

REPUBLIC OF KENYA



THE PRESIDENCY
MINISTRY OF DEVOLUTION AND PLANNING

**BRIEF ON THE GOVERNMENT OF KENYA 8TH PERIODIC REPORT ON THE
CONVENTION ON ELIMINATION OF ALL FORMS OF DISCRIMINATION
AGAINST WOMEN (CEDAW)**

Background to the Report

The Convention on Elimination of All Forms of Discrimination against women (CEDAW) was adopted in 1979 by the UN General Assembly. Consisting of the preamble and 30 articles, it defines what constitutes discrimination against women and sets up an agenda for national action to end such discrimination. By accepting the convention, states commit themselves to undertake a series of measures to end discrimination against women in all forms, including: to incorporate the principle of equality of men and women in their legal system, abolish all forms of discriminatory laws and adopt appropriate ones prohibiting discrimination against women; to establish tribunals and other public institutions to ensure the effective protection against women by persons, organizations or enterprises.

Kenya acceded to the Convention in 1984 and as a party state to the convention has since then complied with the reporting obligations by submitting reports to the treaty monitoring committee. The 7th periodic report was submitted in April, 2009. Based on the above, Kenya is due to submit its 8th periodic report by 15th February 2015 which shall cover the period between May 2009 and December, 2013. This exercise is spearheaded by the Ministry of Devolution and Planning (the Directorate of Gender) as per the executive order of May, 2013 mandating MoDP to coordinate reporting on Gender and related global and regional commitments to which Kenya is a signatory.

Developing the Report: Context and Methodology

The 8th periodic report is anchored on the changes occasioned by the promulgation of the Kenya Constitution (2010) ushering in new principles, processes and structures of government. The constitution grants women equal inheritance rights, establishes

equality in marriage and custody of children while also prohibiting elected bodies from being overly dominated by one gender.

Similarly, the General Elections of March 4th 2013 also form a significant context for the 8th periodic report. More specifically, it was conducted in an environment compounded by constitutionally secured affirmative elective seats for women, a six-tier election process at one-go, the ushering in of devolved government architecture, and generally new constitutional dispensation order.

The preparation was both participatory and consultative where inter-ministerial representatives, the Civil Society Organizations and the international community including UN agencies were engaged. Written memoranda were invited from Human Rights bodies and Women's organizations familiar with CEDAW to input in the process. A technical team drawn from the state and non-state actors undertook to review and harmonize the submissions across legislative, administrative, judicial and other socio-economic facets. A national workshop with representation from Government Ministries, Departments and agencies, multiple Human Rights, State agencies and civil society bodies including County Executive Committee members in charge of Gender and Women in eight regions was convened to validate the draft document and align it to CEDAW reporting format requirements.

Key issues across the Government obligatory reporting articles (1-16)

ARTICLE1: DEFINITION OF DISCRIMINATION

The promulgation of the Constitution (2010) has a strong focus on equality, a much improved right to non-discrimination, and special provisions on the protection of rights for particular groups vulnerable to discrimination.(Article, 27). Section 2(6) of the constitution provides for the domestication of treaties by providing that any treaty or convention ratified by Kenya shall form part of the law of Kenya, thus, the courts and other arms of the government including the non-state actors are expected to apply CEDAW provisions in their jurisdictions. There already exists Treaty making and Ratification Act 2012 giving life to section 2(6) of Constitution.

Non-discrimination in governance is assured in Article 10(2)(b) of the Constitution states that national values and principles of governance include human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized. Elimination of discriminatory practices on land and property ownership has also been assured in article 60(1f).

Jurisprudence in line with CEDAW is apparent in the judiciary transformation framework (2011-'16) in which the Judiciary Training Institute was repurposed to drive continuing learning, research and the development of a robust, indigenous and patriotic jurisprudence. The latter that aims at eliminating restrictive interpretation the provisions of the Constitution that has in the past suffered a patriarchal view before courts of law. Recently, compliance with CEDAW non-discriminatory principle was evident in the *Constitutional Petition Number 160 Of 2013: Rose Wangui Mambo and 2 others Vs. Limuru County Club and 17 others*.

Article 2: Measures for elimination of all forms of Discrimination Against Women

The government of Kenya has initiated legislative, administrative, judicial measures in curbing discrimination against women across the socio-cultural, political and economic spheres.

The Draft Gender and Development Policy 2011 under review aims at promoting equity and equality of women and men throughout their life cycle and ensuring that interventions do not promote inequitable gender roles and relations. Similarly, legislations 2012 (the National Land Commission Act, the Land Act and the Land Registration Act) are significant improvements with respect to women's rights to land and property by establishing equality as indivisible principle.

Equality in marriage has been enforced through Marriage Act (2014) provides that parties to a marriage have equal rights and obligations at the time of the marriage, during the marriage and at the dissolution of the marriage 3(2). To cater for the Muslim women, section 3(4) states that 4) subject to sub-section (2), the parties to an Islamic marriage shall only have the rights granted under Islamic law. The Act provides that all marriages will be issued with marriage certificates, including customary marriages.

The Victim Protection Act 2013 gives effect to Article 50(9) of the Constitution. The Act will go a long way in protecting women who have always been subjected to public ridicule at the point of being accused of committing violence against men while at the same time afford reparations directly to women victims of sexual and gender-based violence.

Kenya's Equalization Fund, created in Article 204 of the Constitution (2010), is an important opportunity for the country to contribute to redressing ethno-regional economic inequalities. The basic services such water are very significant commodities

needed by women who live in marginalized areas in Kenya that also double as arid regions.

Non-discrimination in the field of work is safeguarded in article 27 of the Constitution. In addition, Anti-union discrimination is also prohibited under section 5 of the Labour Relations Act, hence, women like any other employees are legally allowed to join a trade union of their will. In employment, Section 15(5) requires employers to undertake reasonable accommodation for persons with disabilities while Section 13 requires that the National Council for Persons with Disabilities endeavour to reserve five percent of all casual, emergency and contractual positions in employment in the public and private sectors for persons with disabilities.

Article 3: Measures for Development and Advancement of Women

Following the promulgation of the 2010 Constitution, the Kenya National Human Rights Commission (KNHCR), the National Gender and Equalities Commission (NGEC), and the Commission on Administrative Justice (CAJ or the office of the ombudsman) have been established. These commissions are established pursuant to Article 59 of the Constitution, and in particular Article 59(4) which provides for the forming of two or more commissions to perform the functions provided for in Article 59(2).

In a suit filed by the Attorney General in the Supreme Court (Advisory Opinion No. 2 of 2012), seeking an advisory opinion on the implementation of the two-third gender principle under Articles 81, 27(4), 27(6), 27(8), 38, 96, 97, 98, 177(1), 116, 125 and 140 of the Constitution, the CIC, NGEC and CAJ were enjoined as interested parties, mainly advocating for indivisible realization of women's political rights. The commissions work closely with the Directorate of Gender to ensure women's rights are realized and integration of gender perspectives in development as elaborated in the report.

