



OFFICE OF THE HIGH COMMISSIONER
FOR HUMAN RIGHTS



***Concluding comments of the Committee - CEDAW : Kenya. 20/03/2003.
A/58/38(Part I), paras. 199-230. (Concluding Observations/Comments)***

Convention Abbreviation: CEDAW
Committee on the Elimination of Discrimination
against Women

Kenya

Concluding comments of the Committee

Introduction

199. The Committee commends the State party for its large delegation, headed by the Permanent Secretary in the Ministry of Gender, Sports, Culture and Social Services, and expresses appreciation for the written replies to the questions of the Committee's pre-session working group and for the oral presentation, which provided additional information on the implementation of the Convention and the current situation of women in Kenya.

200. The Committee commends the State party for formulating a five-year Plan of Action based on all the 12 critical areas of concern of the Beijing Platform for Action.

201. The Committee commends the State party for its declared political will and efforts to improve the status of women in Kenya. The Committee appreciates the frankness and openness of the delegation's dialogue with members of the Committee.

Positive aspects

202. The Committee welcomes the draft constitution which will come into force by June 2003, as it addresses issues of the reform of existing discriminatory laws.

203. The Committee welcomes the transformation of the Standing Committee on Human Rights into the Kenya National Commission on Human Rights, and commends the State party for elevating the National Machinery for the Advancement of Women, giving it

more autonomy within the new Ministry of Gender, Sports, Culture and Social Services.

204. The Committee is pleased to note that consultations were held with representatives of different ministries and civil society, including non-governmental organizations, in the preparation of the combined third and fourth periodic report.

Principal areas of concern and recommendations

205. Although the draft constitution, once enacted, should provide for the applicability of international conventions ratified by the State party in domestic courts of law, the Committee is concerned that the Convention on the Elimination of All Forms of Discrimination against Women has not yet been incorporated into domestic law and its provisions have not been invoked before the courts.

206. The Committee recommends that the State party incorporate the provisions of the Convention on the Elimination of All Forms of Discrimination against Women into domestic law without delay and requests the State party to ensure that the provisions of the Convention are fully reflected in the constitution and in all legislation.

207. The Committee is concerned that legislative provisions as well as customary laws and practices that discriminate against women in areas such as marriage, divorce, burial and devolution of property on death continue to exist. The Committee is further concerned at the continued existence of multiple laws governing marriage and divorce.

208. The Committee recommends that the State party take appropriate action to eliminate all discriminatory laws, practices and traditions and to ensure women's equality with men particularly in marriage and divorce, burial and devolution of property upon death in accordance with the provisions of the Convention. In this regard, the Committee recommends speedy enactment of the relevant bills, including the Domestic violence (family protection) bill of 2002; the Equality bill of 2001; the National Commission on Gender and Development bill of 2002; the Criminal law amendment bill of 2002; the HIV/AIDS

Prevention and Control bill of 2002; and the Public Offices Code of Ethics bill of 2002. The Committee also recommends that the State party's relevant ministries continue working with civil society, including non-governmental organizations, in order to create an enabling environment for legal reform, effective law enforcement and legal literacy.

209. The Committee expresses concern about the persistence of cultural practices and stereotypical attitudes with respect to the role and responsibilities of women that undermine their rights.

210. The Committee requests the State party to increase its efforts to create awareness in society about the need to change stereotypical attitudes and discriminatory behaviour towards women and girls through, inter alia, specific programmes directed at both women and men in this regard. The Committee further encourages the media to project a positive image of women and to promote the equal status of women and men in both the public and private spheres. It also calls upon the State party to periodically review the measures taken in order to identify shortcomings and to adjust and improve those measures accordingly.

211. The Committee expresses concern at the continued prevalence of violence against women. It is particularly concerned about domestic violence, sexual harassment in the workplace and in institutions of learning, and other forms of sexual abuse of women.

212. The Committee urges the State party to accord priority attention to the adoption of comprehensive measures to address violence against women and girls, taking into account its general recommendation 19 on violence against women. The Committee calls on the State party to enact or review, as appropriate, legislation on all forms of violence against women, including domestic violence, as well as legislation concerning all forms of sexual harassment, in order to ensure that women and girls who are victims of violence and sexual harassment have access to protection and effective redress and that perpetrators of such acts are prosecuted and punished. The Committee also recommends

gender-sensitive training for public officials, particularly law enforcement personnel, the judiciary and health services providers. It also recommends the establishment of shelters and counselling services for victims of violence and sexual harassment.

213. The Committee notes with concern that, despite the prohibition of female genital mutilation by the State party, the practice persists and is widely accepted in the country.

