KENYA

Follow-up - State Reporting
i) Action by Treaty Bodies

CCPR, A/60/40 vol. I (2005)

CHAPTER VII. FOLLOW-UP TO CONCLUDING OBSERVATIONS

...

233. For all reports of States parties examined by the Committee under article 40 of the Covenant over the last year, the Committee has identified, according to its developing practice, a limited number of priority concerns, with respect to which it seeks the State party's response, within a period of a year, on the measures taken to give effect to its recommendations. The Committee welcomes the extent and depth of cooperation under this procedure by States parties, as may be observed from the comprehensive table presented below. Since 18 June 2004, 15 States parties (Egypt, Germany, Kenya, Latvia, Lithuania, Morocco, the Netherlands, the Philippines, Portugal, the Russian Federation, Serbia and Montenegro, Slovakia, Sweden, Togo and Venezuela) have submitted information to the Committee under the follow-up procedure. Since the follow-up procedure was instituted in March 2001, only six States parties (Colombia, Israel, Mali, Republic of Moldova, Sri Lanka and Suriname) have failed to supply follow-up information that had fallen due. The Committee reiterates that it views this procedure as a constructive mechanism by which the dialogue initiated with the examination of a report can be continued, and which serves to simplify the process of the next periodic report on the part of the State party.

224. The table below details the experience of the Committee over the last year. Accordingly, it contains no reference to those States parties with respect to which the Committee, upon assessment of the follow-up responses provided to it, decided to take no further action prior to the period covered by this report.

State Party	Date Information Due	Date Reply Received	Further Action
...			
Eighty-second session (*March 2005*)			
Kenya	31 March 2006	-	Decision on further action will be required at the eighty-fifth session

CCPR, CCPR/C/SR.2392 (2006)

HUMAN RIGHTS COMMITTEE
Eighty-seventh session
SUMMARY RECORD OF THE 2392nd MEETING
Held at the Palais Wilson, Geneva,
on Wednesday, 26 July 2006, at 11 a.m.

...

FOLLOW-UP TO CONCLUDING OBSERVATIONS ON STATE REPORTS AND TO VIEWS UNDER THE OPTIONAL PROTOCOL (agenda item 7)

...

Report of the Special Rapporteur for follow-up on concluding observations
(CCPR/C/87/CRP.1/Add.7)

...

[Mr. RIVAS POSADA, speaking as Special Rapporteur for follow-up on concluding observations]

54. At its eighty-third session in March 2005, the Committee had requested additional information by 31 March 2006 from five States parties. Reminders had been sent to Greece and Iceland on 6 July 2006. Kenya had submitted what seemed to be a complete reply on 12 June 2006, noting, however, that it had not had time to implement some of the Committee's recommendations. Mauritius had also submitted a complete response with comprehensive statistical annexes. No further action was recommended with regard to either of those two States parties. Although Uzbekistan had not provided the information requested, it had informed the Committee through the Chairperson that the death penalty would be abolished on 1 January 2008 and that a number of committees had been mandated to undertake a corresponding review of the country's legislation.

...

63. Mr. O'FLAHERTY enquired about the basis on which a recommendation for no further action was made. In the case of Kenya, for example, the Committee had drawn attention to some very serious issues in its concluding observations. Was the Committee now satisfied that Kenya had taken the necessary corrective action or was it merely satisfied that the requested information had been provided?

64. Mr. RIVAS POSADA agreed that there should be a qualitative assessment of compliance with the Committee's requests. The working group on the strengthening of the follow-up activities of the Committee had made some recommendations in that regard which would be discussed at the next session. Clearly, however, a qualitative review would take a great deal more time.

65. The CHAIRPERSON said that any pending issues could be raised when the subsequent periodic report was considered.

...

CCPR, A/61/40 vol. I (2006)

CHAPTER VII.

FOLLOW-UP TO CONCLUDING OBSERVATIONS

234. In chapter VII of its annual report for 2003 (A/58/40, vol. I), the Committee described the framework that it has set out for providing for more effective follow-up, subsequent to the adoption of the concluding observations in respect of States parties' reports submitted under article 40 of the Covenant. In chapter VII of its last annual report (A/60/40, vol. I), an updated account of the Committee's experience in this regard over the last year was provided. The current chapter again updates the Committee's experience to 1 August 2006.