The Government has established seed funds such as the Women's Enterprise Fund, the Youth Enterprise Fund and the Uwezo Fund among others, which have enabled women to access funds for starting or growing their business ventures without the burden of collaterals. The second Medium Term Plan (2013-2017) emphasizes gender mainstreaming and the empowerment of women as key priorities in ensuring equality between men and women in access to economic, social and political opportunities.

The Government has introduced the 30% affirmative action policy for women, youth and persons with disabilities in public procurement. Access to Government Procurement Opportunities (AGPO) Bill to entrench the practice into law for women youth and persons with disability is underway. According to the Public Procurement and Disposal Preference and Reservations Amendment Regulations, 2013, a procuring entity shall

allocate at least 30% of its procurement budget for the purpose of procuring goods, works and services for micro and small enterprises owned by women, youth and PWDs translating into USD 2.4 billion per year worth of business from the government to women, youth and people with disability.

Legislation: Legislative and policy measures include the adoption of the National Land Policy which recognizes women's rights to own property and the enactment of the Gender laws which include the Matrimonial Property Act, 2013 and the Marriage Act 2014. In particular the Matrimonial Property Act, 2013 safeguards women's property rights during and upon dissolution of the marriage. The Counter-Trafficking in Persons Act 2010, the Prohibition of Female Genital Mutilation (FGM) Act 2011 and the Sexual Offences Act 2006 outlaw specific forms of violence.

Article 4: Adoption of Temporary Special Measures to Accelerate De Facto Equality between Men and Women

The Constitution in Article 10 includes human dignity, equity, social justice, inclusiveness, equality, non-discrimination and protection of the marginalized among the national values and principles of governance that are to be used in applying and interpreting the Constitution and other laws, and in making or implementing policy decisions. This is further emphasized in Article 20(4) (a) which lists equality and equity as values to be promoted in interpreting the Bill of Rights and Article 21(3) which creates a duty on state actors to address the needs of "vulnerable groups" in society.

Programs such the 'Beyond Zero campaign' is part of the initiatives outlined in the Strategic Framework in HIV control and promotion of maternal, newborn and child health in Kenya that was unveiled on World AIDS Day 2013. The framework aims to galvanize high-level leadership in ending new HIV infections among children and reducing HIV related deaths among women and children in Kenya.

Free maternal care provision launched in July 2013 by the government has received financial commitment of Sh3.8 billion to fund the free maternal health care program, with an additional KSh700 million for free access to health centers and dispensaries, KSh3.1 billion for recruitment of 30 community nurses per constituency, KSh522 million for recruitment of 10 community health workers per constituency, and K Sh 1.2 billion for provision of housing units to health care workers, within its overall allotment of KSh10.6 billion for health care in the 2013/14 national budget.

Measures in public life and political participation are guaranteed in Article 27 (8) of the 2010 Constitution states that the 'State shall take legislative and other measures to

implement the principle that not more than two-thirds of the members of elective or appointive bodies shall be of the same gender. Participation through representation is nuanced in the Parliament (Articles 90, 97 and 98), National government (Article 130(2)) and the County government (Article 177(1); 197(2)). These provisions cut across elective and appointive positions and aim at achieving full diversity of the nation across ethnic, age, minority and gender considerations.

Article 5: Measures for Modification of Social and Cultural Patterns of Conduct

Enactment of The Prohibition of Female Genital Mutilation Act (2011) which provides at Section 27 that the Government should take positive measures in order to ensure the provisions of the Act are actualized. These measures include, *inter alia*, the undertaking of public education and sensitization of the people of Kenya on the dangers and adverse effects of female genital mutilation.

There is a National Framework on Prevention and Response to Gender Based Violence (2010) to guide and assure coordinated GBV interventions in the country. The Government of Kenya in partnership with other actors is undertaking various programmes to address GBV in the work place and in the public sector: Mapping of sexual and gender based violence services in order to raise high national level awareness of gender based violence services offered and available in the country and engaging various informal justice systems in Kenya including Council of Elders, in different regions. These programmes are important as informal justice systems to the women at the grassroots level

The Protection Against Domestic Violence Bill (2013) recognizes sexual violence within marriage, child marriage, FGM, incest, defilement, forced wife inheritance, interference from in-laws and sexual abuse as forms of domestic violence unlike previously when they were only associated with physical violence. Domestic violence will also include economic abuse, damage to property, emotional or psychological abuse, virginity testing. This bill addresses the socio-cultural causes of sexual and gender-based violence and will largely benefit young girls and women.

Provision of legal aid to GBV survivors where several agencies are providing free legal services to GBV victims /survivors including training on self representation to allow GBV survivors to represent themselves in court. The Government has since under the Children's Act, 2001 and FGM Act 2011, mandated gender and children officers to

provide paralegal and counseling services to victims of SGBV including facilitating multi-sectoral referrals.

Non-discriminatory Land and Property Ownership is safeguarded in Article 60 1(f) provisions for elimination of gender discrimination in law, customs and practices related to land and property in land meaning that women can now inherit land. To actualize the realization of this provision, National Land Commission Act recognizes the constitution of County land Boards that are gender-aware in their structure and/or composition.

Within marriage, the Matrimonial Property Act 2014: provides for equal status of spouses (**Section 4**) where a married woman has the same rights as a married man: to acquire, administer, hold, control, use and dispose of property whether movable or immovable; to enter into a contract; and to sue and be sued in her own name.

There is established Rules for magistrates and judges on sexual offences developed by the committee of the Judiciary to guide judges and magistrates in implementing the protective provisions of the Act. The Judiciary Training Institute has collaborated with various NGOs to conduct trainings for judges and magistrates on the SOA, violence against women and human rights.

Housing Situations for women in the informal settlements is being realized through the National Slum Upgrading and Prevention Policy (NSUPP). The NSUPP is being undertaken within a number of policy and legal frameworks. These include the National Housing Policy 2004, the National Land Policy 2009, the Constitution of Kenya 2010, the Draft National Urban Development Policy (NUDP) and Kenyan Vision 2030.

Truth Justice and Reconciliation Commission Report 2013 calls for an end to the above violations against women in all forms and for the advancement of substantive gender equality in order to prevent these abuses from continuing further into the future.

Article 6: Action to Suppress All Forms of Traffic in Women and Exploitation of Prostitution Of Women

The enactment of Counter- Trafficking in Persons Act 2010 and the Prohibition of Female Genital Mutilation Act 2011. Kenya has enacted the trafficking in person's act 2010. The Constitution of Kenya also guarantees fundamental rights and freedoms for all, men and women alike. Article 27(3) guarantee women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres.

