



KENYA

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**DURING THE CONSIDERATION OF KENYA'S 5TH TO 7TH
PERIODIC REPORTS ON THE INTERNATIONAL
CONVENTION ON THE ELIMINATION OF ALL FORMS OF
RACIAL DISCRIMINATION**

2ND - 3RD MAY, 2017

GENEVA, SWITZERLAND

TUESDAY, 2ND MAY, 2017

Chairperson, Anastasia Crickley
Distinguished Members of the Committee,
Ladies and Gentlemen,

I am deeply honoured to make this opening statement on behalf of the Republic of Kenya.

The Kenyan delegation comprises of senior officers drawn from the Office of the Attorney General and Department of Justice, Ministry of Foreign Affairs and International Trade, Ministry of Lands and Physical Planning and the National Cohesion and Integration Commission.

I begin by expressing my deepest respect for the Members of the Committee for their tireless efforts to combat and prevent racial discrimination. We look forward to a positive interactive dialogue with you. We also thank our country rapporteur for the list of themes submitted to us earlier, which has helped guide and focus our responses.

Madam Chair

The comprehensive and effective implementation of the Convention is and will continue to be a priority for the Government of Kenya. We affirm the words of the Universal Declaration of Human Rights that, inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world. Therefore, this calls for

concerted efforts between the UN Agencies, UN Human Rights systems and States to condemn racial discrimination and take appropriate actions to implement the Convention.

Madam Chair

From the onset we wish to associate ourselves with the issues that were raised during the opening session of this committee. Intolerance and discrimination are challenges that are pervasive in our world. They debase the inherent dignity of the human person and must therefore be condemned in the strongest terms possible. We recognize that many, including refugees and migrants, still face human rights violations as a result of racial discrimination. The rights of refugees and migrants in particular are violated as they flee from their countries of origin to realize social, economic and political safety. If all countries therefore play their part in the implementation of this Convention, issues of human rights violations as a result of racial discrimination will be managed.

Madam Chair

We submitted our national report in 2015. Allow me now to present the most recent developments since then. We have taken a candid and critical self-assessment approach to guide the delegation in this dialogue.

Recognizing that it is only through decisive and concrete actions that the principles enshrined in the Convention will find actualization, the Government has taken legislative, policy and administrative actions to this effect. However,

the country still faces a number of social and political challenges which must be addressed in order to build a more just and peaceful society.

Kenya will hold its general elections on the 8th of August 2017. Elections usually create high levels of ethnic and political tensions that have at times contributed to election violence. The use of hate speech and incitement to violence is being of much concern. The Government has adopted the following strategies to address these concerns:

- The establishment of a unit to monitor social media platforms, with a view to identifying those who publicly engage others in hate speech and incitement to violence, for prosecution;
- The development of guidelines for review of bulk political text messages before they are sent out to the public;
- The adoption of an Inter-agency approach involving state and non-state actors to monitor political rallies in the run-up to the 2017 General Elections. Efforts from this approach have seen the setting up of an early warning mechanism dubbed Uwiano Platform;
- For purposes of monitoring the political rallies in all the 47 counties in the country, 225 cohesion monitors have been trained, equipped with

monitoring gadgets and deployed to all the Counties. The data collected by all these monitors is sent to a central situation room where it is analysed and sent to the relevant actors for immediate action.

With regard to legislative framework, the National Cohesion and Integration Act is being amended in line with the recommendations of this Committee, to expand the definition of the crime of hate speech to align it with the laid down standard in Article 4 of the Convention. This Amendment, which also provides for higher penalties, is before the National Assembly at the second reading stage.

Madam Chair

Some key factors which may negate peaceful co-existence in Kenya, like in any other society, are the inequalities and perceived discrimination that exist in a nation. Kenya has taken various legal and other affirmative action measures designed to mitigate inequalities and socio-economic marginalization in the country. Some of these measures are;

- The Community Land Act, 2016 which prohibits all forms of discrimination with regard to community land. It enables communities to secure formal legal recognition of their land rights.
- The Land Laws (Amendment) Act, 2016 which addresses the issue of historical land injustices including the remedies of restitution and compensation which are available upon successful adjudication of the claim.

- The Mining Act 2016 which provides for benefit sharing as follows; 70% National Government, 20% County Government and 10% to the Community. This is to ensure that the prospecting and exploration of minerals does not lead to further socio-economic marginalization or impoverishment of the communities that own or occupy land.
- An Equalization fund which is established under the Constitution to provide basic services to marginalized areas to the extent necessary to bring the quality of those services to the levels generally enjoyed by citizens in the rest of the country. The fund received KSH 7.7 billion (Approx USD 74.7 Million) in the 2017/2018 financial year up from KSH. 6 Billion (Approx. USD 58.2 Million) last year.
- Devolution is promoted as a strategy for balanced, social and economic development. It enhances the participation of the people in making decisions in issues that affect them and the equitable distribution of resources.
- The National Employment Authority Act, 2016 which provides a legal framework for the State to take affirmative measures to ensure youth and marginalized groups access employment and economic empowerment;

- For the protection of the indigenous communities, Kenya has enacted the following Laws, the Land Laws (Amendment) Act, 2016, Community Land Act, 2016 and the Mining Act (2015);
- In 2016, the President directed the setting up of a KSH 10 billion (\$96,571,800) Restorative Justice Fund spread over three years, for purposes of giving relief to victims, especially survivors of historical injustices. In the 2016/2017 budget period KSH 1 billion (Approx. \$10 Million) was set aside to cater for the Fund. Guidelines have been developed to set up the Fund in a systematic and efficient manner.
- The Constitution calls for ethnic diversity in the public service. The Diversity Policy for the Public Service, 2016, provides strategies for ensuring an inclusive public service that reflects the diverse Kenyan communities. The policy is strictly followed in any recruitment or appointment in the public service. The County Governments, also have explicitly targeted specific minority communities for recruitment.
- The National Gender and equality Commission is in the process of auditing and monitoring affirmative Action in the Devolved Governments on the access to employment, education, Health and information by Women, Persons with Disabilities, Ethnic and other minorities and Marginalized communities.

