

KENYA

CEDAW A/48/38 (1993)

87. The Committee considered the combined initial and second periodic reports of Kenya (CEDAW/C/KEN/1-2) at its 217th, 218th and 221st meetings, on 25 and 27 January (see CEDAW/C/SR.217, 218 and 221).

88. In introducing the report, the representative of Kenya emphasized that societal and cultural attitudes remained major obstacles to the achievement of full de facto equality between men and women. She outlined the measures that had been taken by the Government to implement the Convention in the light of the situation of women in the country and the country's culture and values.

89. She indicated that, despite the progress made in achieving de jure equality, women continued to be discriminated against because of their economic situation and lower standard of education, the various laws governing marriage and divorce, and the fact that women workers were concentrated in the private sector. She stated that the traditional inferior status of women was reinforced by the predominance of marriages under some form of customary law that limited women's rights. Discrimination manifested itself also at the level of decision-making, where women were few.

90. There had been encouraging achievements, however, through policies, programmes and projects. She stated that the Women's Bureau, which the Government had set up as a division within the Ministry of Culture and Social Services, recognized the need for a gender and development policy and, in 1988, it had started to develop a national policy providing guiding principles that would influence the national and sectoral planning process and lead to the overall goal of putting gender concerns in the mainstream of the development process. The task of the Bureau was to ensure that the Government's policies diminished gender disparities.

91. The report gave a detailed account of the measures adopted by the Government in its implementation of the articles of the Convention, particularly its efforts to ensure equal access to public services, such as health care and education, and to allow the full participation of women in public and political life. The representative described the measures taken by the Government aimed at improving the economic situation of women, particularly in the framework of agricultural policies.

92. She also stressed the important role of women in national development, particularly after independence in 1963. The Government had shown its sincere commitment to, and acceptance of, its obligations under the Convention, but the few areas that might need some change were those affected by customary laws and cultures.

93. In commenting on the various articles of the Convention, the representative drew the attention

of the members to the areas that might need changes or amendments, and which were affected by customary law and culture. She also described the Law Reform, the 8-4-4 system of education that did away with the stereotyped roles of men and women and the registration of various laws on marriage and divorce.

General observations

94. In its general comments, the Committee expressed its appreciation of the fact that Kenya had ratified the Convention without reservations, and for its frank and comprehensive report giving a clear picture of the real situation of women in Kenya, as well as the obstacles encountered. The efforts to overcome discrimination made by Kenya since the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace, held at Nairobi in 1985, and the priority given to implementing the Convention, were noted, especially in the light of the difficult economic conditions that the country was facing. One of the members expressed her concern that the report had not complied with the general guidelines regarding the form and content of reports and she suggested that, in future, Kenya should seek assistance from the Secretariat. The members also expressed their concern that the report did not contain sufficient statistical information.

95. More information was requested on de jure and de facto discrimination and how the Convention was applied in Kenya. The Committee suggested that the Government needed to take action to eliminate conflicts between laws, customary practices and the economic situation.

96. Members acknowledged that the report had to be viewed against a background of specific cultural attitudes, which had a bearing on the situation of women in Kenya, and the coexistence of a different system of law. Some members observed that, despite the high percentage of women voters, women were hardly represented in higher political office. It would be difficult for women to promote themselves if they could not participate in the planning and development of the country.

97. It was also noted by the Committee that, although women had been promoted to senior posts and high diplomatic posts, their numbers were still few. There were programmed and projects relating to different groups of women. It was noted that in the area of finance, the Government was taking action. Basic education for children and vocational training were offered, as well as scholarships. There were health programmes for both urban and rural areas. The Committee also noted that socio-cultural prejudices still prevailed and considered that there was a need for a continuous effort to overcome them. Literacy was considered a keystone to the solution of problems and, since half of the female population was illiterate, the Government and the women's organizations faced an urgent task. If illiterate women could not understand the information distributed, they could not take part in the decision-making process. With regard to illiteracy programmes, members asked whether women were restrained from going to classes, whether family obligations were an obstacle to senior training positions, and whether measures were being taken to address the situation and, if so, what those measures were.

98. In regard to the Convention and internal legislation, the Committee wanted to know what proposals had been made to ensure the development of domestic legislation and which areas were

being looked into.

