



**Convention on the Elimination
of All Forms of Discrimination
against Women**

Distr.: General
2 February 2011

Original: English

ADVANCE UNEDITED VERSION

**Committee on the Elimination of
Discrimination against Women**
Forty-eighth session
17 January – 4 February 2011

**Concluding observations of the Committee on the
Elimination of Discrimination against Women**

Kenya

1. The Committee considered the seventh periodic report of Kenya (CEDAW/C/KEN/7) at its 963th and 964th meetings, on 19 January 2011 (see CEDAW/C/SR.963 and 964). The Committee's list of issues and questions is contained in CEDAW/C/KEN/Q/7 and the responses of Kenya are contained in CEDAW/C/KEN/Q/7/Add.1.

A. Introduction

2. The Committee expresses its appreciation to the State party for its seventh periodic report, which was well structured and, in general, followed the Committee's guidelines for the preparation of reports with references to the previous concluding observations, although it lacked references to the Committee's general recommendations and adequate specific disaggregated data. The Committee notes with appreciation that the report was prepared in a participatory process involving Government bodies and national civil society organizations and was submitted on time despite a difficult context of post-election violence in late 2007 to early 2008. The Committee expresses its appreciation to the State party for the written replies to the list of issues and questions raised by its pre-session working group.

3. The Committee commends the State party for its high-level delegation, headed by the Minister of State for Gender, Children and Social Development and which included several representatives from relevant ministries with expertise in the areas covered by the Convention. The Committee appreciates the oral statement presented by the head of delegation and the further clarifications to questions posed orally by the Committee in the open and constructive dialogue that took place between the delegation and the members of the Committee.

B. Positive aspects

4. The Committee welcomes the adoption of a new Constitution approved by public referendum on 4 August 2010 which provides for the immediate domestication of CEDAW,

and includes a comprehensive Bill of Rights which enhances protection for women through, inter alia, the following provisions:

- a) Article 2 (4) which provides that any law, including customary law, that is inconsistent with the Constitution is void to the extent of the inconsistency, and the fact that any act or omission in contravention of the Constitution is invalid;
 - b) Article 14 (1) (2) which guarantee equal citizenship rights for women, and in particular the direct applicability of the constitutional right of women to pass on Kenyan citizenship to their foreign spouses and children born outside of Kenya.
 - c) Article 27 (4) which prohibits direct or indirect discrimination, inter alia, on the basis of sex, pregnancy and marital status;
 - d) Article 27 (6) which allows the State to take legislative and other measures including affirmative action to redress disadvantage;
 - e) Article 7 (1) of Schedule 6 which provides that all law in force before the effective date of the new Constitution “shall be construed with the alterations, adaptations, qualifications and exceptions necessary to bring it into conformity with this constitution”;
5. The Committee welcomes the fact that the new Constitution requires the repeal of many discriminatory provisions which existed in the former Constitution as well as the application of the Constitution’s guarantee of non-discrimination with respect to all laws, including those in the areas of marriage, divorce, adoption, burial and succession;
6. The Committee commends the State party for its demonstrated political will and commitment, expressed during the constructive dialogue, to eliminate discrimination against women and achieve gender equality.
7. The Committee congratulates the State party for having implemented the constitutional principle contained in article 27 (8) that not more than two-thirds of the members of elective or appointive bodies be of the same gender in newly established commissions crucial to the implementation of the new Constitution.
8. The Committee commends the enactment of the Children Amendment Law which now requires the father to take responsibility for children born out of wedlock thereby reducing the burden of care on the mother.

C. Principal areas of concern and recommendations

9. The Committee recalls the State party’s obligation to systematically and continuously implement all the provisions of the Convention on the Elimination of All Forms of Discrimination against Women and views the concerns and recommendations identified in the present concluding observations as requiring the State party’s priority attention between now and the submission of the next periodic report. Consequently, the Committee urges the State party to focus on these areas in its implementation activities and to report on action taken and results achieved in its next periodic report. It calls upon the State party to disseminate the present concluding observations to all relevant ministries, the National Assembly and the judiciary, so as to ensure their full implementation.