The Government established the National Steering Committee on Counter Trafficking in Persons in 2012 to monitor the implementation of the Act. A National Plan of Action (NPA) has been developed as a measure to respond to the situation. A number of children and women trafficked within the country and outside the country are rescued and placed in safe places. Psycho-social support, rehabilitation, re-unification and re-integration programs are offered to the trafficked children and women.

The Government through the Ministry of Labour, Social Security and Services has since suspended all forms of recruitment of women to work in the Middle East. The decision to freeze the recruitment and suspend the licenses was taken in the wake of reports of maltreatment of Kenyan domestic workers in Middle East countries including sexual harassment and forced prostitution.

Article 7: Measures to Eliminate Discrimination against Women in and Ensure Equality in Political and Public Life

Constitution and Legislative development: Articles 27 (3), (4), (6) and (8) as read together with Article 81(b), 96, 97, 98, 177(1) (b), 116 and Article 125 provide inter alia that not more than two thirds of the membership of any elective or appointive bodies shall be of the same gender- which include the National Assembly, Senate and the County Assemblies. In addition, the Constitution guarantees the recruitment and appointment of women to the highest echelons of public service by outlawing the occupancy of office in any public organization by more than two-thirds of either gender.

The Political Parties Act 2011 provides that every political party shall among other requirements respect and promote human rights and fundamental freedoms, and gender equality and equity. It is noteworthy that although political parties are required to respect and promote gender equality and equity, there is no penalty for noncompliance with this provision of the law.

Elections Act 2011 provides that persons are still eligible to vote even if they fail to produce a voter's card, which reduces the barriers to women's suffrage. It is useful because, in some cases, women's voter cards are withheld or in the custody of their spouses or male relatives. In addition, it defines as an offence the use of force or violence during the election period, i.e., to compel or prevent a person from voting. This measure responds to past situations in which violence has forced women to stay away from the polls.

Leadership in the National Assembly; women presently chair seven out of the 27 committees in the National Assembly while also serving as vice-chairpersons in eight other committees but remain slightly represented in other House positions. On average, women currently comprise 20 percent of the membership of all National Assembly committees in the 11th Parliament.

Women's leadership in Senate committees is greater than in the National Assembly. One of the 11 committees is chaired by a woman, while women serve as vice-chairpersons on six other committees. Overall, women currently comprise 28 percent of the membership in all the Senate committees.

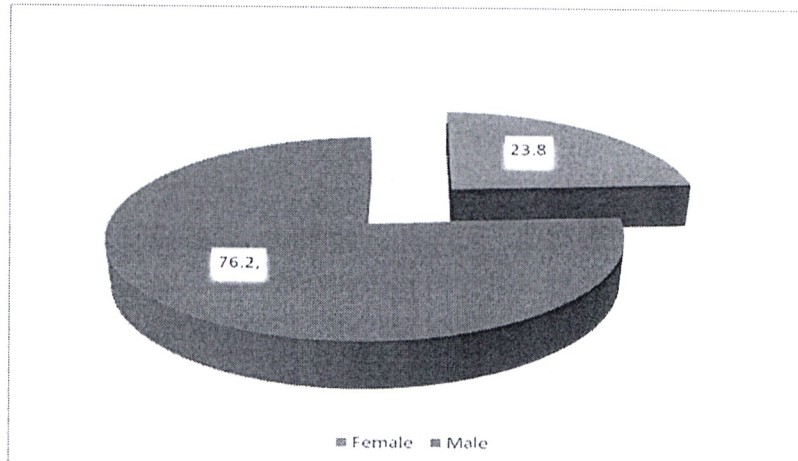
There has been marked progress in the representation of women in key Cabinet positions -The number of women Cabinet Secretaries in Kenya's Cabinet has increased. Women Cabinet Secretaries and Principal Secretaries constituted 33.3 per cent and 26.9 per cent respectively.

The Deputy Chief Justice and the Chief Registrar of the Judiciary are women. The number of women magistrates increased from 174 in 2012 to 218 out of a total of 486 in 2014. The number of women judges increased from 44 in 2012 to 48 out of a total of 126 Judges in 2014. This means that the gender threshold has been met in the highest levels of the judiciary.

Women are at the helm of 4 the key National Commissions - The chairpersons of Kenya National Commission on Human Rights, the Chairperson of the National Gender and Equality Commission, the Chairperson of the Salaries and Remuneration Commission and the Budget Controller. Women also occupy the positions of the Vice Chairpersons of the Commission on the Implementation of the Constitution, the National Land Commission and Public Service Commission. Women form not less than one third of the members of the entire constitutional and Statutory Commissions.

Women County Commissioners constitute 36.2 per cent of the total County Commissioners appointed by the President. These figures indicate that there has been a marked increase in the appointment of women to decision-making positions in Kenya's government and that the official goal of a minimum of 33 per cent representation of women is progressively being attained in many key positions.

Article 8: Women's Representation of the Government at International Level



There continues to be underrepresentation of women in the Diplomatic corps positions despite the constitutional provision requirement for equitable representation of men and women in appointive positions.

ARTICLE 9: Women's Rights to Nationality

The Constitution (2010) on its chapter on citizenship clearly defines the concept of acquisition and loss of citizenship for Kenyan men and women. The law also grants dual citizenship and women are allowed to confer citizenship to their spouses. The Kenya Citizenship and Immigration Act (2011), effectively repealing the Kenya Citizenship Act Cap. 170, the Immigration Act Cap. 172 and the Aliens Restriction Act Cap. 173 Laws of Kenya.

On marriage and citizenship, the Act states that a foreign spouse of a Kenyan citizen who has been married for at least 7 years is entitled upon application to be registered as a citizen provided they meet the prescribed criteria. There is no requirement that the spouse be resident in Kenya throughout the 7 years period. All these provisions spell equality between men and women in conferment of citizenship before the law.

ARTICLE 10: EQUALITY IN THE FIELD OF EDUCATION

The right to education without discrimination is enshrined in the Constitution of Kenya 2010. Education is entrenched as a Fundamental Human Rights issue in the laws of Kenya (Article 10 (2) (b), 28, 43(1)(f)) with access to Basic Education clearly spelt in articles 53 1(b)(d), 54 (1)(b). The Government has gone ahead to criminalize all harmful cultural activities/practices such as early marriages that would deter girls from

realizing their full rights to education in Article (55d). In addition, Kenya's Education Act 2013, further articulates the right to education for all Kenyans and sets a broad framework for the attainment of the right to education.

The policy aims at providing every Kenyan, without any discrimination, with basic quality education and training which includes 2 years of pre-primary, 8 years of primary and 4 years of secondary/technical education. The policy aims at realization of universal access to basic education and training to ensure equitable access to education and training for all children, noting the importance of education in the lives of boys and girls as well as men and women.

The Ministry of Education Science and Technology (MoEST) adopted the Schools Sanitary Towel Program in the year 2011, a program previously spearheaded by civil society. The program focus is to enhance participation (retention and transition rates) of girls in education through provision of sanitary towels. The program is in its 4th year of implementation with a budgetary allocation of Kshs 400 million shillings in current FY 2014/2015.