99. A member wanted more information on the decentralization of women's programmes in rural areas and the objectives, and on what was being done in order to establish the legal principle of cultural criteria in respect of articles 15 and 16 of the Convention. Other members considered that the Government was aware of the discriminatory provisions in the legislation that were still directed to women. The Committee emphasized that awareness was the first critical step. In that case, the Committee stressed that the Government should move ahead and correct those laws that were discriminatory and that it should preserve the cultural integrity of its peoples, most importantly the integrity of women.

Questions related to specific articles

Article 2

100. With regard to article 2, the Committee noted that the Law of Succession Act of 1981 was mentioned in the report, and wished to have more detailed information on that Law in relation to women and how effective it was in the context of ethnic diversity. The Committee noted that the Constitution of Kenya defined discrimination in a manner that could allow discrimination against women, in that the word "sex" was not included in the article defining discrimination. The Committee asked about the process of reform, as well as the customs and practices that discriminated against women, and asked whether the concept of discrimination based on the grounds of gender would be added to the Constitution. In replying to the question of amending the definition of discriminatory treatment, the representative pointed out that the word "discriminatory" under the Constitution reflected the reality under the Kenyan Law and thus once other areas of personal law had been tackled, then a proper definition would fall into place. It was in that context that the question of harmonizing the different marriage laws had been studied.

101. In noting the tremendous workload of the Law Reform Commission, the Committee wanted to know what its programme was, the kinds of law and subjects with which it dealt, its timetable, and the means it had at its disposal. In response, the representative said that the major function of the Commission was to ensure the systematic development and reform of legislation, including in particular the integration, unification and codification of laws, the elimination of anomalies, the repeal of obsolete and unnecessary enactments and the simplification and modernization of laws. There were two women members on the Commission; one was a judge and the other was the first woman town clerk.

Article 3

102. In regard to the Women's Bureau, members sought more information on the number of its staff members, how it was organized, whether the Director-General was a woman and whether it worked well with the staff and budget assigned to it. In reply, the representative said that the Bureau's aim was to improve the quality of women's lives by facilitating a wide range of activities in economic development, education, training and research. Its functions were concerned with the identification of areas, projects and institutions of special importance for achieving equality in

women's lives; the promotion of education and training for women; the conduct of research for gathering and disseminating information on women's activities; the provision of advice to the Government on policy projects; and serving as a channel through which non-governmental organizations could give assistance to women. She added that the Bureau was composed of eight units headed by a Director, it was the body concerned with defining policy on women's issues for the Government, and its annual budget was 25 million Kenya shillings. In answer to a question, she said that the Maendeleo ya Wanamake Organization was a non-governmental organization that had previously been affiliated to the ruling party, the Kenyan African National Union (KANU).

Article 4

103. With regard to the District Women's Development Committee, members inquired about its role in Government policy-making, whether it could propose special temporary measures to improve the status of women, how its members were elected or appointed, how it was organized, whether it had its own budget, whether there had been a debate at government level concerning affirmative action, and whether there were any requests from women's groups for positive measures.

104. With reference to circumcision, the Committee asked whether it was appropriate to consider addressing the problem of female circumcision of girls in the context of the temporary special measures foreseen under article 4 of the Convention. The representative replied that female circumcision was disappearing rapidly owing to the high level of female enrolment in primary schools and as communities became more enlightened.

105. The Committee noted with concern that there was no information provided in the report on the subject of specific problems met by women. Questions were raised as to what could be done, whether there were obstacles to the provision of measures and why the Government had not undertaken special measures.

106. Regarding women's organizations, the representative said that those organizations were very active in the advancement of women. Issues raised by such bodies were often taken up by the Government and given due consideration.

Article 5

107. Members took note of the new syllabus of the 8-4-4 system of education and expressed concern about women's inferiority in Kenya. Other members noted that there was a contradiction between what was asserted in the report under article 5 regarding the overhaul of the education system and what was said about the 8-4-4 system of education having done away with sex stereotyping. They requested further elaboration and details of the curriculum of the 8-4-4 system. The representative explained that the system had been introduced seven years previously. It had helped young people to change their attitudes in regard to the roles of men and women. She added that there was no contradiction as the aim of the system was to eliminate the stereotyped roles of men and women. For example, under the system's syllabus, both girls and boys were taught cooking, sewing, construction and agriculture, as well as tradition arts and science subjects.