235. Over the period covered by the present annual report, Mr. Rafael Rivas Posada continued to act as the Committee's Special Rapporteur for follow-up to concluding observations. At the Committee's eighty-fifth, eighty-sixth and eighty-seventh sessions, he presented progress reports to the Committee on intersessional developments and made recommendations which prompted the Committee to take appropriate decisions on a State-by-State basis.

236. For all reports of States parties examined by the Committee under article 40 of the Covenant over the last year, the Committee has identified, according to its developing practice, a limited number of priority concerns, with respect to which it seeks the State party's response, within a period of a year, on the measures taken to give effect to its recommendations. The Committee welcomes the extent and depth of cooperation under this procedure by States parties, as may be observed from the following comprehensive table. Over the reporting period, since 1 August 2005, 14 States parties (Albania, Belgium, Benin, Colombia, El Salvador, Kenya, Mauritius, Philippines, Poland, Serbia and Montenegro, Sri Lanka, Tajikistan, Togo and Uganda) have submitted information to the Committee under the follow-up procedure. Since the follow-up procedure was instituted in March 2001, only 11 States parties (Equatorial Guinea, Greece, Iceland, Israel, Mali, Moldova, Namibia, Suriname, the Gambia, Uzbekistan and Venezuela) have failed to supply follow-up information that has fallen due. The Committee reiterates that it views this procedure as a constructive mechanism by which the dialogue initiated with the examination of a report can be continued, and which serves to simplify the process of the next periodic report on the part of the State party.

237. The table below details the experience of the Committee over the last year. Accordingly, it contains no reference to those States parties with respect to which the Committee, upon assessment of the follow-up responses provided to it, decided to take no further action prior to the period covered by this report.

State party	Date information due	Date reply received	Further action
...			
Eighty-third session (March 2005)			
...			
Kenya Second periodic report examined	31 March 2006 Paras. 10, 16, 18 and 20	12 June 2006	At its eighty-seventh session, the Committee decided to take no further action.
...			

(ii) Action by State party

CCPR, CCPR/C/KEN/CO/2/Add.1 (2006)

Comments by the Government of Kenya on the concluding observations of the Human Rights Committee

[17 July 2006]

The Government of the Republic of Kenya has the honour to submit to the Human Rights Committee, in conformity with rule 71; paragraph 5, of the Committee's rules of procedure, responses to the Committee's concluding remarks on Kenya's second periodic report (CCPR/C/KEN/2004/2).

Introduction

The government of Kenya has given serious consideration to the Human Rights Committee's concluding observations on Kenya's second periodic report under the ICCPR and was held a number of intra-agency consultations on the same. The culmination of these was a workshop which the Ministry of Justice and Constitutional affairs co-sponsored on 29-30 May, 2006, to draw up an action plan of implementing the Committee's recommendations.

Though the Country will give a comprehensive response to all the concluding remarks during the presentation of her third periodic report, the following is a response to the Committee's recommendations on paragraphs 10, 16, 18 and 20 of the concluding observations.

Committee's recommendations paragraph 10

A. Kenya should take urgent measures to address the absence of constitutional protection against women in relation to women and gender disparities

1. Through a consultative process between the Government and the Civil Society, there are various mechanisms that have been initiated to ensure and promote equal rights and treatment between women and men and to outlaw discrimination on gender lines. Examples of these include:

- The Equality Bill to provide for equal treatment of all citizens irrespective of their Gender;
- Guarantee of criminal sanctions in the penal code for various violations against women;
- Affirmative action policies and programmes especially in the education sector;
- Creation of the family Division of the High Court to protect the rights of Women; and
- The Government is also working with Civil Society to develop the Matrimonial Property Bill, and the Law of Succession (amendment) Bill;
- After a lot of consultations, the Sexual offence Bill was adopted in Parliament on 30th

May, 2006.