Government efforts to encourage girls' uptake of Information, communication and Technology subjects: This is done by equipping schools with computers, capacity building of Science, Mathematics and Technology (STEM) teachers in subject content knowledge and use of gender-responsive pedagogy; sensitizing girls and boys, parents, communities, teachers, PTAs, SMCs, BOGs and educational managers, so as to change beliefs and attitudes about females' ability in Science, Mathematics and Technology (STEM).

More girls are now able to access higher education. Secondary school Gross Enrolment Rate (GER) has been on an upward trend since 2009. The GER increased from 49.3 per cent in 2012 to 56.2 per cent in 2013 and the Net Enrolment Rate (NER) for secondary schools increased by 6.4 percentage units to stand at 39.5 per cent in 2013.

Government Directive on issuing completion certificates to girls and boys, whether they have fees arrears or not, aims to enable transition to higher levels of education. Many girls from poor backgrounds are set to benefit from this executive directive and proceed to secondary school and other technical institutions having obtained necessary documents. This initiative complements Government's effort in the affirmative action of entry of girls to higher institutions.

Progress in Completion of Secondary School by girls: Increase has been attained in the number of girls enrolled in secondary school and in their secondary school completion rate. The number of KCSE candidates increased by 3.0 per cent from 432,443 in 2012 to 445,520 in 2013. The number of female candidates grew by 4.6 per cent to 202,539 in 2013 compared to an increase of 1.7 per cent for the number of male candidates.

The overall university student enrolment increased by 34.9 per cent from 240,551 in 2012/13 to 324,560 in 2013/14. The increase is attributable to higher enrolment levels in the public universities following the introduction of new courses in addition to upgrading of university colleges. Women student enrolment rose by 25.0 per cent to 131,375 in 2013/14 while male student enrolment increased by 42.6 per cent from 135,436 in 2012/13 to 193,185 in 2013/14.

The Government in partnership with non-state actors has supported the establishment of women centres in the leading public universities. This is exemplified by the African Women's Studies Centre, University of Nairobi which exists to promote scholarship and influence policy from African women's perspectives through research, teaching, publication and dissemination and engaging with policy makers.

Non-tolerance of learners' abuse: TSC Circular No. 3 of 2010 and Database on Disciplinary Measures including offences against a learner. Revisions of the code of ethics for Teachers – supposed to give interpretations on sections of protection of female learners. Moreover, the Ministry of Education Science and Technology (MoEST) is considering development of a Learners Protection Policy to prevent circumstances where girls are impregnated by their teachers. Review of Children's Act (2001) to strengthen protection mechanisms including protection of girls from all forms of violence including sexual harassment at school.

Article 11: Elimination of Discrimination against Women in the Field Of Employment

The Kenya law clearly states that there shall be no form of discrimination in employment. Both the Employment Act, section 5(3) and the Constitution of Kenya, Articles 26-51, bar any form of discrimination on the grounds of gender, (among others) in accessing employment and in employment security. In addition, Section 5 gives responsibility to the Minister, labor officers and the Industrial Court to ensure that employers promote equality of opportunity in employment in order to eliminate discrimination in employment.

Women and men cannot work in the same industries (especially mining sector). (Section 91 of the Employment Act, 2007). According to article 27 of the Constitution, employees can't be discriminated based on race, sex, pregnancy, marital status, health status, ethnic or social origin, color, age, disability, religion, conscience, belief, culture, dress, language or birth. Sexual harassment at workplace is prohibited by law and an employer is supposed to create a policy statement prohibiting sexual harassment at workplace.

All workers are meant to be treated equally as the law instructs, which means men and women should get the same pay if they do work of equal value. If a worker is discriminated in this regard, the law stands on their side in case of a lawsuit since discrimination in work compensation is unlawful and a liable offence in Kenya (Section 5.4 and 5.5 of the Employment Act, 2007).

The Micro and Small Enterprises Authority coordinates small and medium enterprises which are largely dominated by women. The National Micro and Small Enterprises (MSE) Bill (2011) takes cognizance of the fact that MSEs are the drivers of Kenya's economy and it aims at an organized, regulated and well-coordinated MSE sector in Kenya for improved productivity and growth. Recognizing the obstacles that women entrepreneurs face, the ILO supported the Government in the strengthening of member based associations and networks and the provision of business training and credit.

Unpaid and unrecognized work of women constitute majority of the labor force in family and commercial farms in Kenya. For example, women continue to mitigate and respond to disease challenges at the community level by providing community and home-based care. However these contributions have continued to go unrecognized due to the manner in which GDP is calculated.

Article 12: Measures To Eliminate Discrimination of Women in the field of Health

The framework for free maternal health services is provided for under several local, regional, and international mandates. Article 43(1)(a) of the Constitution of Kenya 2010 states that: Every person has the right to the highest attainable standard of health, which includes the right to health care services, including reproductive health care. The Constitution of 2010 further provides that a person has the right to emergency treatment (Article 43(2)), the right to inherent dignity and the right to have that dignity respected and protected (Article 28), and the right to access information (Article 35).

The Kenya National Patients' Rights Charter (2013) outlines the right to access health care, the right to receive emergency treatment in any health facility irrespective of

ability to pay, the right to the highest attainable quality of health care products and services, the right to be treated with respect and dignity, the right to information, and the right to complain, among others.

The Constitution explicitly permits abortion when "in the opinion of a trained health professional, there is need for emergency treatment or the life or health of the pregnant woman is in danger, or if permitted by any other written law Article 26(4)]. A "trained health professional" should be interpreted to include doctors, clinical officers, nurses, and midwives who have the appropriate training.

Training of community health workers: The Kenya Essential Package for Health has been updated to include health education on GBV which had largely been seen as posing risk to women in the reproductive health-age bracket. Similarly, the Government has spearheaded the training and follow-up of health care workers including community midwives in skilled care during pregnancy, child birth and thereafter launch of the maternal and neo-natal health roadmap on maternal health in 2010.

The Plan of Action for Kenya's Adolescent Reproductive Health and Development Policy 2005-2015 recognizes that information and sex education is important for adolescents and they accurate appropriate information to make informed choices, enjoy healthy and positive lifestyles and avoid undesired consequences like unwanted pregnancy and STIs. The availability of youth friendly services has made this possible.

Adult HIV prevalence (ages 15-49) in Kenya, estimated at 6.3% in 2009, has declined from 8.4% in 2001. Between 2009 and 2010, the number of new HIV infections among children in Kenya has declined 43%—from 23,200 to 13,200. HIV prevalence among pregnant women was 5.6% in 2009, and in 2010, there were an estimated 87,000 pregnant women living with HIV in Kenya. The majority (92.5%) of health facilities in Kenya offer PMTCT services. HIV testing among pregnant women increased from 31% in 2005 to 83% in 2010 and 67% of pregnant women with HIV received efficacious ARVs for PMTCT in 2011. Kenya has adopted WHO Option A regimen for prophylaxis, and a Multi-Sectoral National AIDS Strategic Plan (2009/2010 – 2012/2013) is in place, of which PMTCT is a component.