108. With regard to an additional question regarding the St. Kizito incident in which 19 girls had died from abuse by young men in 1991, and the types of discussion that had taken place, the representative explained that it had been a painful experience for the country. The saddest aspect was that it had been a crime committed by children on children. She informed the Committee that the Government had taken prompt action to punish the offenders.

109. In regard to violence, more information was requested on the legislation on rape, domestic violence and sexual roles in the workplace, as well as legislation on the trafficking of women and voluntary prostitution. Members asked whether the legislation was being effectively enforced. The representative explained that violence against women came in different forms; for instance, prostitution was treated as violence against women, which was a crime under the Penal Code. Rape was a crime punishable by life imprisonment. Cruelty was a ground for divorce. In addition, assault and sexual harassment were penal offences, whether at home or at the workplace. She also informed the Committee that, in collaboration with the Public Law Institute, the Women's Bureau had initiated a legal education programme, which was aimed at creating awareness of the legal rights and obligations of women. A major campaign had been launched entitled "violence against women" and governmental and non-governmental bodies were being sensitized to play a role in implementing the Convention. More statistical data were needed on the results and obstacles that the legislation was encountering, and the other measures that had been taken to change stereotyped images of women.

Article 6

110. As the report had indicated that prostitution was illegal in Kenya, the Committee wanted to know about measures taken to rehabilitate prostitutes; the average age of females who practiced prostitution; the sanctions imposed for offences of prostitution and whether they were also imposed for both men and women; whether prostitutes had access to contraceptives to protect them from the human immunodeficiency virus (HIV); and whether prostitutes were exposed to violence in Kenya. Some member expressed concern that there was no judicial information concerning the question of prostitution. Questions were asked on the milieu of the girls, the type of girls and the principal measures being taken to combat prostitution. In reply, the representative said that it was an offence under the Kenyan Penal Code for anyone to procure or attempt to procure any girl or woman for sexual purposes. She explained also that the Immigration Act further prohibited a prostitute or a person living on the earnings of a prostitute from entering the country, which also prevented women or others from trafficking in women for immoral purposes. There were no specific measures to protect those women against the acquired immunodeficiency syndrome (AIDS), as the Government sought to eliminate prostitution, and the programme against AIDS was directed to the entire population. Many non-governmental organizations and church groups, however, worked on rehabilitation programmes for prostitutes, especially the young ones.

111. Members requested more detailed information on the Penal Code.

Article 7

112. Members asked what was meant in the report by “hiring women”. With regard to a question about women in higher levels of government decision-making, the representative informed the Committee that, currently, there were two women permanent secretaries. One was in charge of the Ministry of Commerce and Industry, and the other was in charge of the Ministry of Foreign Affairs and International Cooperation.

113. The Committee wished to know what the Women’s Bureau was doing to increase awareness of the need to place women in higher positions, whether KANU had a special programme to encourage women to participate in politics at the local and national levels, and whether women had the same financial support as men for their electoral campaigns. With regard to women in politics, the representative explained that the awareness-creation of the democratization process among women had produced encouraging results during the elections on 29 December 1992. Initially, 80 women had shown interest in representative leadership. Eliminations at the party preliminaries had left 20 women to compete for leadership against their male counterparts for 188 parliamentary seats. Six of them had been elected to the Seventh Parliament, the highest number of women since independence. The only woman elected within KANU had been appointed as Assistant Minister in the Ministry of Culture and Social Services.

114. The Committee noted that half the members of KANU were women yet there seemed to be a general decrease in the number of women in politics. The Committee wished to know whether that was a real indication of women’s interest in politics or whether it was party propaganda. Furthermore, the Committee inquired whether women were being nominated in risky seats, which discouraged them from seeking election, or whether there had been negative reporting that hindered women. More details were requested on the distribution of women who took an active part in politics.

Article 8

115. The Committee wished to know the percentage of women in the diplomatic service. The representative indicated that over 40 per cent of the officers in the Ministry of Foreign Affairs were women. She added that, in 1992, 27 per cent of the officers posted outside the country had been women.

Article 9

116. The Committee noted that the nationality law was not in conformity with the Convention, and inquired about the Government’s schedule to change the situation. A further question was asked regarding the nationality of a Kenyan woman who married a foreigner. The representative noted that any Kenyan woman who married a foreigner remained a Kenyan citizen until such time as she renounced her nationality.

