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Kenya's counter-terrorism measures must comply with its international human rights obligations

Human Rights Council adopts Universal Periodic Review outcome on Kenya

Amnesty International welcomes the acceptance by Kenya of recommendations to respect human rights in the context of threats to national security, in accordance with its Constitution and international human rights law.¹

The organization urges that any counter-terrorism measure taken does not circumscribe human rights ostensibly with a view to protect national security. Furthermore, in line with recommendations by member states, the Security Laws (Amendment) Act 2014 must not be used to excessively restrict freedoms of expression and freedom of the media, the rights of accused persons and the rights of refugees.²

The government of Kenya should take practical steps to implement the recommendations it received. Authorities should desist from threatening to summarily close the Dadaab Refugee Camp, or to forcibly return refugees to Somalia, which would amount to a violation of the principle of *non-refoulement*.³ Kenya should also refrain from clamping down on human rights organisations, as it has done in the case of Muhuri and Hakii Africa. These organizations have been listed as “specified entities” under the Prevention of Terrorism Act of 2012, which equates them to “terrorist groups”, notwithstanding the complete absence of evidence to support such accusation.⁴

Nine States called for implementation of the recommendations of the Truth, Justice and Reconciliation Commission (TJRC) and Amnesty International welcomes Kenya's acceptance of these.⁵ The organization further urges the government of Kenya to delink the TJRC process from other political processes and to remove any obstacles for the victims of the 2007-2008 post-election violence to their rights to the truth, justice and reparations. It is critical that the recommendations of the TJRC are implemented in a holistic process, not only through restorative justice measures, with close participation of the victims, but also through criminal accountability. In this regard, the government should invest the necessary resources to enable the Director of Public Prosecution to prosecute the 4,575 criminal cases linked to abuses committed during 2007/2008 post-election violence⁶.

¹ Human Rights Council, *Report of the Working Group on the Universal Periodic Review - Kenya*, A/HRC/29/10, recommendations 142.185 (Botswana), 142.186 (Canada), 142.187 (Chile), 142.189 (Lithuania), 142.190 (Norway), 142.192 (Germany).

² A/HRC/29/10, recommendation 142.17 (Finland)

³ A/HRC/29/10, recommendations 142.181 (Belgium), 142.182 (Belgium), 142.183 (Republic of Korea).

⁴ A/HRC/29/10, recommendations, 142.125 (Sweden), 142.127 (United Kingdom of Great Britain and Northern Ireland), 142.128 (United States of America), 142.132 (Botswana), 142.133 (Canada), 142.135 (Denmark), 142.136 (France), 142.137 (Ireland), 142.140 (Netherlands), 142.142 (Norway).

⁵ A/HRC/29/10, recommendations 142.91 (South Africa), 142.96 (United Kingdom of Great Britain and Northern Ireland), 142.101 (Argentina), 142.102 (Belgium), 142.104 (Chile), 142.107 (France), 142.108 (Japan), 142.116 (Namibia), 142.117 (Philippines).

⁶ State of the Nation Address, Thursday June 26, 2015, Parliament Chambers, Nairobi. Paragraph 80.

The government should also strive, as recommended by several states, to cooperate with the International Criminal Court,⁷ particularly in the ongoing case of *The Prosecutor v. William Samoei Ruto and Joshua Arap Sang*.

The manner in which the government responds to terrorism and guarantees the rights to truth, justice and reparations for victims of historical injustices will dictate progress in fighting rampant impunity for current human rights violations. Amnesty International urges Kenya to immediately take appropriate action to implement the accepted recommendations.

Background

The UN Human Rights Council adopted the outcome of the Universal Periodic Review of Kenya on 25 June 2015 during its 29th session. Prior to the adoption of the review outcome, Amnesty International delivered the oral statement above. Amnesty International had earlier submitted information on the situation of human rights in Kenya:

<https://www.amnesty.org/en/documents/afr32/003/2014/en/>

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⁷ A/HRC/29/10, recommendations 142.92 (Switzerland), 142.93 (Timor-Leste), 142.112 (Liechtenstein).