National Assembly

10. While reaffirming that the Government has the primary responsibility and is particularly accountable for the full implementation of the State party’s obligations under the Convention, the Committee stresses that the Convention is binding on all branches of Government and invites the State party to encourage its National

Assembly, in line with its procedures and where appropriate, to take the necessary steps with regard to the implementation of these concluding observations and the Government's next reporting process under the Convention.

Legislative reforms and discriminatory laws

11. The Committee welcomes the fact that the new Constitution provides an opportunity for the enactment of progressive laws which must be treated as a matter of urgency. However, it reiterates its concern at the lack of priority given to the enactment of a number of Bills which would eliminate sex-discriminatory provisions and close legislative gaps to bring the country's legal framework fully into compliance with the provisions of the Convention and achieve women's de jure equality. The Committee is concerned, in particular, about the delay in the passing of key gender equality bills, including the Family Protection Bill, the unified Marriage Bill 2007, the Matrimonial Property Bill 2007 and the Equal Opportunity Bill 2007. The Committee is further concerned that other legislation that discriminate against women and are incompatible with the Convention, remain in force. While noting that Khadi courts are established under Section 170 of the new Constitution as a separate subsidiary court for the hearing of Muslim family law matters, including inheritance, the Committee is concerned that the provision for the Khadi courts has exemptions from the constitutional equality provisions, and that such provision is not in line with the Convention, and in particular contravenes articles 2 and 16 of the Convention.

12. The Committee urges the State party to:

(a) Enact, within two years, the Family Protection Bill 2007, the unified Marriage Bill 2007, the Matrimonial Property Bill 2007 and the Equal Opportunity Bill;

(b) Give priority attention to the elaboration of new laws as well as the review and repeal of discriminatory provisions in order to achieve de jure equality for women and compliance with the State party's obligations under CEDAW and to this end reduce the prescribed time line in Schedule 5;

(c) Establish an effective monitoring mechanism to ensure that the Constitutional Implementation Oversight Committee, established by the parliament, is effectively carrying out its mandate;

(d) Harmonize religious and customary law with Article 16 of the Convention and consider bringing Khadi courts under the specific equality provision enshrined in the new Constitution.

Visibility of the Convention and access to justice

13. The Committee is concerned that there is inadequate knowledge, in society in general, including among all branches of the Government and the judiciary, of the rights of women under the Convention, its concept of substantive gender equality and the Committee's general recommendations.. The Committee welcomes the establishment of a pilot National Legal Aid and Awareness Programme (NALEAP) in six regions of Kenya which, while not limited to women, focuses on critical aspect that limit women's access to justice. It is, however, concerned that, while women's access to justice is provided for by legislation, their ability to exercise that right and to bring cases of discrimination before courts is limited by such factors as legal costs, the persistence of traditional justice systems, illiteracy, lack of information about their rights and other practical difficulties in accessing courts.

14. The Committee:

a) Urges the State party to take all appropriate measures to ensure that the Convention is sufficiently known and applied by all branches of Government and the

judiciary as a framework for all laws, court decisions and policies on gender equality and the advancement of women;

b) Recommends that the Convention and relevant domestic legislation be made an integral part of the legal education and training of judges and magistrates, lawyers and prosecutors, particularly those working in the local council courts, so that a legal culture supportive of women's equality with men and non-discrimination on the basis of sex is firmly established in the country;

c) Requests the State party to take all appropriate measures to remove impediments women may face in gaining access to justice and to this end: speedily adopt the national legal aid and awareness policy with the view to institutionalize legal aid throughout the country; implement legal literacy programmes and disseminate knowledge of ways to utilize available legal remedies against discrimination; and, monitor the results of such efforts.