2. The National Commission on Gender Act 2003 established the National Commission on Gender and Development which protects the rights of women and advocates for legal reforms on:

- Issues and laws affecting women;
- Practices and policies that eliminate all forms of discrimination against women e.g. FGM (female genital mutilation), early and forced marriages, bigamy, and gender-based violence. The provincial Administration has been enlisted to ensure that these practices are not carried out; and
- All customs which are detrimental to the dignity of women.

B. *Kenya should intensify its efforts to ensure women's protection whether through the National Commission on Gender or otherwise*

3. The Gender Commission has intensified advocacy towards the passing of the following: the Family Protection Bill, Equality Bill, HIV/AIDS Prevention and control Bill the sexual Offence Bill which is now before parliament, Equality Bill 2001, domestic violence (Family Protection Bill) and affirmative Action Bill.

4. On its part, the Government has supported operations of the Gender Commission and the Ministry of Gender, Sports Culture and Social Services through funds, Office space, deployment of staff and by holding regular consultative meetings on areas that concern. Though there is criticism that the Commission is under-funded, additional budgetary appropriations are under consideration. women's advancement such as strategizing on the pending Gender related Bills. Though there is criticism that the Commission is under-funded, additional budgetary appropriations are under consideration.

5. More over the Government continues to collaborate with non-governmental organizations dealing with gender issues and discrimination against women on training of police officers on gender equality, handling victims of rape and sexual violence, integrity and professional ethics.

6. The sexual Offences Bill that is currently before the Parliament has received government support due to the escalation of cases of violence against women such as rape. Reported cases rose from 1,675 in 2000 to 2908 in 2004. This support is further demonstrated by condemnation of such acts by high ranking official in the Government including Ministers. The Government has, in the current year, contributed Ksh.4 Million towards the Nairobi Women's Hospital for its effort to provide medical care to victims of gender based violence.

7. Efforts are being made by the Government and community support organizations to enable women to access micro finance credit in recognition of the hurdles that women face in raising the collateral required by other financial institutions before advancing credit and to address other challenges like lack of capacity in terms of skills and managerial competencies that would enable them to effectively utilize funds to operate micro-enterprises.

8. The country now has a National Policy on Gender and Development (Sessional Paper No. 5) which addresses a wide range of issues including the educational concerns of persons living with

disabilities. This is in recognition of the fact that living with disabilities has a gender dimension to it. The Government is now in the process of carrying out a survey on persons with disabilities to increase awareness on the needs of persons with disabilities.

9. To consolidate protection, the Government has adopted a policy of affirmative action in the admission of students to public Universities. Female students and persons with disabilities are permitted into the Universities with slightly lesser marks than their counter-parts.

C. *The draft bill which would eliminate inequality of spouses with regard to marriage, divorce, devolution of property and other rights is adopted without delay*

10. Though the draft constitution which was to guarantee this equality was rejected in a referendum, it is worthy to note that the bill of rights was never a contentious issue in that draft constitution and there fore it is almost a guarantee that any other draft would retain the bill of rights as it was. Should this happen then, the equality of spouses in the matters pertaining to personal matters would be ensured. However in the meantime, a lot of awareness is being raised on the desirability of this and remarkable judgments have been passed by the courts giving spouses equal say in matters relating to family matters.

11. The Law Reform Commission is also in the process of revising all laws which relate to women in order to redress this inequity, especially provisions which allow a widow to lose her life interest upon her re-marriage to any person and any interest in her husband's agricultural land, crops and livestock in cases where the husband dies intestate.

12. There are also initiatives towards harmonizing the marriage laws. As the law stands now, one can contract a valid marriage under any of the following systems:

- African Christian Marriage and Divorce Act Cap. 151;
- Marriage Act Cap 150;
- Mohammedan Marriage and Divorce and succession Act Cap. 156;
- Hindu Marriage Act Cap 157;
- African Customary marriage.

