 3 years on the number of inmates in detention centres, disaggregated by facilities and capacity. Please also clarify if the Persons Deprived of Liberty Act 2014 has been adopted.

[C2]: The Committee notes the establishment of the Independent Policing Oversight Authority, but regrets that the State party has not otherwise provided information concerning measures taken to investigate and prosecute allegations of torture and ill-treatment. The Committee notes with concern the information provided by NGOs stating that despite reports of over two hundred incidences of torture and ill-treatment by State officials, and that torture is prohibited by law and punishable by 25 years, no police officer has been charged under this provision. The Committee also regrets that although the Cabinet for Internal Security acknowledged that approximately US\$ 2,400,000 is owed to victims of torture, there has been no budget to pay this compensation. The Committee requires additional information with regard to the impact of the Independent Policing Oversight Authority, including statistical information on the number of investigations taken over from the Internal Affairs Unit and the outcome of those investigations. The Committee otherwise reiterates its recommendations.

[B2]: The Committee welcomes the incorporation of the Istanbul Protocol into police trainings, requests information on the number of trainings that have been carried out (since July 2012) or are scheduled to be carried out, and their timing and length; the number of officials trained (or expected to be trained), whether all incorporated the Istanbul Protocol into the curriculum, and the impact of such trainings.

[B2]: The Committee requests information on the progress and implementation of the Prevention of Torture Bill 2014 and information about the definition of torture contained in the Bill.

Taking into account that the next periodic report of the State party was due by 27 July 2015, the Committee considered that the follow-up procedure has come to an end. Nonetheless, the State party is required to provide the Committee with information on the issues referred to in the context of its fourth periodic report.



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

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

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