Article 10

117. The Committee noted with concern a contradiction in the report (paras. 33 and 34) and wanted to know what the Government was doing to correct that contradiction in the education of

boys and girls. Questions were raised about the literacy rates of both men and women. The Committee also expressed its concern over women drop-outs and suggested that, in the next report, concern over women drop-outs and suggested that, in the next report, consideration should be given to the need for specific programmes for them. The Committee also noted that there were persistent discriminatory regulations in the report.

118. The Committee asked whether basic primary-school education was compulsory; why there had been a decrease in the numbers of pupils enrolled in 1985/1986; whether there was segregation in high schools; and whether coeducation was part of the formal education in Kenya.

119. Questions were raised about whether the diplomas given by other institutions had the same value as diplomas from State schools, and what percentage of the students in elementary and secondary schools were boys and what percentage were girls. The representative confirmed that coeducation was prevalent at all levels and that basic education was compulsory.

120. There was a higher representation of girls than of boys in art subjects, and the Committee asked about the reasons for that. The representative said that the syllabus for all schools was the same for both girls and boys; however, there were some schools that were insufficiently equipped for science subjects and therefore a larger number of students took art subjects. She explained further that that was not a deliberate discriminatory move against girl students, but was a part of the problem of a developing country. In answer to a question about the content of family-life education, she said that such education was included in the curricula of primary, as well as secondary schools. Churches and other non-governmental organizations had also taken an interest in family-life education in schools.

121. The Committee requested more gender-disaggregated information on school leavers in the third periodic report. Members asked why there were more girls among the school leavers, why there were separate and fewer centres for girls, and why there was difference in the instruction received by girls and by boys at schools. Members emphasized that that situation would have an effect on employment opportunities. They also asked why there were so many drop-outs among girls and whether reasons were financial.

Article 11

122. Member observed that the National Hospital Insurance Fund discriminated against married women except when they were the principal income-earners. They also observed that social and cultural prejudices still existed in Kenya. Questions were raised about the kind of training courses from which women were barred by their family obligations. With reference to the housing allowance, the Committee noted that the civil service code of regulations denied married women such an allowance, except in a few specific instances, and wanted to know what those specific instances were.

123. In reply, the representative said that with the advent of the multi-party era, the Government had granted married women a housing allowance with effect from 1 December 1992.

124. Members noted that most women in the civil service were being encouraged to work contractual terms, which had the effect of hampering their rise to senior positions. The Committee wanted to know whether the Government circular of May 1989 was benefitting women.

125. Information was sought on whether women were entitled to maternity leave and whether they had the security of keeping their job after maternity leave. The representative explained that women were paid while on maternity leave, they did return to the same job after such leave, and they had job security.

126. Responding to a question about the existence of child-care facilities for working women, the representative said that there were kindergartens and nursery schools; however, most working women had a household help to whom they entrusted the care of their children.

Article 12

127. Members asked whether training was provided to traditional birth attendants to enable them to upgrade their practices and make them safer. The representative confirmed that traditional birth attendants were trained by the Ministry of Health and provided with the necessary surgical equipment. In noting that the average life expectancy of women had increased from 46 years in 1965 to 56 years in 1984, the Committee asked whether the life expectancy of men had increased, and whether there were any statistics. The representative reported that life expectancy at birth in 1965 had been 50 years for females and 46 years for males, while in 1989 it was 61 years for females and 57 years for males, and increase of more than 10 years for both sexes.

128. Members requested information about campaigns to combat the spread of HIV/AIDS; sexual education; and the promotion of contraceptive measures. It was suggested that particular attention should be given to the health of women. The need for AIDS education programmes, for both women and men, was stressed to facilitate the prevention of its possible spread. More information was requested about the Presidential Decree Banning Circumcision, its effects and implementation. In addition, members asked whether there was any information on programmes reducing female circumcision. They also requested more information on legislation and statistics on abortion.

129. In reply to the question whether pregnant teenagers had difficulties in being accepted by their families or society, the representative pointed out that, although teenage pregnancy was not acceptable, families did not reject girls who had become pregnant. Often the grandparents took care of the infant and the young mother went back to a new school. In addition, counselling and guidance on sex prevention was provided in schools by non-governmental organizations. Since abortion was illegal in Kenya and carried penal sanctions, it was difficult to provide statistics on clandestine abortions.