Article 13: Measure For Elimination Of Discrimination Against Women in other areas of Social and Economic Life

Both the Government and Development Partners have increased the commitment to social protection interventions. Such measures include cash transfer programs for orphans and vulnerable children (OVC), older persons, persons with disability and the chronically food insecure in the arid lands (the Hunger Safety Net Program, HSNP).

On the safety net program, The OVC impact assessment based on various surveys (2008-2013) shows that there is 15% increase in consumption with a substantial improvement in dietary diversity of the household members. It also shows 13% reduction in poverty levels of the beneficiary households. There has been reduction of child labour by 6%, increased secondary enrolment by 6.6%, increased primary school retention by 15% and improved living dignity for beneficiaries. An audit carried out of the cash transfer programme in 21 Sub- Counties in 2013 revealed that majority of the beneficiaries of the CT-OVC and OP-CT Programme were female. 55% of the beneficiaries for PWSD were female compared to 45% male.

Article 27 of the Constitution provides for Equal and full enjoyment of rights; equal treatment in all spheres. Similarly, Article 43 e) rights to social security; g) appropriate social security to persons who are unable to support themselves and their dependants. The Social Assistance Act (2013) which provides for financial and social assistance to the poor orphans, vulnerable children, poor elderly persons, youth who are unemployed, disabled persons, widows and widowers, and people who have been disabled by acute chronic illness has been enacted to give effect to articles 43 of the constitution.

Legal Notice 21 of Public Finance Management Act: Uwezo Fund has been established as a permanent fund following the passing of Uwezo fund Regulations through Legal Notice 21 of the Public Finance Management Act 2014 published on 21st February 2014 to empower women, youth and PWDs economically.

Article 14: Measure to address the situation of rural women

The Agricultural Sector Development Strategy (ASDA) 2010-2020 is anchored in the long term development plan, Vision 2030. Key challenges meant to be overcome through ASDA include food security, poverty reduction, agribusiness development, access to markets and efficient use of inputs and agricultural credit of which the rural women and the youths are largely targeted.

Legislations on Land, Agriculture, Fisheries, and Food Authority Act, crop Act aim at accelerating production on-farm and off-farm activities besides increasing the value and marketability of the products. All these interventions will boost the household income for rural women largely dominant in small scale production.

The Economic Empowerment Program (EEP) is anchored on the Kenya Vision 2030 economic pillar of enhancing economic growth and reducing poverty. Its expected outcomes is to ensure that the poor and vulnerable (particularly women and youth) are empowered as economic agents including ensuring that the poor and vulnerable access micro-finances and new technologies. The program has since adopted the table-banking concept as mechanism of encouraging re-investible small-scale saving amongst women.

Devolution and reach to women: The devolution process has brought power, services and resources closer to the people through County Development Plans; County governments are bringing better services to the people with regards to: housing, sanitation, rural electricity, water supply, transport and communication.

Article 15: Equality of Men and Women before the Law

Enactment of a new progressive Constitution of Kenya 2010 provides the basis for equality and non-discrimination. Article 27 provides that every person is equal before the law and has the right to equal protection and benefit. Further, it provides that women and men have the right to equal treatment including the right to equal opportunities in political, social, economic and cultural spheres. Other grounds of equality provided for in the constitution include; pregnancy, race, sex, marital status, health, ethnicity or social origin, color, age, disability, religion, conscience, belief, culture, dress, language or birth. Additionally the law recognizes the equality of both parents in raising their children whether they are married to each other or not under Article 53.

In addition to the various constitutional provisions, the Judicial Service Act aims to ensure that the Judicial Service Commission and the judiciary: "facilitate access to justice to all Kenyans and "be guided in their internal affairs, and in the discharge of their mandates by considerations of social and gender equity and the need to remove any historical factors of discrimination"

Adoption of the National Land Policy which recognizes the role of women in land matters. It proposes review of succession, matrimonial property and other related laws to ensure gender equity and the enactment of specific legislation governing

division of matrimonial property to replace the English Married Women's Property Act of 1882.

Article 16-Equality in Marriage and the Family

Article 45(3) of the Constitution is one of the greatest achievements for women in the institution of marriage in the context of equality and non-discrimination. It states that Parties to a marriage are entitled to equal rights at the time of marriage, during the marriage and at the dissolution of the marriage.

The Marriage Act, 2014 is the consequential legislation for realization of article 45 of the Constitution. It repeals the previous numerous pieces of legislation that had governed the institution of marriage, thus making it easier and more user friendly for women seeking matrimonial justice.

Customary marriages which had been given second rate recognition in the previous legal regime are now anchored in law and are now registrable, thus making them less precarious and therefore offering more protection for women in customary marriages.

The Matrimonial Property Act 2013, the first time defines matrimonial property and creates space for prenuptial agreements. If the parties in a polygamous marriage divorce or a polygamous marriage is otherwise dissolved; Matrimonial property acquired by the man and the first wife, before the man married another wife, shall be retained equally by the man and the first wife only; Matrimonial property acquired by the man after the man marries another wife shall be regarded as owned by the man and the wives taking into account any contributions made by the parties.

REPUBLIC OF KENYA



THE PRESIDENCY MINISTRY OF DEVOLUTION AND PLANNING

BRIEF ON THE GOVERNMENT OF KENYA 8TH PERIODIC REPORT ON THE CONVENTION ON ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW)

Background to the Report

The Convention on Elimination of All Forms of Discrimination against women (CEDAW) was adopted in 1979 by the UN General Assembly. Consisting of the preamble and 30 articles, it defines what constitutes discrimination against women and sets up an agenda for national action to end such discrimination. By accepting the convention, states commit themselves to undertake a series of measures to end discrimination against women in all forms, including: to incorporate the principle of equality of men and women in their legal system, abolish all forms of discriminatory laws and adopt appropriate ones prohibiting discrimination against women; to establish tribunals and other public institutions to ensure the effective protection against women by persons, organizations or enterprises.

Kenya acceded to the Convention in 1984 and as a party state to the convention has since then complied with the reporting obligations by submitting reports to the treaty monitoring committee. The 7th periodic report was submitted in April, 2009. Based on the above, Kenya is due to submit its 8th periodic report by 15th February 2015 which shall cover the period between May 2009 and December, 2013. This exercise is spearheaded by the Ministry of Devolution and Planning (the Directorate of Gender) as per the executive order of May, 2013 mandating MoDP to coordinate reporting on Gender and related global and regional commitments to which Kenya is a signatory.