National machinery for the advancement of women

15. The Committee is concerned that the national machinery for the advancement of women seems to have insufficient human, financial and technical resources for its effective functioning and that such inadequacies could prevent it from effectively discharging its functions of promoting specific programmes for the advancement of women, effectively coordinating efforts among the different institutions of the national machinery at various levels and ensuring comprehensive gender mainstreaming in all Government sectors. The Committee also notes the State party's intention, as orally mentioned, to restructure the Kenya National Human Rights and Equality Commission as established by article 59 (1) of the Constitution into two separate commissions, namely a Human Rights Commission and a Gender Equality and Development Commission. However, it is concerned about the level of coordination of the work of these different bodies and the possible overlap of mandates.

16. The Committee recommends that the State party:

a) Rationalise and establish clear mandates for entities established to ensure coordination and avoid fragmentation of efforts and resources;

b) Strengthen the existing machinery for gender equality by providing it with adequate visibility, power and human and financial resources at all levels, in order to increase its effectiveness and enhance its capacity to coordinate and monitor actions at the national and local levels for the advancement of women and the promotion of gender equality.

Stereotypes and harmful practices

17. While noting some efforts made by the State party, the Committee reiterates its concern at the persistence of adverse cultural norms, practices and traditions as well as patriarchal attitudes and deep-rooted stereotypes regarding the roles, responsibilities and identities of women and men in all spheres of life. The Committee is concerned that such customs and practices perpetuate discrimination against women, and are reflected in women's disadvantageous and unequal status in many areas, including in public life and decision-making and in marriage and family relations. The Committee notes that such stereotypes also contribute to the persistence of violence against women as well as harmful practices, including female genital mutilation (FGM), polygamy, bride price and wife inheritance; and expresses its concern that despite such negative impacts on women, the State party has not taken sustained and systematic action to modify or eliminate stereotypes and negative cultural values and harmful practices.

18. The Committee urges the State party to:

- a) Put in place, without delay, a comprehensive strategy to modify or eliminate harmful practices and stereotypes that discriminate against women, in conformity with articles 2 (f) and 5 (a) of the Convention. Such measures should include efforts, in collaboration with civil society, to educate and raise awareness of this subject, targeting women and men at all levels of society, including traditional leaders;
- b) Address harmful practices, such as FGM, polygamy and bride price, by instituting public education programmes and enforcing prohibition of those practices; and
- c) Use innovative measures to strengthen understanding of the equality of women and men including working with the media to enhance a positive and non-stereotypical portrayal of women.

Female genital mutilation

19. While welcoming the adoption of a National Plan of Action (2008-2012) and the approval of a National Policy for the Abandonment of Female Genital Mutilation in June 2010, the Committee reiterates its concern at the continued prevalence of the harmful practice of female genital mutilation in some communities, which is a grave violation of girls' and women's human rights and of the State party's obligations under the Convention. The Committee also notes with concern that despite the enactment of the Children's Act (2001) which prohibits female genital mutilation, girls are increasingly subjected to this harmful practice at younger ages than previously. It is further concerned that this practice has not been prohibited for women over 18 years.

20. The Committee recalls its general recommendations No. 14 (1990) on female circumcision and No. 19 (1992) on violence against women and calls on the State party to:

- a) Ensure the effective implementation of the 2001 Children's Act which outlaws FGM for girls under 18 years, as well as prosecution and punishment of perpetrators of this practice;
- b) Take all necessary measures to expedite the enactment of the Prohibition of Female Genital Mutilation Bill (2010) which will, inter alia, outlaw the practise for all women;
- c) Continue and increase its awareness-raising and education efforts targeting families, practitioners and medical personnel, with the support of civil society organizations and religious authorities, in order to completely eliminate female genital mutilation and its underlying cultural justifications; and
- d) Establish support services to meet the health and psycho-social needs of women and girls who are victims of this practice.

Violence against women

21. While welcoming the enactment of the 2006 Sexual Offences Act, the Committee reiterates its concern at the high prevalence of violence against women and girls and widespread incidents of sexual violence, including rape, in both the private and public spheres. The Committee is also concerned that such violence appears to be socially legitimized and accompanied by a culture of silence and impunity and that cases of violence are thus underreported, such underreporting being further encouraged by section 38 in the Sexual Offences Act which exposes the victims to prosecution in certain circumstances. The Committee notes with concern that marital rape is not recognized as a criminal offence in either the Sexual Offences Act or in the Family Protection Bill 2007.