13. All these have different consequences and forms. Those contracted under Caps 150, 152 and 157 are monogamous and the parties to the marriage must be biologically a man and a woman. For marriages under cap 156 a man is allowed to have a maximum of four wives at any given time. Under customary law a man may have as many wives as he wants without reference to his wife. Depending on the customs involved, woman to woman marriages are also valid but these have different arrangements from same sex marriages as practiced in other countries. These are commonly practiced by wealthy women who are not able to get children and so they either marry a woman who already has children of her own or encourage her to get children who will then belong to the barren woman. These marriages are seen as a way of obtaining e.g. sons who may not be available to single women through adoption. All the different types of marriages have different types of divorces.

D. *Kenya should prohibit polygamous marriages*

14. The existence of polygamous marriages has a philosophical genesis which can be traced to Kenya's colonial history. At the time of independence, the people of Kenya could easily have been divided into three; the Africans, The Arabs at the coast and Europeans. All the three had lived as separate people and the Independence Constitution, being a negotiation document had to give recognition to the different ways of life. Marriage is a central aspect of this. To many Africans and Arabs, culture and religion are intertwined and therefore one cannot interfere with one without affecting the other. While appreciating the Committee's concern over the permissibility of polygamous marriages, the Government sees no possibility of prohibiting polygamy at the present time without a lot of negotiations and advocacy. The foundation for this is currently being laid down. An education program aimed at sensitizing the population on the negative consequences of polygamous marriages is under consideration. Any other way would be viewed as interference with not only the freedom of association but a backlash on the right to culture.

Committee's recommendations paragraph 16

E. *The State party should promptly investigate reports of unlawful killings by police or law enforcement officers and prosecute those found responsible*

15. The law on the use of force by the law enforcement officers is very explicit. Unless the killings take place in circumstances of exchange of gunfire between criminals and the officers, in which case the officers are presumed to be acting in self-defense, immediate inquiries are instituted to establish the circumstances of the killings. In any case, whatever the circumstances of a killing by a law enforcement officer, an inquiry, including the conduct of a postmortem is a standard legal procedure.

16. The Government has noted the committee's recommendation that law enforcement officers found responsible of unlawful killings should be prosecuted. There has been a great improvement on the speed of departmental disciplinary measures instituted against officers even before criminal investigations on reports of unlawful killings by police or law enforcement officers are commenced.

17. A number of law enforcement officers have been investigated, disciplined and/ or prosecuted and convicted in relation to suspected unlawful killings. Even in cases where the courts of law have been unable to convict suspected officers for weaknesses in prosecution capacity, the law enforcement agencies have often gone ahead to dismiss some of the officers from the service based on their Force Standing Orders, when they are convinced that the officers' conduct is prejudicial to good conduct and discipline. The famous King'ong'o case is a case in point. There is also an on going investigation in the circumstances leading to the death of five prisoners in Meru G.K. prison. It is still difficult under the current laws to quantify the cases which may be classified as following under this category because it is possible for those being investigated to invoke the provisions of the Official Secrets Act, which is currently under scrutiny and is up for review. Consideration is being given to the establishment of an independent civilian police complains mechanism. Negotiations are currently on-going and the Committee will be informed of further progress in due course. More over the National Advisory/Consultative Committee on International Human Rights Obligations is designing a standard instrument which will be recommended to the law enforcement agencies to be used as a data compiling tool. It is the committee's hope that the information collected using this

tool will be more accurate than what has previously been obtained.

Impunity

18. To discourage use of excessive force, the Government policy is an unequivocal that individual acts of negligence and/or commission allegedly in the name of the State no longer qualify automatically for defense by the State Counsels. Effectively, individual officers are held individually responsible for their actions. One may not plead that actions have been as a result of orders from superiors.

19. The Government takes note of the fact that the Committee is of the opinion that cases of *de facto* impunity continue to be widespread. However, this situation has improved considerably. The level of national sensitization on citizens' rights is at its highest ever. This is as a result of combined efforts of the Government, private citizens, NGOs, religious organizations, members of Parliament and the civil society in general. Impunity is indeed today a rarity in Kenya. Any suspected cases of unlawful killings usually arouse intense national interest from various stakeholders that would rarely go unnoticed without appropriate action being taken. Where this occurs, prompt and thorough investigations will be carried out.