130. She said that the Family Planning Association of Kenya offered information and created awareness about family planning. For example, in Nairobi, there were more than 14 clinics offering family-planning methods, which served both men and women. The use of contraceptives was increasing. In 1989, the Kenya Demograph Health Survey had recorded a 27 per cent level of contraceptive use compared with 17 per cent in 1984 and 7 per cent in 1977/78.

131. Regarding the use of contraceptives and the decline in fertility in one area in Kenya, the representative reported that the prevalence of contraceptives had risen to a level rare in rural Africa, and that fertility rates had declined. In addition, the contraceptive methods used were predominantly highly effective ones. Child-bearing had come to be seen as an aspect of life over which control could and should be exercised.

132. Concerning the availability of prenatal clinics, the representative stated that Kenya had witnessed a great improvement in health and nutrition, as well as greater access to services and amenities through the initiatives of the Government and non-government organizations. The maternal, child-health and family-planning activities were aimed at reducing both maternal mortality, by increasing women's access to high-quality health services, and total fertility rates, by promoting the use of contraceptives.

133. As a result, traditional practices, such as nutrition taboos, female circumcision and child marriage were on the decrease. Sex education was provided through counseling and guidance in schools, but had not yet been widely accepted as part of the school syllabus.

Article 13

134. The Committee asked about the kinds of plan the Government had to deal with the system of family benefits. The representative stated that, with effect from December 1992, married women were entitled to obtain a housing allowance.

Article 14

135. Members asked about the measures taken to improve farmers' accessibility to agricultural credit and loans. In regard to rural women, a member asked whether women were aware of their rights. Members expressed their desire to know whether there was a contradiction in the Law of Succession Act and asked for clarification. The representative replied that the Law of Succession Act provided a uniform code as far as devolution of property on death was concerned, and it gave both men and women the equal right to inherit, own and dispose of property. The interest of the widow was paramount to any other interest and the Law was only invoked to ensure that the children were being adequately taken care of.

136. Members were concerned that there was scarce information on land ownership, and asked whether there was any provision that men should own land and, if so, what the situation was and what was being done to improve it. The representative replied that land ownership was governed by the Registration of Land Act. Most of the land in rural areas was not registered. Once the family decided to register the land, such registration was usually in the name of the husband alone; however, as more women became aware of the benefits of owning land, more of them were insisting on the joint registration of family property. In addition, the Ministry of Lands and Housing was not concerned about whether women owned land or not, but the Land Control Board regulations required that, in all transactions, the consent of the wife or wives was necessary beforehand.

Article 15

137. The members noted that the Law of Domicile discriminated against women, affecting also the status of other rights within the family, and asked whether there was any attempt to change that law. Considering that some laws discriminated against women in Kenya, members asked whether women addressed themselves to the courts and, if so, how successful they were. The representative said that a new policy was being developed by the Women's Bureau on laws that appeared to discriminate against women. She added that women did have recourse to the courts and that the courts decided according to the merit of the case and the applicable law.

138. As it was stated in the report that various rights were governed by the customary law governing men, a member asked whether there was any kind of information or advisory service to create awareness on the part of women.

Article 16

139. Members asked for information on measures contemplated by the Government to unify marriage and divorce laws, and asked whether women could be assured that rapid changes would take place in the family law system in Kenya. They noted with concern that there were several laws governing marriage and divorce, based on the different major religions recognized in the country, but in every case women were still discriminated against, and they therefore urged the Government to take the necessary action. The representative stated that the Marriage Bill was an attempt at such unification; however, a male-dominated Parliament influenced the types of laws that were enacted and had caused the Bill to be shelved. With regard to appropriate measures to eliminate the contradictions between laws, customary practices and the economic situation, the representative said that customary and traditional practices were dying out; thus, for example, polygamy was being stamped out slowly as first wives found the practice unacceptable and it was not economical for a man to have more than one wife. Furthermore, there was a rise in the number of single mothers and female-headed households.

Concluding observations

140. Members of the Committee thanked the representatives of Kenya of the efforts made to provide such detailed and frank explanations. Some of them recognized that the implementation of the articles of the Convention required much further action by the Government and that significant legal changes were needed to bring legislation in Kenya into line with the stipulations of the Convention.