22. The Committee urges the State party to give attention, as a priority, to combating violence against women and girls and adopting comprehensive measures to address such violence, in accordance with its general recommendation No. 19. The Committee calls upon the State party to expeditiously:

- a) Repeal section 38 of the Sexual Offences Act under which women face the risk of being victimised for initiating prosecutions against their abusers;**
- b) Adopt the regulations for implementation of the Sexual Offences Act;**
- c) Enact the Family Protection Bill;**
- d) Criminalize marital rape; and**
- e) Develop a coherent and multisectoral action plan to combat all forms of violence against women.**

23. The Committee is concerned at the absence of a holistic approach to the prevention and elimination of all forms of violence against women.

24. The Committee recommends training for the judiciary and public officials, in particular law enforcement personnel and health service providers in order to ensure that they are aware of all forms of violence against women and can provide adequate gender-sensitive support to victims. It also recommends the establishment of counselling services and shelters for victims of violence. The Committee requests the State party to provide in its next periodic report detailed information, disaggregated by age and urban and rural areas, on the causes, scope and extent of all forms of violence against women and the impact of measures taken to prevent such violence, investigate and prosecute reported cases and punish perpetrators and provide protection, relief and remedies, including appropriate compensation, to victims and their families.

Post electoral violence against women

25. While welcoming the establishment of a Truth, Justice and Reconciliation Commission and of a National Cohesion and Integration Commission, the Committee notes with concern the delay in implementing the recommendations of the Commission on Inquiry on the Post-Election Violence (CIPVEV) to establish an office of the Special Rapporteur on Violence and Constitutional Reforms as well as a Special Tribunal to investigate and prosecute perpetrators of the violence. It further notes that most of the perpetrators of sexual and gender based violence, including rape and gang rapes, remain unpunished. The Committee also notes the detrimental impact of the post electoral violence on the participation of women in all aspects of public and political life.

26. The Committee urges the State party to ensure that women and girls who were the victims of the post electoral violence have access to protection and effective redress through the speedy establishment of a Special Tribunal to investigate cases of such violence and that the perpetrators be effectively prosecuted and punished. It further urges the State party, inter alia, through the Truth, Justice and Reconciliation Commission, to look into the necessary steps to be taken to ensure an enabling and safe environment for women to fully participate in the public and political life particularly with regard to the next 2012 general elections.

Trafficking and exploitation of prostitution

27. While welcoming the new Trafficking in Persons Act and the efforts of the State party aimed at raising awareness about sex tourism and at combating it through the establishment, inter alia of a tourism police unit and work with hotels and tour operators to

increase their awareness of child prostitution and its links to sex tourism, the Committee reiterates its concern at the persistence of trafficking and sexual exploitation of women and girls and the role of sex tourism in this regard.. The Committee also remains concerned that women and girls are entering prostitution to support themselves and their families as a result of poverty and that the law only criminalizes prostitutes whilst the demand side is not sanctioned. The Committee regrets the absence of data in respect of both trafficking and prostitution as well as the lack of a national plan of action to address both trafficking and sexual exploitation.

28. The Committee calls upon the State party to fully implement article 6 of the Convention, including through:

- a) Effective implementation of the new legislation on trafficking, ensuring that perpetrators are punished and victims adequately protected and assisted;**
- b) Increasing of its efforts at international, regional and bilateral cooperation with countries of origin, transit and destination through information exchange in order to prevent trafficking, and to harmonize legal procedures aimed at the prosecution of traffickers;**
- c) Conducting comparative studies on trafficking and prostitution to identify and address their root causes in order to eliminate the vulnerability of girls and women to sexual exploitation and traffickers as well as facilitate recovery and social integration of victims;**
- d) Pursuing a comprehensive approach in addressing the question of prostitution, including exit programmes for women who wish to leave prostitution and legislation to sanction the demand side; and**
- e) Adopting a comprehensive action plan to address trafficking and sexual exploitation of women and girls and ensure the allocation of sufficient human and financial resources for its effective implementation, including collection of disaggregated data and to include such data in its next periodic report.**

