



Economic and Social Council

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Committee on Economic, Social and Cultural Rights

List of issues in relation to the combined second to fifth periodic reports of Kenya*

I. General information

1. Please provide information on the number of cases in which the rights contained in the Covenant were directly applied in domestic courts, and on the nature of those rights and the extent to which they were applied.
2. Please provide information on the measures taken to strengthen free legal aid schemes to support individuals in bringing their cases to the competent court when their economic, social and cultural rights are violated, including information on budget allocations to free legal aid schemes and the adoption of the Legal Aid Bill of 2013.
3. Please provide information on the concrete steps taken to guarantee affected communities the protection and promotion of their economic, social and cultural rights when entering into contracts with natural resource extraction companies.
4. Please provide information on the impact that the free trade agreements that the State party has concluded, including the economic partnership agreement with the European Union, the Investment Agreement under the Common Market for Eastern and Southern Africa and bilateral trade and investment agreements, have had on the livelihood of small-scale farmers, the employment of workers, labour rights, the right to food and the right to health.
5. Please provide updated and compiled statistical data on:
 - (a) Annual public spending in the areas of social protection, housing, water and sanitation, health and education, in terms of amount and percentage of national budget;
 - (b) The percentage of women in Parliament, the judiciary and senior civil service positions;
 - (c) Unemployment rates, disaggregated by sex, age and disability, and on employment rates in the formal and informal economy;
 - (d) Ratios of households with access to improved water resources and sanitation in urban and rural areas as well as in informal settlements and arid and semi-arid land areas;

* Adopted by the pre-sessional working group at its fifty-sixth session (12-16 October 2015).



- (e) Health indicators, including infant mortality, under-5 mortality, maternal mortality and immunization rates, and the number of medical professionals by county;
- (f) Net enrolment rates in primary schools, including among children with disabilities, children in informal settlements and children in rural areas, transfer rates from primary school to secondary school and the number of children out of school, disaggregated by sex.

II. Issues relating to general provisions of the Covenant (arts. 1-5)

Article 1 (2) – Free disposal of natural wealth and resources

- 6. Please provide information on the implementation of the ruling of the African Commission on Human and Peoples' Rights in the case of *Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v. Kenya* and the participation of the Endorois people in the implementation process.
- 7. Please provide information on the case of forced eviction of Masai from a settlement in Narasha, which was brought before court in July 2013. Please explain what steps the State party has taken to ensure that the contractors of large-scale development projects, such as the Lamu Port-Southern Sudan-Ethiopia Transport Corridor project, obtain the free, prior and informed consent from the indigenous peoples affected and adequately compensate those peoples for loss of traditional land and livelihood opportunities.

Article 2 (1) – Maximum available resources

- 8. Please provide information on the corruption cases filed with the Ethics and Anti-Corruption Commission, including statistical data, by year, on the number of cases filed and investigated and that led to prosecutions, as well as on sentences passed on the perpetrators. Please state whether complaints have been filed against ministers or senior civil servants and, if so, provide information on the number of such cases and the sentences passed on those found guilty. Please provide information on the measures taken to strengthen the mandate, and the human and financial capacity, of the Commission and other related anti-corruption bodies. Please explain the measures taken to provide protection against reprisals for victims of corruption and their lawyers, anti-corruption activists, whistle-blowers and witnesses.

Article 2 (2) – Non-discrimination

- 9. Please provide information on the measures taken to provide durable solutions for persons who were displaced internally as a result of the post-election inter-ethnic violence in 2008 and who remain in camps for internally displaced persons. In this context, please also provide information on the implementation of the recommendations made by the Truth, Justice and Reconciliation Commission and of the Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act of 2012.
- 10. Please provide information on the measures taken or envisaged to ensure physical accessibility for persons with disabilities. Please provide updated information on the status of the draft national action plan on accessibility and the persons with disabilities amendment bill of 2014.
- 11. Please provide information on the measures taken to implement the High Court judgement of July 2013, in which the freedom of movement of refugees and asylum seekers and their economic, social and cultural rights were upheld.

12. Please provide information on the measures taken to raise awareness of, prevent and combat discrimination based on sexual orientation and gender identity. Please also provide information on the measures contemplated to decriminalize same-sex relations between consenting adults.

Article 3 – Equal rights of men and women

13. Please provide information on the measures taken or envisaged to enforce the recently adopted laws, including the Marriage Act of 2014 and the Matrimonial Property Act of 2013.