- The Housing Policy, Sessional Paper No. 3 of 2014 has deliberate provisions addressing interests of vulnerable groups such as women, youth, elderly and Persons with disabilities. The Slum Upgrading policy, Sessional paper no. 2 of 2015 also addresses the interests of these groups. This is being actualized through the Kenya slum upgrading programme (*KENSUP*) and the Kenya Informal Settlements Improvement Project

Madam Chair

The State has over the years developed various strategies to address extreme poverty and to support regions and groups who have been historically disadvantaged including Medium Term Plans in Vision 2030 and the various National Poverty Eradication measures. For example to enhance social protection for the most vulnerable the government has various initiatives such as the National Safety Net Programme that comprises the Older persons cash transfer programmes, the cash transfers to orphans and vulnerable children and hunger safety net, urban food subsidy cash transfer and the persons with severe disability cash transfers. These programs have received an allocation of KSH 24 billion (Approx.USD 2.4 Billion) for the financial year 2017/2018.

To boost agriculture, which is the main income earner for many communities in Kenya, the government has allocated Kshs 15 billion (USD 15 Million) to agriculture and irrigation projects in the 2017/2018 financial year. The larger percentage of this money will be used in the numerous irrigation schemes in the arid and semi arid areas.

Agricultural production in Kenya has been hampered by high costs of inputs such as fertilizer. The Government has intervened through bulk procurement of 40 per cent of conventional food crop fertilizer requirements and then selling it to farmers at subsidized prices. In the 2017/2018 financial year Fertilizer subsidy has been allocated Kshs 4.1 billion (USD 40 million).

Madam Chair

Education plays a key role in enhancing access to different opportunities. In recognition of this, the government has taken the following measures to improve access to education;

- Implementation of the Policy for Nomadic Education in Kenya through the construction of one boarding secondary school in each arid and semi arid counties, setting up mobile schools and school feeding programs to all children in nomadic communities and supporting open and distant learning facilities such as community radio programs
- Recruitment of more teachers as a step towards meeting the international standards of pupil teacher ratio of 25:1
- Re-admission of boys and girls who have dropped out of school;
- Facilitated a feeding Voucher System Program established in five of the poorest counties.
- An increase in budget allocations to the Education sector; to KSH 201.9 billion (Approx. USD 2 Billion) in the 2017/2018 financial year.

Madam Chair

For a long time, women in Kenya have found it difficult to access economic resources and other opportunities due to a number of institutional, cultural, and structural factors. Affirmative action has been taken to empower women through better business opportunities, through the Uwezo Fund and the Women Enterprise Fund. The budget for the Fund was increased to KSH 700,000,000.00 billion (Approx. USD 7 Million) in the 2016/2017 financial year from an allocation of KSH. 0.5 billion (Approx USD 4.8 Million) granted in 2015/2016 financial year. Further, different Laws are now in place to guarantee women's and girls' property and inheritance rights.

One significant challenge that we face is the low number of women accessing elective positions. In 2016, the National Assembly, failed to pass the Constitution Amendment Bill of 2015, which seeks to ensure that no gender occupies more than two-thirds of the Parliamentary seats. The High Court has however directed Parliament to enact legislation in 60 days to implement two thirds gender rule. The President himself challenged law makers to pass the two third gender rule to show appreciation for the role women have played in Kenya's progress.

To encourage more women and persons with disabilities to vie for elections this year, a checklist has been developed for monitoring party nominations to capture inclusivity of the marginalized, persons with disabilities, youth and women. Further, the Office of the Registrar of political parties has been

conducting training and capacity building for political party leaders, to appreciate of the role of women in governance.

Madam Chair

On the plight of internally displaced persons, Kenya has taken significant measures pursuant to the Prevention, Protection and Assistance to Internally Displaced persons and Affected Communities Act 2012 to settle all profiled displaced persons arising from the post 2007 election violence and forest eviction displacements. The government has resettled all the 19,000 IDPS who were previously living in camps. The Government is currently completing the audit of the integrated IDPs, some of whom were living in Ol'kalou, Nakuru, Kakamega, Vihiga, Kisii, Migori, Marsabit and Mombasa counties.

Madam Chair

As I conclude, I wish to emphasize that as a country we affirm our continued commitment to ending all forms of discrimination. We endeavor to create a society where one's gender, status and ethnicity is a non issue.

As a government we are focusing our efforts on the implementation of the provisions of the Convention. However we know that we cannot achieve all our goals in isolation. Development partners and other actors, such as UNDP and UNICEF have assisted in the area of training and capacity building. Moving forward we hope to have more focused dialogues with the UN in order

to seek further support in addressing the challenges of implementing the Convention.

The measures we have put in place to this end will be further elaborated during our interactive session. I look forward to a most useful interaction with the members of the committee.

I thank you Madam Chair.