Participation in political and public life

29. While welcoming the 2006 Presidential Decree issued to implement affirmative action with a 30% threshold in the recruitment and promotion of women in all public offices, the Committee notes that this decree has lacked the institutional and legal framework to ensure government's compliance and that as a result, substantial changes are yet to be realised. While welcoming the constitutional principle that not more than two-thirds of the members of elective or appointive bodies shall be of the same gender, the Committee notes that the Political Parties Bill is still pending.

30. The Committee calls upon the State party to:

- a) Speedily put in place the institutional and legal framework required to implement the 2006 Presidential Decree and the constitutional principle of a 30% recruitment and promotion of women in all public offices;**
- b) Revise the Political Parties Bill so as to reintroduce a provision to ensure a quota for female candidates and speedily enact it;**
- c) Implement awareness-raising activities for the society as a whole about the importance of women's participation in decision-making and develop targeted training and mentoring programmes on leadership and negotiation skills for present and potential women candidates and women holding public office;**

d) Carefully monitor the effectiveness of measures taken and results achieved to ensure women's greater participation in political and public life and inform the Committee thereof in its next report.

Education

31. While recognizing the ongoing efforts aimed at increasing the enrolment and retention of girls in schools, as well as the progress made in reducing the gender gap, the Committee is concerned at the persistence of structural and other barriers to quality education, which constitute particular obstacles to the education of girls and young women. Such barriers include, among others, the lack of physical infrastructure and the limited number of trained and qualified teachers. The Committee is also concerned about the delay in the implementation of free secondary education, the high prevalence of sexual abuse and harassment of girls by male teachers and students, the negative impact of harmful traditional practices, such as early and forced marriage, on girls' education and the persistent barriers to the ability of pregnant girls to exercise their right to education.

32. The Committee urges the State party to enhance its compliance with article 10 of the Convention and to raise awareness of the importance of education as a human right and the basis for the empowerment of women. To this end, it urges the State party to:

(a) Ensure equal access of girls and women to all levels and fields of education, take steps to overcome traditional attitudes that in some areas may constitute obstacles to girls' and women's education, address girls' dropout rates and strengthen its policy on the readmission to school of pregnant girls and young mothers;

(b) Strengthen awareness-raising and training of school officials and students, sensitization of children through the media and the establishment of reporting and accountability mechanisms to ensure that perpetrators of all sexual offences against schoolgirls are prosecuted; and,

(c) Enforce a zero tolerance policy with respect to sexual abuse and harassment in schools and ensure that perpetrators are punished appropriately.

Employment

33. The Committee welcomes the adoption of the Employment Act 2007 which, inter alia, outlaws discrimination on the basis of sex and pregnancy and which provides for equal pay for work of equal value. However, the Committee is concerned about the persistence of discrimination against women in the labour market, in particular the low rate of female engagement in paid work (30%) a wide wage gap between women and men and occupational segregation. It is also concerned about the concentration of women in the informal sector with no social security or other benefits. While noting that the Employment Act has introduced a specific provision on sexual harassment, the Committee is concerned that employers are only called upon to take positive measures to prevent sexual harassment where one has 20 or more employees. The Committee is also concerned at the high level of child labour among girls in the State party.

34. The Committee requests the State party to:

a) Take measures, including affirmative action, to increase the percentage of women in paid work in accordance with article 11 of the Convention;

b) Strengthen efforts to eliminate horizontal and vertical occupational segregation, and institute measures that will guarantee the principle of equal pay for work of equal value, in line with article 11 (d) of the Convention and Convention No. 100 of the

International Labour Organization, including the application of job evaluation schemes in the public and private sectors;

c) Strengthen efforts to eradicate child labour by enforcing compulsory education and supporting education as a means of personal and economic empowerment of girls and boys; and

d) Take proactive steps to ensure that all children, especially girls, have access to basic education, health care and the protection of the minimum labour standards elaborated by the International Labour Organization.