Developing the Report: Context and Methodology

The 8th periodic report is anchored on the changes occasioned by the promulgation of the Kenya Constitution (2010) ushering in new principles, processes and structures of government. The constitution grants women equal inheritance rights, establishes

equality in marriage and custody of children while also prohibiting elected bodies from being overly dominated by one gender.

Similarly, the General Elections of March 4th 2013 also form a significant context for the 8th periodic report. More specifically, it was conducted in an environment compounded by constitutionally secured affirmative elective seats for women, a six-tier election process at one-go, the ushering in of devolved government architecture, and generally new constitutional dispensation order.

The preparation was both participatory and consultative where inter-ministerial representatives, the Civil Society Organizations and the international community including UN agencies were engaged. Written memoranda were invited from Human Rights bodies and Women's organizations familiar with CEDAW to input in the process. A technical team drawn from the state and non-state actors undertook to review and harmonize the submissions across legislative, administrative, judicial and other socio-economic facets. A national workshop with representation from Government Ministries, Departments and agencies, multiple Human Rights, State agencies and civil society bodies including County Executive Committee members in charge of Gender and Women in eight regions was convened to validate the draft document and align it to CEDAW reporting format requirements.

Key issues across the Government obligatory reporting articles (1-16)

ARTICLE1: DEFINITION OF DISCRIMINATION

The promulgation of the Constitution (2010) has a strong focus on equality, a much improved right to non-discrimination, and special provisions on the protection of rights for particular groups vulnerable to discrimination.(Article, 27). Section 2(6) of the constitution provides for the domestication of treaties by providing that any treaty or convention ratified by Kenya shall form part of the law of Kenya, thus, the courts and other arms of the government including the non-state actors are expected to apply CEDAW provisions in their jurisdictions. There already exists Treaty making and Ratification Act 2012 giving life to section 2(6) of Constitution.

Non-discrimination in governance is assured in Article 10(2)(b) of the Constitution states that national values and principles of governance include human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized. Elimination of discriminatory practices on land and property ownership has also been assured in article 60(1f).

Jurisprudence in line with CEDAW is apparent in the judiciary transformation framework (2011-'16) in which the Judiciary Training Institute was repurposed to drive continuing learning, research and the development of a robust, indigenous and patriotic jurisprudence. The latter that aims at eliminating restrictive interpretation the provisions of the Constitution that has in the past suffered a patriarchal view before courts of law. Recently, compliance with CEDAW non-discriminatory principle was evident in the *Constitutional Petition Number 160 Of 2013: Rose Wangui Mambo and 2 others Vs. Limuru County Club and 17 others*.

Article 2: Measures for elimination of all forms of Discrimination Against Women

The government of Kenya has initiated legislative, administrative, judicial measures in curbing discrimination against women across the socio-cultural, political and economic spheres.

The Draft Gender and Development Policy 2011 under review aims at promoting equity and equality of women and men throughout their life cycle and ensuring that interventions do not promote inequitable gender roles and relations. Similarly, legislations 2012 (the National Land Commission Act, the Land Act and the Land Registration Act) are significant improvements with respect to women's rights to land and property by establishing equality as indivisible principle.

Equality in marriage has been enforced through Marriage Act (2014) provides that parties to a marriage have equal rights and obligations at the time of the marriage, during the marriage and at the dissolution of the marriage 3(2). To cater for the Muslim women, section 3(4) states that 4) subject to sub-section (2), the parties to an Islamic marriage shall only have the rights granted under Islamic law. The Act provides that all marriages will be issued with marriage certificates, including customary marriages.

The Victim Protection Act 2013 gives effect to Article 50(9) of the Constitution. The Act will go a long way in protecting women who have always been subjected to public ridicule at the point of being accused of committing violence against men while at the same time afford reparations directly to women victims of sexual and gender-based violence.

Kenya's Equalization Fund, created in Article 204 of the Constitution (2010), is an important opportunity for the country to contribute to redressing ethno-regional economic inequalities. The basic services such water are very significant commodities

needed by women who live in marginalized areas in Kenya that also double as arid regions.

Non-discrimination in the field of work is safeguarded in article 27 of the Constitution. In addition, Anti-union discrimination is also prohibited under section 5 of the Labour Relations Act, hence, women like any other employees are legally allowed to join a trade union of their will. In employment, Section 15(5) requires employers to undertake reasonable accommodation for persons with disabilities while Section 13 requires that the National Council for Persons with Disabilities endeavour to reserve five percent of all casual, emergency and contractual positions in employment in the public and private sectors for persons with disabilities.

Article 3: Measures for Development and Advancement of Women

Following the promulgation of the 2010 Constitution, the Kenya National Human Rights Commission (KNHCR), the National Gender and Equalities Commission (NGEC), and the Commission on Administrative Justice (CAJ or the office of the ombudsman) have been established. These commissions are established pursuant to Article 59 of the Constitution, and in particular Article 59(4) which provides for the forming of two or more commissions to perform the functions provided for in Article 59(2).

In a suit filed by the Attorney General in the Supreme Court (Advisory Opinion No. 2 of 2012), seeking an advisory opinion on the implementation of the two-third gender principle under Articles 81, 27(4), 27(6), 27(8), 38, 96, 97, 98, 177(1), 116, 125 and 140 of the Constitution, the CIC, NGEC and CAJ were enjoined as interested parties, mainly advocating for indivisible realization of women's political rights. The commissions work closely with the Directorate of Gender to ensure women's rights are realized and integration of gender perspectives in development as elaborated in the report.

The Government has established seed funds such as the Women's Enterprise Fund, the Youth Enterprise Fund and the Uwezo Fund among others, which have enabled women to access funds for starting or growing their business ventures without the burden of collaterals. The second Medium Term Plan (2013-2017) emphasizes gender mainstreaming and the empowerment of women as key priorities in ensuring equality between men and women in access to economic, social and political opportunities.

The Government has introduced the 30% affirmative action policy for women, youth and persons with disabilities in public procurement. Access to Government Procurement Opportunities (AGPO) Bill to entrench the practice into law for women youth and persons with disability is underway. According to the Public Procurement and Disposal Preference and Reservations Amendment Regulations, 2013, a procuring entity shall

allocate at least 30% of its procurement budget for the purpose of procuring goods, works and services for micro and small enterprises owned by women, youth and PWDs translating into USD 2.4 billion per year worth of business from the government to women, youth and people with disability.

Legislation: Legislative and policy measures include the adoption of the National Land Policy which recognizes women's rights to own property and the enactment of the Gender laws which include the Matrimonial Property Act, 2013 and the Marriage Act 2014. In particular the Matrimonial Property Act, 2013 safeguards women's property rights during and upon dissolution of the marriage. The Counter-Trafficking in Persons Act 2010, the Prohibition of Female Genital Mutilation (FGM) Act 2011 and the Sexual Offences Act 2006 outlaw specific forms of violence.

