

ADVANCE QUESTIONS TO KENYA

BELGIUM

- Can Kenyan authorities commit to repeal the law criminalizing same-sex activities between consenting adults and enact a Comprehensive Anti-Discrimination Law affording protection to all individuals, irrespective of their sexual orientation or gender identity?

CZECH REPUBLIC

- Does the Government consider issuing a standing invitation to the human rights special procedures?
- Does Kenya prepare review of its Constitution and other national legislation with a view to ensuring its full compliance with the principle of non-discrimination, in particular on grounds of gender, personal status and citizenship?
- Does the Government consider acceding to the Optional Protocol to the Convention against Torture and other Cruel, Inhumane or Degrading Treatment or Punishment (OP CAT)? How is currently ensured independent monitoring of conditions in detention and prison facilities? Is there any mechanism of accountability of members of the police, military and detention and prison staff for torture or other ill treatment and for extrajudicial executions?
- Has the Government of Kenya considered raising the age of criminal liability from the current 8 years in order to bring it in line with international standards?
- The female genital mutilation was forbidden in 2001 with regard to children however it still takes place in Kenya. What measures is the Government taking to uproot acceptability of this harmful practice, and in particular to investigate its cases and punish its perpetrators?
- Does Kenya consider decriminalizing consensual same sex activity in compliance with its international obligation to protect the universal right to privacy and non-discrimination and to be able to lead more effective programmes against HIV/AIDS?

DENMARK

- Denmark would very much appreciate an indication as to whether Kenya is considering becoming a signatory to CAT in the near future. What are the government's plans in this regard?

IRELAND

Human Rights Defenders and Witness Protection

- Ireland welcomes the Government of Kenya's stated commitment to cooperate fully with the ICC investigation into perpetrators and organisers of the post election violence in 2007 and 2008. Ireland would like to know how the Government of Kenya intends to provide protection for witnesses and human rights defenders so that they can freely carry out their work without fear of reprisals.

Gender-Based Violence and Discrimination against Women

- Ireland notes that Kenya has several laws in relation to violence, particularly violence against women (inter alia the 2000 Domestic Violence Bill and the 2006 Sex Offences Act); and welcomes the fact that female genital mutilation was outlawed in 2001. However, as noted by a number of Treaty Monitoring Bodies, domestic violence is still common and female genital mutilation is still practised in numerous communities. Ireland would like to know what plans the Government has in relation to raising awareness on these issues, and implementing existing legislation.

Children's rights to Education

- Ireland compliments the Government of Kenya on having introduced free primary education in 2003 and free secondary education in 2008. We understand the education system has since been overstretched as a result. In this context, Ireland would like to know what measures the Government has put in place to ensure that quality education is accessible to all?

LATVIA

- According to the information by the Office of the UN High Commissioner for Human Rights, 67 countries from different regions of the world have issued standing invitations to all special procedures of the Human Rights Council. Considering previous cooperation with special procedures mandate holders and despite several still pending requests by special rapporteurs to visit Kenya - would your country consider extending a standing invitation to all special procedures of the Human Rights Council in the future?

NORWAY

- Kenya has made significant progress in increasing the democratic space and enhancing the freedom of expression since 2002. However, during the political crisis of 2008 in Kenya a ban on live broadcasts, partly media censorship and death threats against journalists was the case. Since then there has also been continuing reports of the freedom of assembly and expression being limited by state agents, by means of unwarranted arrests and denial of permits. *What does Kenya do to counter what appear to be repetitive violations of these freedoms?*

- Norway continuously receives reports of Human Rights Defenders (HRD) being harassed and being under threat in Kenya. It is clear that after the political crisis in 2008 the situation for HRDs has worsened. Likewise, after Special Rapporteur Alston's visit in 2009 many of his Kenyans counterparts were harassed. Two of his dialogue partners were killed. State agents are accused of being perpetrators. An impartial investigation into the two killings has never been made public. *What will Kenya do to make sure that both independent investigations into the murders will take place and that HRD are protected from harassment?*
- Harmful traditional practices and Gender based violence remain widespread in Kenya. Female Genital Mutilation (FGM), although prohibited by law for children under 18 years old, is still widely practiced both on children and adults. For children, FGM, is closely connected to early marriages, thereby contributing to taking girls out of school, often at a very early age. *How does Kenya plan to reinforce the law which criminalizes FGM on children (Children's Act), and what is the progress on adopting similar legislation for adult women?*
- ICC has recently decided to investigate the situation in Kenya and in all 20 persons in government, business and the security forces are targets of this investigation. This comes after a long process where Kenya has not succeeded in bringing the perpetrators to justice. In parallel, witnesses to the violence and the organization thereof, have been and remain continuously under threat. *How does Kenya plan to cooperate with the Office of the Prosecutor in order to bring to justice those suspected of bearing the highest responsibility for the crimes committed?*
- The ICC has expressed an interest in looking into allegations of widespread extrajudicial killings in Kenya, documented by Special Rapporteur Alston. Since 2006 a wave of killings are reported to having taken place. Again state agents are said to be the perpetrators. *How does Kenya plan to address the culture of impunity in the security forces in order to prevent this from taking place in the future?*

SWEDEN

- Sweden is closely following the reform process in Kenya, as set out under the National Accord and Reconciliation Act (2008) and takes note of the steps taken in this regard. Sweden is however deeply concerned about the reports of widespread impunity for crimes, not least related to the violence after the elections 2007/08, including acts of violence committed by the police, security forces and the military.
- Sweden would like to ask the Government of Kenya what measures it has undertaken to protect its population from acts of violence committed by the police, security forces and military and if you could elaborate on what further steps will be taken to end impunity?
- Sweden notes that there are credible reports of human rights violations and threats against human rights defenders in Kenya. Human rights defenders play an

important role in upholding a democratic society and states should take measures to facilitate their work and ascertain that adequate protection mechanisms exist.

- Could the Government of Kenya elaborate on what measures it is taking, in accordance with its international obligations, to strengthen legislation and the implementation of existing legislation to protect human rights defenders in order to create a safer environment for them and for organisations working with human rights?

SWITZERLAND

- Is the Government of Kenya, in its efforts to fight impunity, planning to reform its judicial system and the police?
- Will the Government of Kenya cooperate with the International Criminal Court (ICC), which has decided to start investigations into the violence following the Presidential elections in December 2007? What measures will the Government take to protect the witnesses?
- Kenya ratified the United Nations Convention against Torture on 21 February 1997. Switzerland would be interested to learn whether Kenya is considering signing or ratifying the OPCAT in the near future. What steps are being taken in Kenya to designate an effective national prevention mechanism which is granted sufficient human and financial resources?
