

ADVANCE QUESTIONS TO KENYA – ADD.1

GERMANY

- The HR Committee has noted with concern that some systematic discrimination against women persist in law and practice in, inter alia, claiming property rights, the discriminatory practice of "wife inheritance" and the law of succession or inheritance. CEDAW mentioned that the constitution does not provide equal citizenship rights for women (A/HRC/WG. 6/8/KEN/2, page 5).

Germany would like to know how the Government of Kenya is improving the situation for women?

- The HR Committee has raised concerns over a large but unspecified number of individuals under sentence of death and also that the death penalty applies to crimes which are not qualified as "most serious crimes" within the meaning of ICCPR. CRC has expressed particular concern at the death penalty for minors. Although it is actually outlawed for children, according to some reports minors are still being sentenced to death (A/HRC/WG. 6/8/KEN/2, page 6).

The German delegation would like to know about plans of the Government of Kenya to abolish the death penalty?/

- Germany appreciates the openness in your National Report (A/HRC/WG.6/8/KEN/1, page 17) in which you refer to children who continue to be subjected to sexual violence, prostitution, trafficking, labour and other forms of violations. The HR Committee and CRC have also expressed concern in this regard and the HR Committee has noted that Kenya fails to prosecute and punish trafficking offences as well as to afford adequate protection of victims (A/HRC/WG.6/8/KEN/2, page 7).

The German delegation would like to know which measures have been taken and will be taken to ensure the rights of children in this regard?/

- The events following the announcement of election results on 30 December 2007 caused extreme violence in inter alia Eldoret on 1 January 2008 with reported instances of use of excessive force by security forces against demonstrators and other civilians. The OHCHR Mission reported that this violence resulted in over one thousand deaths and hundreds of thousands of individuals forced to flee (A/HRC/WG.6/8/KEN/2, page 6).

The German delegation would like to know which administrative and organisational measures you have taken or will take to prevent such grave violations of human rights in the future? What measures are being taken with regard to effective civilian control of police and military?

UNITED KINGDOM

- We would be grateful if you would provide information on the extent to which civil society was consulted in the preparation of your national report.
- Paragraph 24 of your report mentions the International Crimes Act of 2008 which domesticates the Rome Statute of the International Criminal Court (ICC), and paragraph 66 of the same report mentions that the Kenya Government has agreed 'in principle' to cooperate with the ICC. We would be grateful for assurance that Kenya will cooperate with the ICC in handing over anyone indicted in the upcoming investigation process, and could you also inform us how Kenya will endeavour to implement a local special tribunal for other suspected perpetrators of the post election violence?
- Please could you outline what obstacles exist to prevent tackling impunity in Kenya? Has Kenya considered any disadvantages in an approach to dealing with impunity that favours a role of a 'Truth, Justice and Reconciliation Commission' in place of a judicial mechanism with prosecutorial powers?
- Paragraph 23 of the UN's report mentions that the UN Human Rights Committee recommended in its last examination of Kenya in 2005 that Kenya investigates reports of unlawful killings by police or law enforcement officers and prosecute those responsible. Paragraph 60 of Kenya's report mentions prosecutions of security officers. Could Kenya debrief on the scale and nature of investigations, indictments, cases and prosecutions since 2005. We note that the reports of unlawful killing by the security forces continue. Please could you detail the measures Kenya has put into place to stop these extra-judicial killings?
- We would be grateful for information on how the Government of Kenya is addressing reports of intimidation and interference with potential witnesses and human rights defenders allegedly perpetrated by those who fear they might be a target for investigation by the ICC Chief Prosecutor in the light of impending investigations. How will Kenya ensure that it has the confidence of those requiring protection under its Witness Protection programme for future cases?
- We note the Police Reform Task Force's recommendations mentioned in paragraph 62 of your national report. We would be grateful for further elaboration as to the Government of Kenya's views on those recommendations, including the Government of Kenya's own prioritisation of the reform recommendations. Could you also outline what are the priorities of the Implementation Committee and whether they are they working to a timetable for these recommendations to be implemented?
- Please could you tell us what progress Kenya is making to enshrine effective counter-terrorism legislation that respects international human rights law and the time frame for the elaboration of this?
- Paragraph 20 on the UN Human Rights Committee report of 2005 on Kenya says that Kenya should give priority to combating corruption in the judiciary and recognise and address the need to provide increased resources to the

administration of justice. Could you please tell us what steps Kenya is taking to tackle corruption within the judiciary?

- Please could you indicate whether Kenya is considering signing or ratifying the Optional Protocol to the Convention against Torture in the near future?
- Could you please indicate what steps are being taken in Kenya to designate an effective national preventive mechanism for torture and grant it sufficient human and financial resources?