Article 4: Adoption of Temporary Special Measures to Accelerate De Facto Equality between Men and Women

The Constitution in Article 10 includes human dignity, equity, social justice, inclusiveness, equality, non-discrimination and protection of the marginalized among the national values and principles of governance that are to be used in applying and interpreting the Constitution and other laws, and in making or implementing policy decisions. This is further emphasized in Article 20(4) (a) which lists equality and equity as values to be promoted in interpreting the Bill of Rights and Article 21(3) which creates a duty on state actors to address the needs of "vulnerable groups" in society.

Programs such the 'Beyond Zero campaign' is part of the initiatives outlined in the Strategic Framework in HIV control and promotion of maternal, newborn and child health in Kenya that was unveiled on World AIDS Day 2013. The framework aims to galvanize high-level leadership in ending new HIV infections among children and reducing HIV related deaths among women and children in Kenya.

Free maternal care provision launched in July 2013 by the government has received financial commitment of Sh3.8 billion to fund the free maternal health care program, with an additional KSh700 million for free access to health centers and dispensaries, KSh3.1 billion for recruitment of 30 community nurses per constituency, KSh522 million for recruitment of 10 community health workers per constituency, and K Sh 1.2 billion for provision of housing units to health care workers, within its overall allotment of KSh10.6 billion for health care in the 2013/14 national budget.

Measures in public life and political participation are guaranteed in Article 27 (8) of the 2010 Constitution states that the 'State shall take legislative and other measures to

implement the principle that not more than two-thirds of the members of elective or appointive bodies shall be of the same gender. Participation through representation is nuanced in the Parliament (Articles 90, 97 and 98), National government (Article 130(2)) and the County government (Article 177(1); 197(2)). These provisions cut across elective and appointive positions and aim at achieving full diversity of the nation across ethnic, age, minority and gender considerations.

Article 5: Measures for Modification of Social and Cultural Patterns of Conduct

Enactment of The Prohibition of Female Genital Mutilation Act (2011) which provides at Section 27 that the Government should take positive measures in order to ensure the provisions of the Act are actualized. These measures include, *inter alia*, the undertaking of public education and sensitization of the people of Kenya on the dangers and adverse effects of female genital mutilation.

There is a National Framework on Prevention and Response to Gender Based Violence (2010) to guide and assure coordinated GBV interventions in the country. The Government of Kenya in partnership with other actors is undertaking various programmes to address GBV in the work place and in the public sector: Mapping of sexual and gender based violence services in order to raise high national level awareness of gender based violence services offered and available in the country and engaging various informal justice systems in Kenya including Council of Elders, in different regions. These programmes are important as informal justice systems to the women at the grassroots level

The Protection Against Domestic Violence Bill (2013) recognizes sexual violence within marriage, child marriage, FGM, incest, defilement, forced wife inheritance, interference from in-laws and sexual abuse as forms of domestic violence unlike previously when they were only associated with physical violence. Domestic violence will also include economic abuse, damage to property, emotional or psychological abuse, virginity testing. This bill addresses the socio-cultural causes of sexual and gender-based violence and will largely benefit young girls and women.

Provision of legal aid to GBV survivors where several agencies are providing free legal services to GBV victims /survivors including training on self representation to allow GBV survivors to represent themselves in court. The Government has since under the Children's Act, 2001 and FGM Act 2011, mandated gender and children officers to

provide paralegal and counseling services to victims of SGBV including facilitating multi-sectoral referrals.

Non-discriminatory Land and Property Ownership is safeguarded in Article 60 1(f) provisions for elimination of gender discrimination in law, customs and practices related to land and property in land meaning that women can now inherit land. To actualize the realization of this provision, National Land Commission Act recognizes the constitution of County land Boards that are gender-aware in their structure and/or composition.

Within marriage, the Matrimonial Property Act 2014: provides for equal status of spouses (**Section 4**) where a married woman has the same rights as a married man: to acquire, administer, hold, control, use and dispose of property whether movable or immovable; to enter into a contract; and to sue and be sued in her own name.

There is established Rules for magistrates and judges on sexual offences developed by the committee of the Judiciary to guide judges and magistrates in implementing the protective provisions of the Act. The Judiciary Training Institute has collaborated with various NGOs to conduct trainings for judges and magistrates on the SOA, violence against women and human rights.

Housing Situations for women in the informal settlements is being realized through the National Slum Upgrading and Prevention Policy (NSUPP). The NSUPP is being undertaken within a number of policy and legal frameworks. These include the National Housing Policy 2004, the National Land Policy 2009, the Constitution of Kenya 2010, the Draft National Urban Development Policy (NUDP) and Kenyan Vision 2030.

Truth Justice and Reconciliation Commission Report 2013 calls for an end to the above violations against women in all forms and for the advancement of substantive gender equality in order to prevent these abuses from continuing further into the future.

Article 6: Action to Suppress All Forms of Traffic in Women and Exploitation of Prostitution Of Women

The enactment of Counter- Trafficking in Persons Act 2010 and the Prohibition of Female Genital Mutilation Act 2011. Kenya has enacted the trafficking in person's act 2010. The Constitution of Kenya also guarantees fundamental rights and freedoms for all, men and women alike. Article 27(3) guarantee women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres.

The Government established the National Steering Committee on Counter Trafficking in Persons in 2012 to monitor the implementation of the Act. A National Plan of Action (NPA) has been developed as a measure to respond to the situation. A number of children and women trafficked within the country and outside the country are rescued and placed in safe places. Psycho-social support, rehabilitation, re-unification and re-integration programs are offered to the trafficked children and women.

The Government through the Ministry of Labour, Social Security and Services has since suspended all forms of recruitment of women to work in the Middle East. The decision to freeze the recruitment and suspend the licenses was taken in the wake of reports of maltreatment of Kenyan domestic workers in Middle East countries including sexual harassment and forced prostitution.

Article 7: Measures to Eliminate Discrimination against Women in and Ensure Equality in Political and Public Life

Constitution and Legislative development: Articles 27 (3), (4), (6) and (8) as read together with Article 81(b), 96, 97, 98, 177(1) (b), 116 and Article 125 provide inter alia that not more than two thirds of the membership of any elective or appointive bodies shall be of the same gender- which include the National Assembly, Senate and the County Assemblies. In addition, the Constitution guarantees the recruitment and appointment of women to the highest echelons of public service by outlawing the occupancy of office in any public organization by more than two-thirds of either gender.

The Political Parties Act 2011 provides that every political party shall among other requirements respect and promote human rights and fundamental freedoms, and gender equality and equity. It is noteworthy that although political parties are required to respect and promote gender equality and equity, there is no penalty for noncompliance with this provision of the law.

Elections Act 2011 provides that persons are still eligible to vote even if they fail to produce a voter's card, which reduces the barriers to women's suffrage. It is useful because, in some cases, women's voter cards are withheld or in the custody of their spouses or male relatives. In addition, it defines as an offence the use of force or violence during the election period, i.e., to compel or prevent a person from voting. This measure responds to past situations in which violence has forced women to stay away from the polls.