III. Issues relating to the specific provisions of the Covenant (arts. 6-15)

Article 6 – The right to work

14. Please provide information on the measures taken or envisaged to increase employment opportunities, particularly in the formal economy, for youth, women and persons with disabilities.

Article 7 – The right to just and favourable conditions of work

15. Please provide information on the level of the current minimum wage and clarify whether it is sufficient for a decent living for workers and their families. Please also clarify whether the minimum wage is applicable to all workers.

16. Please provide information on the implementation of the Occupational Safety and Health Act of 2007 and the national policy on occupational safety and health, including on resource allocation to the inspection mechanisms. Please also provide information on the inspections carried out by those mechanisms, including key areas of concern identified through inspections in the past four years, particularly in the informal economy and in the export processing zones.

Article 9 – The right to social security

17. Please provide information on the national budget allocation to the implementation of the Kenya Social Protection Policy of 2011 and on the measures taken or envisaged to secure sufficient funding for social protection programmes under the Policy.

18. Please clarify whether the National Social Security Fund includes non-contributory schemes of social assistance. Please provide information on the scope and coverage of the Fund and the level of benefits people receive from the Fund.

19. Please provide information on the steps taken or envisaged to re-establish the National Hospital Insurance Fund as a fully fledged comprehensive national health insurance scheme.

Article 10 – Protection of the family, mothers and children

20. Please provide information on the measures taken to enforce the provisions of the Protection Against Domestic Violence Act 2015.

21. Please provide information on the concrete measures taken to combat female genital mutilation, polygamy and early marriage.

22. Please provide information on the measures taken to prohibit child labour and sexual exploitation of children, including the enforcement of the Children Act and the Sexual

Offences Act and the enactment of the Children Act amendment bill of 2014, awareness-raising campaigns, the adoption and implementation of national policy on child labour and the provision of assistance for children engaged in labour.

Article 11 – The right to an adequate standard of living

23. Please provide information on the impact of the National Poverty Eradication Plan for 1999-2015, particularly relating to youth, women and people living in arid and semi-arid lands and the current levels of poverty, disaggregated by region. Please also provide information on the progress made to address the shortage of food and pervasive chronic malnutrition.

24. Please explain what concrete measures the State party has taken to address the disproportionately limited access to safe drinking water sources and sanitation in rural areas and informal settlements and to ensure that the price of water, including at water kiosks, is regulated in accordance with the tariff guidelines adopted by the State party.

25. Please explain what measures the State party has taken to increase the provision of affordable social housing. Please provide information on the implementation of the Kenya informal settlement improvement programme for 2011-2016 and the National Slum Upgrading and Prevention Policy, including the achievements made and challenges faced.

26. Please provide information on the legal and procedural safeguards put in place to ensure that evictions are carried out lawfully and in accordance with international standards, and on the measures taken to ensure effective remedy and adequate alternative housing or compensation for those affected by evictions. In this context, please explain what steps the State party has taken to comply with court rulings on forced eviction cases, including those of *Mitu-Bell Welfare Society v. the Attorney General* and *Satrose Ayuma and others v. Registered Trustees of the Kenya Railways Staff Benefits Scheme and others*.

Article 12 – The right to physical and mental health

27. Please explain why the maternal mortality rate has increased. Please provide information on the measures taken to reverse this alarming trend and on the impact of those measures.

28. Please provide information on the incidence of illegal abortions and the measures contemplated to address the resulting problems. Please also provide information on the progress made in improving access to sexual and reproductive health services, particularly for women and girls living in rural areas.

29. Please provide information on the measures taken to ensure comprehensive knowledge, particularly among adolescents and young adults, about HIV/AIDS and safe sex. Please explain what efforts have been made to combat negative perceptions towards people living with HIV/AIDS, particularly among health-care professionals. Please also explain why the uptake of antiretroviral treatment among children with HIV/AIDS is markedly lower than that for adults with HIV/AIDS and indicate what steps are being taken to address the low uptake of such treatment among those children.

Articles 13 and 14 – The right to education

30. Please provide information on the measures taken to increase the number of public primary schools and enhance the quality of public schools, particularly in informal settlements and remote rural areas, since the introduction of the free primary education policy. Please explain how the State party has regulated and monitored informal private schools, or low-cost private schools, to ensure quality education.

31. Please provide information on the effectiveness of measures the State party has taken to bring back to school the large number of children dropping out of school, including girls dropping out of school owing to pregnancy.

Article 15 – Cultural rights

32. Please provide information on the steps taken to protect intellectual property rights arising from traditional knowledge and forms of traditional cultural expression, as well as traditional farmers' rights.
