



# Convention on the Rights of the Child

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## Committee on the Rights of the Child

Seventy-first session

11–29 January 2016

Item 4 of the provisional agenda

Consideration of reports of States parties

### List of issues in relation to the combined third to fifth periodic reports of Kenya

**The State party is requested to submit in writing additional, updated information (10,700 words maximum), if possible before 15 October 2015.**

*The Committee may take up any aspects of the children's rights set out in the Convention during the dialogue with the State party.*

#### Part I

**In this section, the State party is requested to submit its responses to the following questions.**

1. Please provide the Committee with updated information on the proposed amendment to the Children Act 2001.
2. Please inform the Committee of the major outcomes of the National Plan of Action for Children for 2008–2012 as well as the main contents of the draft National Plan of Action for Children for 2013–2022.
3. Please explain the reasons why social sector expenditure is declining as a share of the national budget, despite the overall economic growth and the expansion of the Government's budget in recent years. Please also elaborate on the measures taken to prevent and eradicate corruption, particularly in the health-care, education, justice and law enforcement sectors.
4. Please provide detailed information on the measures taken to prevent and combat the attacks against and killings and trafficking of children with albinism in the State party, to protect these children and to prosecute and punish those responsible for these crimes.
5. In the light of information received about ill-treatment of children by members of the police force, please provide information on investigations and prosecutions conducted and on the sanctions pronounced, if any. Please also inform the Committee about the kinds of services that are provided for the care, recovery and reintegration, including the



psychological support, of child victims of torture and other cruel, inhuman or degrading treatment or punishment.

6. Please indicate the progress made in ensuring universal and free access to a birth certificate for all children residing in the State party, including refugee children, children of Nubian descent, Somali indigenous children in Kenya, and intersex children. Please also indicate the measures taken concerning children belonging to the Nubian, Pemba, Galj'el and Makonde communities who remain stateless, in particular those between 8 and 18 years of age.

7. Please clarify whether all forms of violence, including corporal punishment, are prohibited in all settings, and indicate the measures taken in practice to combat violence, abuse and harassment committed in the home and in educational and care institutions.

8. Please indicate whether an investigation was conducted into the alleged use of tear gas against children demonstrating against the grabbing of their playing field by a private developer in January 2015 at Lang'ata Road Primary School, and if so, what was its outcome in terms of the legal proceedings engaged and the sanctions pronounced. Please also indicate the measures taken to protect public schools from land grabbing by private enterprises.

9. Please provide detailed information on the measures taken to combat harmful practices that remain prevalent in the State party, especially female genital mutilation, child marriage, and "beading" which is practised notably in the Samburu community. Please also elaborate on measures to address the medicalization of female genital mutilation, to ensure effective enforcement of the laws and policies on the above-mentioned practices, and to ensure victims' access to justice.

10. Please elaborate on the development of a policy and legal framework for child adoption since the establishment in February 2015 of the Expert Committee on Child Adoptions. Please also provide information on any urgent measures taken to prevent and investigate cases of child abduction and child trafficking for adoption, and their outcome.

11. Please elaborate on the measures taken to ensure inclusive education for children with disabilities, including those living in remote areas and in refugee camps. Please also provide information on the schools that have already implemented an inclusive policy and on the measures taken to progressively convert specialized classes into inclusive classes.

12. Please provide an update and elaborate on the efforts made and progress achieved over the past three years in reducing regional disparities, particularly in arid and semi-arid areas and in informal urban settlements, in relation to health, nutrition, water and sanitation, and education, and to early childhood development services, particularly for girls, children with disabilities, children deprived of a family environment, children living with HIV/AIDS and indigenous and minority children. Please also provide information on measures taken to ensure that devolution of power from the central government to county governments does not disrupt the delivery of social services or increase regional disparities.

13. Please indicate the progress made and resources allocated for the implementation of laws and policies to combat child malnutrition, including the National Food and Nutrition Security Policy 2011, the National Nutrition Action Plan 2012–2017 and laws and policies on the promotion of breastfeeding. Please elaborate on the sexual and reproductive health information and services that are available to adolescents and indicate whether adolescent girls can have access to safe abortion and post-abortion services.

14. Regarding the policy referred to in paragraph 39 of the State party report, please comment on information received according to which the mandatory requirement of a birth certificate for national examinations at primary and secondary schools denies access to education for children without birth registration, especially refugee children and children

belonging to ethnic minority or indigenous groups, such as children of Nubian descent and Somali indigenous children in Kenya. Please also provide information on measures taken to ensure equal access to education for children without a birth certificate.

15. Please provide information on measures taken to eliminate the hidden costs of education, to improve the quality of education, and to ensure the enrolment in school of children belonging to disadvantaged and marginalized communities, such as children in pastoral communities and informal urban settlements, children with disabilities and refugee children.

16. Please update the Committee on the measures taken to implement the recommendations made by the African Commission on Human and Peoples' Rights in 2010 on the Endrois case, regarding protection of the rights of indigenous children to culture, life and development through the use of traditional land and enjoyment of a quality natural environment.