20. These positive efforts notwithstanding, the Government acknowledges that a lot still remains to be done to fully reorient the attitudes of the law enforcement agencies from the many decades of a culture of impunity under the de facto single party rule. Current reform initiatives under the Governance Justice Law and Order Sector Reform Programme are seriously addressing the challenges of strengthening and building of investigative and prosecutorial capacity for effective prosecution of suspects.

F. *The State party should actively pursue the idea of instituting an independent civilian body to investigate complaints filed against the police*

21. The Government is cognizant of the challenges posed by the current complaint mechanisms that could easily lend itself to partiality when the police investigate themselves. This is in addition to the well-founded fear that in the event that a police officer is the subject of complaint, there is the likelihood to frustrate access to the medical examination form, (the P3).

22. The Government is currently in the process of overhauling the whole national concept of law enforcement in order to translate and mainstream human rights values into reality in national public life. It is on this premise that H.E. the President appointed a national Task Force of eminent public and private sector personalities, including the (Kenya National Commission on Human Rights) KNCHR, in 2004 to spearhead national police reforms.

23. The Task Force is considering, among other matters for review, the creation of a joint complaints mechanism or a civilian oversight body, transfer of certain services, including issuance of P3 forms, from the police to other departments. Though it may seem too small an initiative, it is now possible to download the p3 form from the Police website. The preliminary report of the Task Force was presented to a national stake holders' debate in the later part of the year 2005. The final Task

Force report will still be subjected to a stake holders' forum.
24. Whatever mechanism will be proposed, the Government is keen to have in place a system that will improve the credibility of the investigations on cases of complaints against law enforcement officers in order to inspire public confidence in the complaint mechanism. It is not possible at this point to preempt the recommendations of the Task Force in this regard.

Committee's recommendations paragraph 18

G. *The State party should take more effective measures to prevent abuses of police custody, torture and ill treatment, and should strengthen the training provided to law enforcement personnel in this area*

25. The Police Act CAP 84 provides that acts of torture, attempted acts, complicity and participation in torture are prohibited. Section 14A (2) of the Police Act provides that: "No police officers shall subject any person to torture or to any cruel or degrading treatment," Section 14 A (3) further provides that "Any Police officer who contravenes the provisions of this section shall be guilty of a felony."

26. On ascendancy to power, the current Government sent an unequivocal message on its commitment against torture when it closed down the notorious Nyayo House torture chambers in 2003. This commitment was subsequently well safeguarded under the Criminal (Amendment) Act 2003, a fact that the Committee took positive notice thereof. Acts of torture and/or any information so extracted, is therefore of no evidential value to the police and before a Kenyan court of law.

27. However, where claims of torture have been alleged, immediate departmental disciplinary action, often in the form of interdiction, is taken pending further inquiry and/or criminal investigations. There are a number of cases in which departmental disciplinary action are taken by the law enforcement agencies before the courts can conclude their criminal cases against officers accused of torture. (See para. 19 above)

28. Kenya prides itself of a vibrant national and local human rights institutions, Non-Governmental Organizations, religious entities and the Civil Society in general, who have a critical watchdog role and do draw attention to any allegations or suspicions of torture. The role of these non- government entities is complemented by a vibrant media industry with unparalleled freedom in investigating and reporting information on torture allegations. In the meantime, the Government is in the process of compiling statistics on complaints about torture and ill-treatment reported over the past five years. As this exercise is taking longer that expected due to lack of automated data, no precise figures can presently be provided, but the government will endeavour to do so by March, 2008.

H. *The State party should 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 that perpetrators are brought to justice, and that complainant forms are available from a public body other than the police*

29. The Government however acknowledges that it would be presumptuous to claim that torture has

been totally eradicated in Kenya. Possibilities of isolated cases of torture allegations remain real and cannot be wished away even though they are not acceptable as a matter of law or policy. Individual suspected of acts of torture are therefore held individually responsible for the crime that may not be ascribed to the State or justified whatsoever on account of superior authority/order. It is for this reason that the Government is keen to institutionalize public complaints and response mechanisms as part of its reform of the law enforcement agencies as highlighted in the preceding paragraphs.

