

**NGOs welcome the concluding observations on Kenya adopted by the UN Human Rights Committee (HRC) and ask for their full and prompt implementation**

Press Release : April 22<sup>nd</sup> 2005

The NGOs "Centre for Economic and Social Rights" (Hakijamii), "Coalition on Violence Against Women – Kenya" (COVAW-K), "Federation of Women Lawyers Kenya" (FIDA Kenya), "Kenya Alliance for Advancement of Children" (KAACR), "Kenya Section of the International Commission of Jurists" (ICJ Kenya), "Mainyoito Pastoralist Integrated Development Organisation" (MPIDO), "The Child Rights Advisory Documentation and Legal Centre" (The CRADLE) and the "World Organisation Against Torture" (OMCT) and the Kenya Human Rights Commission submitted alternative reports on the human rights situation in Kenya, for the 83<sup>rd</sup> session of the Human Rights Committee (HRC) from March 14<sup>th</sup> to April 1<sup>st</sup> 2005 in New York. During this session, the HRC considered Kenya's second periodic report on the implementation of the rights contained in the International covenant on civil and political rights (ICCPR), more than 18 years late. A briefing session, prior to the official session, between these NGOs and the independent experts of the HRC was organised on March 14<sup>th</sup>, during which they presented their alternative reports as well as their main subjects of concern on the incorporation of international human rights instruments into domestic law, access to remedies, right to life, torture, judicial guarantees, detention, forced evictions and on the situation of women, children and homosexuals.

The coalition welcomes the recommendations adopted by the HRC and urges Kenya to *"take appropriate measures to incorporate the ICCPR into domestic law"* and *"allow its rights to be invoked in domestic courts"*. Furthermore, all individuals subject to Kenyan jurisdiction must have *"equal access to judicial and other remedies"*. In this regard, Kenya must give priority to its *"efforts to combat corruption in the judiciary and address the need to provide increased resources to the administration of justice"*.

The coalition welcomes the HRC's recommendation to urge the Kenyan authorities to ensure that death penalty is only applied to the *"most serious crimes"*. Besides, as no one sentenced to capital punishment has been executed since 1988, Kenya should *"ensure that the death sentences of all those on death row whose final appeals have been exhausted are commuted"* and *"consider abolishing de iure the death penalty and acceding to the Second Optional Protocol to the Covenant"*.

With regards to extra-judicial killings perpetrated by police units (so called "flying squads") or other law enforcement personnel, the coalition stands by the HRC's request to the Kenyan authorities *"to ensure prompt investigations and prosecution of those held responsible"* and to set up *"an independent civilian body to investigate complaints filed against the police"*.

Moreover, the Kenyan authorities should *"take more effective measures to prevent abuses of police custody, torture and ill-treatment"*. They must ensure that *"allegations of torture and similar ill-treatment, as well as of deaths in custody, are promptly and thoroughly investigated by an independent body so as to bring perpetrators to justice"*, and that *"complaint forms are available from a public body other than the police"*. High Court judgments in such cases must be enforced without delay and the law requiring that access to places of detention be given to the Kenya Human Rights Commission must be enforced.

Furthermore, the HRC, *"continues to be concerned by the situation in prison and particularly in the areas of sanitation and access to health care and adequate food"*.

The coalition welcomes the HRC's recommendations to ensure that those accused of the capital offence of murder, like other accused, are brought before a judge within a reasonable time and to guarantee both the right of persons in police custody to have access to a lawyer during the initial hours of detention and throughout the criminal proceedings.

With regards to forcible evictions, the coalition strongly supports the HRC's recommendations made to the Kenyan authorities *"to develop transparent policies and procedures for dealing with evictions"*.

The coalition urges the Kenyan authorities to implement the HRC's recommendations on the situation of women, in particular to address the absence of constitutional protection against

discrimination, to adopt effective and concrete measures to combat domestic and sexual violence, that perpetrators of such violence are prosecuted and that victims are provided with assistance and protection. Furthermore, Kenya should increase its efforts to combat the practice of female genital mutilation (FGM) and address the high maternal mortality rate by adopting measures that would improve access to family planning services for all women and by reviewing its abortion laws.

As the HRC recommended, Kenya should adopt specific anti-trafficking legislation, actively investigate and prosecute trafficking offences and implement policy for the eradication of trafficking and for the provision of support to victims of trafficking.

The coalition enjoins the Kenyan authorities to implement the HRC's recommendations on the situation of children, in particular to raise the extremely low age for assuming criminal responsibility, which is currently of 8 years, and to combat and reduce the child labour.

Finally, on the situation of homosexuals, Kenya is urged to repeal Section 162 of the Penal Code which criminalizes homosexuality, as recommended by the HRC.

In addition to the conventional obligation to periodically report on the implementation of the ICCPR, the HRC, asked Kenya to submit within one year information on the follow-up given to its recommendations on discrimination against women, extra-judicial killings perpetrated by police units, police custody and serious dysfunctions in the administration of justice.

It is now time for the Kenyan authorities to fully implement the recommendations adopted by the HRC in order to comply with the provisions of the ICCPR. NGOs will closely monitor the implementation of the HRC's recommendations and will regularly update treaty bodies on the actions taken by the Kenyan authorities.

Millie Odhiambo  
CRADLE

Otiende Amollo  
ICJ-KENYA

Odindo Opiata  
Centre for Economic and  
Social Rights

Caroline Karimi Lintari  
COVAW

Tim Ekesa  
KAACR

Philip Sironka  
MPIDO

Joyce Majiwa  
FIDA KENYA

Patrick Mutzenberg  
World Organisation Against  
Torture (OMCT)

Ekitela Lokaale  
Kenya Human Rights  
Commission

\*\*\*\*\*

**Background information**

All States parties to the International covenant on civil and political rights (ICCPR) are obliged to submit regular reports to the Human Rights Committee (HRC) on how the rights are being implemented. States must report initially one year after acceding to the Covenant and then whenever the Committee requests (usually every four years). The Committee examines each report and addresses its concerns and recommendations to the State party in the form of "concluding observations".

The Human Rights Committee is the body of [independent experts](#) that monitors implementation of the [International Covenant on Civil and Political Rights](#) by its State parties. The Committee meets in Geneva or New York and normally holds three [sessions](#) per year.

For more information: <http://www.ohchr.org/english/bodies/hrc/index.htm>