17. In the context of the State party's policy of relocating all refugees, particularly Somali refugees, to refugee camps in Kenya, or of deporting them to their country of origin, please explain the measures taken to protect the rights of refugee and asylum-seeking children, including the rights to non-refoulement, family reunification, personal liberty, education and health. Please comment on information received according to which refugee children were detained and were affected by family separation and the disruption of their education during the security operations in 2014 aimed at relocating refugees from urban areas to refugee camps. Finally, please inform the Committee of the outcome of the investigation by the Office of the Inspector General of National Police Services, in 2012, into police brutality in the Dadaab refugee camp.

18. Please provide the Committee with detailed updated information on the implementation of the Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act, 2012, and on any other measures taken to prevent displacement and to protect and assist the resettlement of internally displaced children, including those displaced due to the 2007 and 2008 post-election violence, those displaced due to other violence and those displaced due to the implementation of development projects.

19. Please provide detailed information on any investigation conducted into the allegations of child sexual abuse allegedly perpetrated, since 2013, by Kenyan peacekeepers in Somalia.

20. Please provide an update on the progress made towards the establishment of a juvenile justice system in the State party in line with the amendment of the Children Act 2001, including in relation to raising the minimum age for criminal responsibility to bring it into line with internationally accepted standards.

21. Please provide information on measures taken to prevent the radicalization of children and the recruitment of children into non-State armed groups, notably by addressing the root causes of such a phenomenon. Please also indicate the measures taken to ensure that children's rights are protected during anti-terrorism and security operations. Finally, please indicate the measures taken or planned for preventing the marginalization of children who belong to the communities suspected of collaborating with terrorist groups.

## Part II

**In this section, the Committee invites the State party to briefly (three pages maximum) update the information presented in its report with regard to:**

- (a) New bills and laws, and their respective regulations;
- (b) New institutions and their mandates, and institutional reforms;
- (c) Recently introduced policies, programmes and action plans and their scope and financing;
- (d) Recent ratifications of human rights instruments.

## Part III

### **Data, statistics and other information, if available**

1. Please provide consolidated information about the budget required for the implementation of the proposed amendment to the Children Act 2001 and of the National Plan of Action for Children for 2013–2022, indicating the percentage of each budget line in terms of the total national budget and gross national product, and the geographic allocation.
2. Please provide, if available, updated statistical data, disaggregated by age, sex, ethnic origin, national origin, geographic location and socioeconomic status, covering the past three years, on:
  - (a) The number of complaints of violations of the rights of the child that have been received and followed up on by the Kenya National Commission on Human Rights and the National Gender and Equality Commission;
  - (b) The number of incidents of violence, including sexual violence, committed by law enforcement officers, against children who are the subject of investigation and/or prosecution, and the number of child victims of police violence;
  - (c) The number of cases of violence against children, including corporal punishment and sexual violence; please also provide information on the relevant investigations and the prosecution of the perpetrators and on the sentences imposed by the courts. Please also indicate the number of cases of alleged sexual violence brought to court but eventually settled out of court, and the reasons for the choice of non-judicial settlements;
  - (d) The number of adolescent girls who have access to information, services and care relating to sexual and reproductive health, including access to contraceptives;
  - (e) The prevalence of underweight and stunting among children aged under 5;
  - (f) The number of children benefitting from early childhood development programmes;
  - (g) The number of refugee and asylum-seeking children currently in the State party, the number that are in refugee camps in the State party, and the number that have been returned to the State of origin;
  - (h) The number of internally displaced children in the State party, including those displaced in relation to the implementation of development projects;
  - (i) The number of children in street situations;

(j) The number of children engaged in child labour, including the worst forms of child labour, and the number of investigations and prosecutions made in response to allegations of illegal child labour or the worst forms of child labour. Please indicate the type of work;

(k) The number of children in conflict with the law who have been reported to the police, who have been arrested, and who have been in detention (pretrial detention, prison, and statutory rehabilitation institutions), and the number of children under the age of 18 tried and sentenced as adults. With regard to the children in detention, please indicate whether they are detained alongside adults;

(l) The average duration of pretrial detention for children, the types of sentences and punishments imposed by courts for children in conflict with the law, and the number of reported cases of abuse and ill-treatment of children during their arrest and detention;

(m) The number of children involved in sexual exploitation, pornography and trafficking.

3. Please provide data disaggregated by age, sex, socioeconomic background, ethnic origin and geographical location, covering the past three years, relating to the situation of children deprived of a family environment, on:

(a) The number of children separated from their parents;

(b) The number of children living in child-headed households;

(c) The number of children placed in institutions;

(d) The number of children placed with foster families;

(e) The number of children adopted domestically or through inter-country adoptions.

4. Please provide data, disaggregated by age, sex, type of disability, ethnic origin and geographical location, covering the past three years, on the number of children with disabilities:

(a) Living with their families;

(b) In institutions;

(c) Attending regular primary schools;

(d) Attending regular secondary schools;

(e) Attending special schools;

(f) Out of school;

(g) Abandoned by their families.

5. Please provide the Committee with an update of any data in the report which may have been superseded by more recent data collected or affected by new developments.

6. In addition, the State party may list areas affecting children that it considers to be of priority with regard to the implementation of the Convention.