30. Apart from complaints filed through the judiciary, the Government is strengthening the existing channels of complaint in every police station (customer care desks), Provincial Administration offices (the village elders, assistant chiefs, chiefs, District officers, District Commissioners, Provincial Commissioners, and Office of the President headquarter), and Ministry of Justice and Constitutional Affairs, among others, where commencement of investigations on allegations of torture may be made. Police emergency and hotline telephone numbers are regularly published in the newspapers for ease of access by members of the public to forward any form of complaints, including torture.

Human rights training

31. While awaiting the recommendations of the national Task Force on police reforms, the Government has already incorporated human rights and humanitarian law into the police-training curriculum. Indeed as part of its efforts to include more public and human relations skills, the training period was increased from 6 to 9 months. This has been well spelt out in their current strategic plan. The UN Code of Conduct for Law Enforcement Officers is being used as an appropriate guide.

32. Additional initiatives already in place in an effort to give a human face to national policing practice include the introduction of community policing. This initiative emphasizes policing by consent rather by coercion, respect for democracy, human rights and the rule of law. It marks an important beginning in the drive towards attitudinal change from the adversarial posture to that of mutual trust between the police and members of the public.

33. The Government has often engaged the services of various NGOs, civil societies and human rights organizations, including the national human rights institution (KNCHR) in reviewing the training curriculum for the law enforcement agencies on human rights. In addition, these organizations continue to deliver short courses, workshops and seminars to the law enforcement agencies on the critical role of human rights in the performance of their duties. The appreciation of the new human rights orientation is fast gaining acceptability with the increase in the number of well-educated high school and university graduates joining the police force.

I. *The State party should enforce the law requiring that access to places of detention be given to the Kenya Human Rights Commission*

34. Kenya today has one of the most liberal policies and treatment of persons in its detention facilities. Access to detention facilities is not just easily granted to the KNCHR alone, but also to the media houses and other legal and paralegal organizations, some of which have collaborative

arrangement with the Government institutions in the provision of paralegal services to the detainees. However, there seems at times to be an unfortunate breakdown in communication between the Commission and the police regarding access to police detention facilities.

35. The National Commission on Human Rights Act is very explicit about the powers of the Commission and the penalties applicable in the event of a conviction on a charge of obstruction, Section 19 (6) (d). The Government is satisfied that the provisions of Section 16 (1) (b) of the Act guaranteeing access to these facilities, read together with Sections 18 and 19 (1) are adequate and expedient provisions for the proper performance of its functions under the Act.

36. At no time has the Government or any of its agents challenged the Commission's power of access which is legally and procedurally sought by the KNCHR. Indeed, under Section 19 (1) of the Act, the Commission has the powers of a court in the performance of its functions.

37. Following allegations of denied access, the Government issued a firm and an unequivocal Ministerial Statement in Parliamentary on 16th August 2005 reiterating its commitment to facilitate the KNCHR and its agents in the execution of its legal mandate. It reemphasized the Commission's right of unfettered access to the detention facilities as legally provided; made it abundantly clear that any individual officers who may obstruct the Commission from lawfully exercising its mandate, do so on their own accord and subject to the penalties as stipulated under Section 19 (6) (d) of the Act. Any act of denial of access to detention facilities does not therefore reflect Government policy or position.

38. To prove its commitment beyond the Ministerial statement, the minister instructed that a circular be issued to all law enforcement agencies to sensitize them on the legal mandate of the KNCHR. They were further reminded that they would be held individually responsible for their acts should they be proved to have illegally denied access to the Commission. Following this, the Commission sued when they were denied access in a particular police station and the High Court reaffirmed their right to unlimited access to all places of detention.

Committee's recommendations paragraph 20

J. *The State party should give priority to its efforts to combat corruption in the judiciary and to address the need to provide increased resources to the administration of justice*

39. Since the adoption of the Committee's concluding observations, the Government has undertaken a number of measures under the Governance, Justice and Legal Sector Reform program. The judicial Services Bill of 2005 is designed to give the Judiciary more control and power over it own resources and to shield it from interference. Judicial reform is an integral part of the larger constitutional, legal, political and governance reforms which are being carried out in the country.