Economic empowerment of women

35. While welcoming the creation of a Youth Empowerment Fund to support young entrepreneurs, the establishment of a Women Enterprise Fund as well as “Vision 2030”, the economic development blueprint of Kenya which identified gender as a priority, the Committee expresses its concern that nearly half of the Kenyan population – women, in the majority – still live below the poverty line. The Committee is also concerned that female-headed households are disproportionately represented among the chronically poor and households moving into poverty. The Committee is further concerned that, according to research studies, women experience severe constraints, including limited access to the key factors of production, such as land, capital and microfinance facilities, as well as several legal and administrative obstacles that constrain their level of entrepreneurship.

36. The Committee urges the State Party to:

a) Continue to intensify the implementation of gender-sensitive poverty reduction and development programmes in rural and urban areas and to ensure the participation of women in the development of such programmes; and

b) Continue to develop targeted policies and support services for women aimed at alleviating and reducing poverty among women, particularly rural women.

Health

37. The Committee expresses its concern about the inadequate recognition and protection of the reproductive health and rights of women in the State party and about the Reproductive Rights Bill which is still to be enacted. The Committee is particularly concerned that maternal mortality rates have increased (414 per 100,000 in 2003 as compared to 488 per 100,000 in 2008), and that the rate is particularly alarming in Northern Kenya (1000 to 1300) due to the fact that 95% of deliveries in that region take place at home with no skilled attendants. The Committee further notes with concern that illegal abortion remains one of the leading causes of the high maternal mortality rate and that the State party’s restrictive abortion law further leads women to seek unsafe and illegal abortions. The Committee is further concerned at the number of deaths resulting from unsafe abortions and regrets that maternal health policies do not include sufficient attention to complications arising from unsafe abortion. The Committee is also concerned at the very high number of teenage pregnancies, women’s limited access to quality reproductive and sexual health services, especially in rural areas, and that the existing sex education programmes are not sufficient, and may not give enough attention to the prevention of early pregnancy and the control of STIs.

38. The Committee urges the State party to:

a) Take all necessary measures to improve women’s access to reproductive health care and related services, including the speedy enactment of the Reproductive Rights Bill, within the framework of the Committee’s general recommendation No. 24 on article 12;

- b) Strengthen its efforts to reduce the incidence of maternal mortality and to raise awareness of and increase women's access to health-care facilities and medical assistance by trained personnel, especially in rural areas;**
- c) Provide women with access to quality services for the management of complications arising from unsafe abortions and to consider reviewing the law relating to abortion with a view to removing punitive provisions imposed on women who undergo abortion, in line with the Committee's general recommendation 24 on women and health, and the Beijing Declaration and Platform for Action;**
- d) Strengthen and expand efforts to increase knowledge of and access to affordable contraceptive methods throughout the country and ensure that women in rural areas do not face barriers in accessing family planning information and services; and**
- e) Widely promote education on sexual and reproductive health and rights targeted at adolescent girls and boys, with special attention to the prevention of early pregnancy and the control of STIs, including HIV/AIDS.**

HIV/AIDS

39. While welcoming initiatives undertaken by the State party to prevent and combat HIV/AIDS, including the HIV/AIDS Prevention and Control Act and the National Strategic Plan 2009/2010–2012/13, the Committee notes with deep concern that the State party continues to face a serious epidemic and that women and girls are disproportionately affected by HIV, with HIV prevalence among women age 15-49 being higher (8 per cent) than among men (4.3 per cent). In this respect, the Committee is concerned that women and girls may be particularly susceptible to infection owing to gender-specific norms and that the persistence of unequal power relations between women and men and the inferior status of women and girls may hamper their ability to negotiate safe sexual practices thereby increasing their vulnerability to infection.