214. The Committee recommends that the State party develop a plan of action, including a public-awareness campaign, targeted at both women and men, with the support of civil society, including non-governmental organizations, to eliminate the practice of female genital mutilation and encourages the State party to create an enabling environment for effective law enforcement and to devise programmes for alternate sources of income for those who perform female genital mutilation as a means of livelihood.

215. While recognizing an increase in the number of women recently appointed to key decision-making positions, the Committee expresses concern that this number remains low in parliament, the judiciary and the diplomatic and civil service.

216. The Committee recommends that the State party take measures to increase the number of women in decision-making positions. It also recommends that the State party introduce temporary special measures, in accordance with article 4, paragraph 1, of the Convention, to strengthen its efforts to promote and elect women to positions of power, supported by special training programmes and awareness-raising campaigns, taking into account the Committee's general recommendation 23.

217. The Committee expresses concern at the discriminatory nature of Kenyan laws relating to citizenship and nationality.

218. The Committee urges the State party to reconcile Kenyan citizenship laws with the provisions of the draft constitution and article 9

of the Convention in order to eliminate all provisions that discriminate against women in the area of citizenship and nationality. It requests the State party to report on the implementation of these measures in its next periodic report.

219. The Committee expresses concern that, despite the laws and sanctions in place, prostitution continues to thrive, particularly in urban areas. The Committee is particularly concerned about the lack of information on the extent of the exploitation of prostitution and the lack of measures to combat this, including the lack of adequate penalties for those who exploit prostitutes.

220. The Committee requests the State party to study the phenomenon of prostitution and to take appropriate measures to combat the exploitation of prostitution in urban areas. It recommends that a holistic approach be pursued in order to facilitate the reintegration of prostitutes into Kenyan society and urges the State party to provide rehabilitation and other programmes to women exploited in prostitution. It also recommends prosecution and punishment for those who profit from the sexual exploitation of women and girls.

221. While noting the State party's commitment to combating the spread of HIV/AIDS and the reduction in infection rates from 14 per cent to 10.2 per cent in 2002, the Committee is concerned at the lack of sex-disaggregated data on HIV/AIDS and the absence of strategic measures for the care of women and girls infected with and affected by HIV/AIDS.

222. The Committee urges the State party to take comprehensive measures to combat the HIV/AIDS pandemic, to take strong preventive measures and to ensure that women and girls infected with HIV/AIDS are not discriminated against and are given appropriate assistance. The Committee also emphasizes that the collection of reliable data on HIV/AIDS is critical in order to understand the impact of the pandemic on women and men.

223. Despite the State party's National Policy on Gender and Development to implement existing land and inheritance laws concerning women's rights in

rural areas, the Committee is concerned that discriminatory customs and traditional practices remain prevalent in rural areas, thus preventing women from inheriting or acquiring ownership of land.

224. The Committee urges the State party to pay special attention to the needs of rural women, ensuring that they participate in decision-making and have full access to education, health services and credit and marketing facilities. The Committee also urges the State party to take appropriate measures to eliminate all forms of discrimination with respect to ownership, co-sharing and inheritance of land.

225. The Committee is concerned that the National Commission on Gender and Development is lacking the means to effectively coordinate among the different mechanisms related to gender; and that the lack of a clear division of responsibilities and insufficient budget allocations may have a negative bearing on the effective implementation of the Convention.

226. The Committee recommends that the State party clearly define the mandate and responsibilities of the different mechanisms related to the advancement of women and gender equality and allocate sufficient budgetary resources to them.

227. The Committee urges the State party to accelerate its efforts to ratify the Optional Protocol to the Convention and to accept the amendment to article 20, paragraph 1, of the Convention.

228. Taking account of the gender dimensions of declarations, programmes and platforms for action adopted by relevant United Nations conferences, summits and special sessions (such as the special session of the General Assembly to review and appraise the implementation of the Programme of Action of the International Conference on Population and Development (the twenty-first special session), the special session of the General Assembly on children (the twenty-seventh special session), the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the Second World Assembly on Ageing), the

Committee requests the State party to include information on the implementation of aspects of these documents relating to relevant articles of the Convention in its next periodic report.

229. The Committee requests the State party to respond to the concerns and recommendations expressed in the present concluding comments in its next periodic report to be submitted under article 18 of the Convention; and to take into account the Committee's general recommendations in legislation, policies and programmes.

230. The Committee requests the wide dissemination in Kenya of the present concluding comments in order to make the people of Kenya, in particular government administrators and politicians, aware of the steps that have been taken or are intended to be taken to ensure the de jure and de facto equality of women. It also requests the State party to continue to disseminate widely, in particular to women's and human rights organizations, the Convention, its Optional Protocol, the Committee's general recommendations and the Beijing Declaration and Platform for Action, as well as the results of the twenty-third special session of the General Assembly, entitled "Women 2000: gender equality, development and peace for the twenty-first century".



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