40. Following integrity and Anti-corruption Corruption Committee (Ringera Committee) which recommended the sacking of 82 magistrates, 43 paralegal officers, a Kadhi and the suspension of 17 High court Judges and 7 Court of appeal Judges, the Chief Justice established the Ethics and Governance Sub-Committee in March 2005. Among its terms of reference were:

- To collect information relating to the integrity of the entire judiciary staff and court processes;
- To investigate all cases of alleged corruption, unethical behaviour and other lack of integrity;
- To study and rationalize the previous Committees' Reports on the reforms in the judiciary and recommend a codified and comprehensive reform matrix to entrench integrity; and to report on its findings and recommend to the Chief Justice any remedial action and necessary reforms for governance of and the entrenchment of integrity in the judiciary.

41. This committee was as a response to the criticism which was leveled against the manner in which the Ringera committee recommendations were handled. It was felt that the exercise focused too much on individuals at the expense of rehabilitating the entire judicial system. It was also felt that this style finished off whatever respect for the judiciary that the public had. This Committee was intended to assist the Judiciary to identify its weaknesses and address them in a systematic manner without eliciting a lot of emotions from the public.

42. The Committee finalized its work in November 2005 and has come up with a comprehensive reform matrix for the entrenchment of integrity in the Judiciary to address the following challenges:

- Lack of a time specific framework for the conclusion of all the stages in civil cases. The litigants fix their own hearing dates and this gives room for a lot of manipulations;
- Manual recording of court proceedings. Judicial officers can manipulate records;
- Lack of transparency in court processes, e.g. the fees structure is not displayed, judgments sometimes are not read in open court, inconsistency in the issuance and prescription of terms of bail/bond.

K. *Efforts made to increase resources for the administration of justice*

43. Kenya's formal legal system is predominantly an adversarial one with common law origins, based on the system in England and Wales at the formal date of reception - 12th August 1897. The system delivers three distinct types of justice:

- Criminal justice;
- Civil Justice; and
- Administrative Justice.

Of the three, the criminal justice system is by far the largest in terms of numbers of cases and the most complex because of the involvement of many institutions and actors.

44. The Government has acknowledged that, among others, paucity of resources remains a major challenge in the administration of justice. Due to this a number of initiatives have been taken to increase resources for the administration of Justice. These include:

- The institutionalization of the Governance, Justice, law and order Sector (GJLOs) Reform programme. This is an overarching strategy for all reform interventions in

Kenya's Governance, justice, law and order sector, whether the interventions are executed by Government, civil society, private sector or development partners. This acts as a tool for raising funds within the programme resourcing framework defined for this strategy and invites partner contributions of time, skills and resources to the sector- wide reform programme;

- Putting in place a sector wide approach to panning and budgeting through the public sector Reform Programme and the Medium Term Expenditure Frame work sector working groups. This approach provides a mechanism for resource allocation between and within sectors;

- Budget-neutral and low-cost interventions put in place, e.g. community policing, alternative dispute resolution, and NGOS-driven legal aid schemes;

- Decongestion of prisons and remand homes and enhancing the operations of Community Service Orders to free much needed resources;

- Improvement of correctional systems physical infrastructure;

- Allowing individual courts to use monies collected in respect of court fees, fines, deposits and forfeitures. This is an initiative towards ensuring that the judiciary has financial autonomy;

- Recruitment of additional judges and magistrates is in the pipeline;

- Training of judges and magistrates has been stepped up, and senior Court of Appeal judges and High Court judges participated in the Nairobi Judicial Colloquium on Domestic Application of International Human Rights Norms, held under the auspices of the OHCHR form 27 February to 1 March 2006. The outcome document will be disseminated to members of the Judiciary;

- The Government is in the process of automating the recording of judicial proceedings and computerizing the registries and this will contribute to the reduction of corruption problems in the judiciary;

- The Chief Justice has directed a speedier disposal of cases. The previously unacceptable long delays in hearing of cases and in the time period taken to deliver judgments has considerably reduced. More effort is still being put to ensure that this reduces further.