40. The Committee calls upon the State party to:

- a) Take continued and sustained measures to address the impact of HIV/AIDS on women and girls, as well as its consequences for the family and society;**
- b) Enhance its focus on women's empowerment by including a clear and visible gender perspective in its policies and programmes on HIV/AIDS and increase the role of men in all relevant measures; and**
- c) Undertake awareness-raising campaigns throughout the State party and among personnel in multiple government sectors in respect of prevention, protection and maintenance of confidentiality in order to systemize and integrate approaches for combating HIV/AIDS.**

Rural women

41. The Committee reiterates its concern at the disadvantaged position of women in rural and remote areas (who form the majority of women in Kenya), which is characterized by poverty, illiteracy, difficulties in access to health and social services and a lack of participation in decision-making processes at the community level. While welcoming the adoption of a National Land Policy, the Committee also reiterates its concern that customs and traditional practices, prevalent in rural areas, prevent women from inheriting or acquiring ownership of land and other property. The Committee further notes that appropriate legislation to ensure effective protection of women's land rights has yet to be passed.

42. The Committee calls upon the State party to:

- a) Take the necessary measures to increase and strengthen the participation of women in designing and implementing local development plans, and to pay special attention to the needs of rural women, in particular women heads of household, by ensuring that they participate in decision-making processes and have improved access to health, education, clean water and sanitation services, fertile land and income-generating projects;
- b) Establish a clear legislative framework to protect women's rights to inheritance and ownership of land; and
- c) Introduce measures to address negative customs and traditional practices, especially in rural areas, which affect full enjoyment of the right to property by women.

Refugee women, internally displaced women and women living in urban slums

43. While welcoming the enactment of the 2006 Refugee Act which specifically recognizes that women and children require special care, the Committee reiterates its concern about the lack of information provided by the State party about refugee women in camps in Kenya and about internally displaced people, many of whom are women. The Committee is further concerned at information that many women who were internally displaced following the post electoral violence of December 2007 to March 2008 are yet to be resettled and that they fear for their safety and continue to experience sexual and gender-based violence and abuse within these camps. The Committee is also concerned at the situation of women and girls living in urban slums and informal settlements and who are under threat of sexual violence and lack access to adequate sanitation facilities, which exacerbate their risks of being victims of sexual violence and impact negatively on their health.

44. The Committee reiterates its request to urgently address the situation of refugee and internally displaced women in Kenya, in particular in respect to the means used to protect these women from all forms of violence and the mechanisms available for redress and rehabilitation. It further urges the State party to take steps to investigate, prosecute and punish all perpetrators of violence against refugees and internally displaced women. It also encourages the State party to continue to collaborate with the international community, especially the Office of the United Nations High Commissioner for Refugees (UNHCR), in these efforts. The Committee urges the State party to ensure effective policing in the slums and informal settlements and to address the issue of gender-based and other forms of violence, inter alia by urgently providing sanitation facilities in the immediate vicinity of each household.

Marriage and family relations

45. While welcoming steps toward a unified Marriage Bill which provides for the registration of all forms of marriage, the Committee is concerned that the Marriage Bill, in its current version, does not prohibit polygamy. The Committee regrets the setback in recognition of non-monetary contribution of women in matrimonial property, following the *Echaria* case of 2006. Furthermore, it is concerned that Article 68 of the new Constitution (providing for the protection of marital property) and the Matrimonial Property Bill, in its current form, narrowly define "matrimonial property" as including tangible property alone, so that such assets as pension rights, life insurances etc., although accumulated during the marriage, may be left out of the property distributed upon dissolution. The committee is further concerned that discriminatory Muslim inheritance laws remain exempt from constitutional review, and welcomes the State party's commitment made during the dialogue to reexamine the Succession Act so as to eliminate its discriminatory provisions.

46. The Committee calls upon the State party to:

- a) Bring all marriage laws under the prohibition of polygamy.
- b) Ensure that the Matrimonial Property Bill overrules the *Echaria* case so that non-monetary contribution to matrimonial property is accorded equal value and women are awarded equal share in matrimonial property regardless of the nature of their contribution.
- c) Broaden the definition of matrimonial property to include both tangible and non-tangible assets.
- d) Expedite the process of re-examination of the Succession Act so as to eliminate its discriminatory provisions.