141. The Committee noted that some problems faced by women in Kenya were related to tradition and customary practices. One member considered that the question of prostitution required close monitoring.

142. The Chairperson expressed her appreciation of the report. The discussion had taken the form of a thorough dialogue that had shown the Committee's interest in the report. She stressed that the

implementation of the Convention would contribute to all fields of development within Kenya and expressed the wish that she would see, in the future, the country's progress and further implementation of the Convention. She believed that, in the near future, the Government would be able to achieve much more.

143. She added that it was most important for the Committee to identify the policy and trends in regard to women's problems and sufficient information had been obtained to identify those problems. Furthermore, positive trends were welcomed and encouraged. She encouraged the Government to show even greater progress in its third periodic report and hoped that it would take strong measures to eliminate old stereotypes that were curtaining the role of women and to address consciousness-raising campaigns to both women and men to allow women to be able to contribute effectively to society.

CEDAW, A/58/38 part I (2003)

190. The Committee considered the combined third and fourth periodic report of Kenya (CEDAW/C/KEN/3-4) at its 592nd and 593rd meetings, on 15 January 2003 (see CEDAW/C/SR.592 and 593).

Introduction by the State party

191. In introducing the report, the representative of Kenya expressed the commitment of her Government to ensure that gender equality was promoted as a necessary precondition for national development. She noted that measures had been taken to remove social, cultural and legal obstacles for women through various efforts. As a first step, the National Machinery for the Advancement of Women had been elevated from a division within a department to a full department within the new Ministry of Gender, Sports, Culture and Social Services.

192. The representative also stated that the Standing Committee on Human Rights, established in 1996, had been transformed into the Kenya National Commission on Human Rights in 2002. The main function of the Commission was to investigate violations of human rights on its own initiative or upon a complaint by a person or group of persons. The Commission would ensure that the Government complied with its obligations under international treaties and conventions on human rights.

193. The representative informed the Committee that a draft constitution had been published on 27 September 2002. The draft was regarded as a milestone for the women of Kenya because it sought to eliminate existing discriminatory practices against women. The representative pointed out that section 34 of the draft constitution expanded the definition of discrimination to include race, sex, pregnancy, marital status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, language and birth and required that injustices against women be addressed through legislative or other means. Measures had been taken to ensure that a new Constitution was in place by June 2003.

194. The representative also indicated that deliberate attempts had been made to improve, among other things, women's representation in the judiciary, the diplomatic service and the administration. In the civil service, the number of women appointed to decision-making positions had increased. In the recently concluded national elections, the number of women elected to Parliament had also increased. Out of those, three had been appointed to the Cabinet as ministers in the Office of the Vice-President, the Ministry of Water Resources Management and Development and the Ministry of Health, respectively. Out of the 12 slots for nominated members of Parliament, the current Parliament had nominated 8 highly qualified professional women. There were currently 17 women parliamentarians, the highest number in the history of Kenya.

195. The Government had implemented a policy of free and compulsory primary education, which would, among others, address gender disparities and ensure that more girls are enrolled and complete primary school.

196. The representative recognized that poverty needed to be reduced in order to achieve sustainable economic growth. In that context, a Poverty Reduction Strategy Paper had been prepared in 2001. She noted that the paper was a short-term strategy that sought to implement the National Poverty Eradication Plan in a series of three-year rolling plans. A gender thematic group had been formed specifically to make the document gender-sensitive.

197. HIV/AIDS had become a major threat to social and economic development, and the representative pledged her Government's commitment to intensifying the HIV/AIDS campaign. She indicated that major priority actions in combating the spread of the pandemic included publication and enactment of the HIV and AIDS Prevention and Control bill of 2002, developing a comprehensive HIV/AIDS research and control programme based on partnerships with stakeholders, and access to affordable anti-retroviral drugs.

198. In concluding, the representative informed the Committee that laws would be implemented and enacted to give effect to the empowerment of women. They included the Equality bill of 2001 and the National Commission on Gender and Development bill of 2002. The Government would ensure acceleration of the implementation of the Poverty Reduction Strategy Paper and mainstreaming of gender in all sectors of development. Ratification of the Optional Protocol to the Convention was under consideration and a decision to that effect would be communicated in due course.

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".