Optional Protocol

47. The Committee notes the oral statement by the delegation that the ratification of the Optional Protocol to the Convention is currently under positive consideration and urges the State party to accelerate its efforts to ratify the Optional Protocol.

Article 20, paragraph 1

48. The Committee encourages the State party to accept, as soon as possible, the amendment to article 20, paragraph 1, of the Convention concerning the meeting time of the Committee.

Beijing Declaration and Platform for Action

49. The Committee urges the State party, in the implementation of its obligations under the Convention, to fully utilize the Beijing Declaration and Platform for Action, which reinforce the provisions of the Convention, and requests the State party to include information thereon in its next periodic report.

Millennium Development Goals

50. The Committee emphasizes that full and effective implementation of the Convention is indispensable for achieving the Millennium Development Goals. It calls for the integration of a gender perspective and explicit reflection of the provisions of the Convention in all efforts aimed at the achievement of the Millennium Development Goals and requests the State party to include information thereon in its next periodic report.

Dissemination

51. The Committee requests the wide dissemination in Kenya of the present concluding observations in order to make the people, Government officials, politicians, parliamentarians and women's and human rights organizations aware of the steps that have been taken to ensure the de jure and de facto equality of women and the further steps that are required in that regard. The Committee recommends that the dissemination should include the local community level. The State party is encouraged to organize a series of meetings to discuss progress achieved in the implementation of these observations. The Committee requests the State party to continue to disseminate widely, in particular to women's and human rights organizations, the Committee's general recommendations, the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly on the theme "Women 2000: gender equality, development and peace for the twenty-first century".

Ratification of other treaties

52. The Committee notes that the adherence of the State party to the nine major international human rights instruments¹ would enhance the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. The Committee therefore encourages the Government of Kenya to consider ratifying the treaties to which it is not yet a party, i.e., the International Convention on the Protection of the Rights of All Migrants Workers and Member of their Families and the International Convention for the Protection of All Persons from Enforced Disappearance.

Follow-up to concluding observations

53. The Committee requests the State party to provide, within two years, written information on the steps undertaken to implement the recommendations contained in paragraphs 12 a) and 22 a) to e) above.

Technical assistance

54. The Committee recommends that the State party avail itself of technical assistance in the development and implementation of a comprehensive programme aimed at the implementation of the above recommendations and the Convention as a whole. The Committee also calls upon the State party to strengthen further its cooperation with specialized agencies and programmes of the United Nations system, including the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women), the United Nations Development Programme, the United Nations Children's Fund, the United Nations Population Fund, the World Health Organization, the Office of the United Nations High Commissioner for Human Rights, and the Statistics Division.

Preparation of next report

55. The Committee requests the State party to ensure the participation of all ministries and public bodies in the preparation of its next report and, at the same time, to consult a variety of women's and human rights organizations.

56. The Committee requests the State party to respond to the concerns expressed in the present concluding observations in its next periodic report under article 18 of the Convention. The Committee invites the State party to submit its eighth periodic report in February 2015.

57. The Committee invites the State party to follow the harmonized guidelines on reporting under the international human rights treaties, including the guidelines on a common core document and treaty-specific documents, approved at the fifth inter-committee meeting of the human rights treaty bodies, in June 2006 (HRI/MC/2006/3 and Corr.1). The treaty-specific reporting guidelines adopted by the Committee at its fortieth session in January 2008 (A/63/38, Part one, annex I) must be applied in conjunction with the harmonized reporting guidelines on a common core document. Together, they constitute the harmonized guidelines on reporting under the

¹ The International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the International Convention for the Protection of All Persons from Enforced Disappearance and the Convention on the Rights of Persons with Disabilities.

Convention on the Elimination of All Forms of Discrimination against Women. The treaty-specific document should be limited to 40 pages, while the updated common core document should not exceed 80 pages.