Leadership in the National Assembly; women presently chair seven out of the 27 committees in the National Assembly while also serving as vice-chairpersons in eight other committees but remain slightly represented in other House positions. On average, women currently comprise 20 percent of the membership of all National Assembly committees in the 11th Parliament.

Women's leadership in Senate committees is greater than in the National Assembly. One of the 11 committees is chaired by a woman, while women serve as vice-chairpersons on six other committees. Overall, women currently comprise 28 percent of the membership in all the Senate committees.

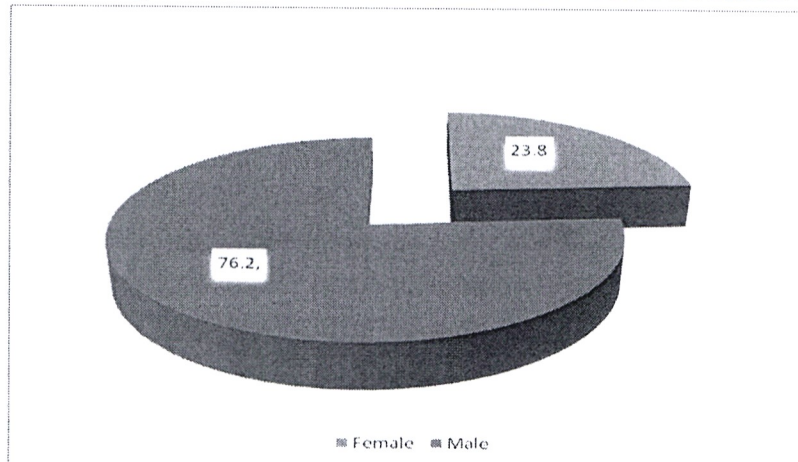
There has been marked progress in the representation of women in key Cabinet positions -The number of women Cabinet Secretaries in Kenya's Cabinet has increased. Women Cabinet Secretaries and Principal Secretaries constituted 33.3 per cent and 26.9 per cent respectively.

The Deputy Chief Justice and the Chief Registrar of the Judiciary are women. The number of women magistrates increased from 174 in 2012 to 218 out of a total of 486 in 2014. The number of women judges increased from 44 in 2012 to 48 out of a total of 126 Judges in 2014. This means that the gender threshold has been met in the highest levels of the judiciary.

Women are at the helm of 4 the key National Commissions - The chairpersons of Kenya National Commission on Human Rights, the Chairperson of the National Gender and Equality Commission, the Chairperson of the Salaries and Remuneration Commission and the Budget Controller. Women also occupy the positions of the Vice Chairpersons of the Commission on the Implementation of the Constitution, the National Land Commission and Public Service Commission. Women form not less than one third of the members of the entire constitutional and Statutory Commissions.

Women County Commissioners constitute 36.2 per cent of the total County Commissioners appointed by the President. These figures indicate that there has been a marked increase in the appointment of women to decision-making positions in Kenya's government and that the official goal of a minimum of 33 per cent representation of women is progressively being attained in many key positions.

Article 8: Women's Representation of the Government at International Level



There continues to be underrepresentation of women in the Diplomatic corps positions despite the constitutional provision requirement for equitable representation of men and women in appointive positions.

ARTICLE 9: Women's Rights to Nationality

The Constitution (2010) on its chapter on citizenship clearly defines the concept of acquisition and loss of citizenship for Kenyan men and women. The law also grants dual citizenship and women are allowed to confer citizenship to their spouses. The Kenya Citizenship and Immigration Act (2011), effectively repealing the Kenya Citizenship Act Cap. 170, the Immigration Act Cap. 172 and the Aliens Restriction Act Cap. 173 Laws of Kenya.

On marriage and citizenship, the Act states that a foreign spouse of a Kenyan citizen who has been married for at least 7 years is entitled upon application to be registered as a citizen provided they meet the prescribed criteria. There is no requirement that the spouse be resident in Kenya throughout the 7 years period. All these provisions spell equality between men and women in conferment of citizenship before the law.

ARTICLE 10: EQUALITY IN THE FIELD OF EDUCATION

The right to education without discrimination is enshrined in the Constitution of Kenya 2010. Education is entrenched as a Fundamental Human Rights issue in the laws of Kenya (Article 10 (2) (b), 28, 43(1)(f)) with access to Basic Education clearly spelt in articles 53 1(b)(d), 54 (1)(b). The Government has gone ahead to criminalize all harmful cultural activities/practices such as early marriages that would deter girls from

realizing their full rights to education in Article (55d). In addition, Kenya's Education Act 2013, further articulates the right to education for all Kenyans and sets a broad framework for the attainment of the right to education.

The policy aims at providing every Kenyan, without any discrimination, with basic quality education and training which includes 2 years of pre-primary, 8 years of primary and 4 years of secondary/technical education. The policy aims at realization of universal access to basic education and training to ensure equitable access to education and training for all children, noting the importance of education in the lives of boys and girls as well as men and women.

The Ministry of Education Science and Technology (MoEST) adopted the Schools Sanitary Towel Program in the year 2011, a program previously spearheaded by civil society. The program focus is to enhance participation (retention and transition rates) of girls in education through provision of sanitary towels. The program is in its 4th year of implementation with a budgetary allocation of Kshs 400 million shillings in current FY 2014/2015.

Government efforts to encourage girls' uptake of Information, communication and Technology subjects: This is done by equipping schools with computers, capacity building of Science, Mathematics and Technology (STEM) teachers in subject content knowledge and use of gender-responsive pedagogy; sensitizing girls and boys, parents, communities, teachers, PTAs, SMCs, BOGs and educational managers, so as to change beliefs and attitudes about females' ability in Science, Mathematics and Technology (STEM).

More girls are now able to access higher education. Secondary school Gross Enrolment Rate (GER) has been on an upward trend since 2009. The GER increased from 49.3 per cent in 2012 to 56.2 per cent in 2013 and the Net Enrolment Rate (NER) for secondary schools increased by 6.4 percentage units to stand at 39.5 per cent in 2013.

Government Directive on issuing completion certificates to girls and boys, whether they have fees arrears or not, aims to enable transition to higher levels of education. Many girls from poor backgrounds are set to benefit from this executive directive and proceed to secondary school and other technical institutions having obtained necessary documents. This initiative complements Government's effort in the affirmative action of entry of girls to higher institutions.

Progress in Completion of Secondary School by girls: Increase has been attained in the number of girls enrolled in secondary school and in their secondary school completion rate. The number of KCSE candidates increased by 3.0 per cent from 432,443 in 2012 to 445,520 in 2013. The number of female candidates grew by 4.6 per cent to 202,539 in 2013 compared to an increase of 1.7 per cent for the number of male candidates.

The overall university student enrolment increased by 34.9 per cent from 240,551 in 2012/13 to 324,560 in 2013/14. The increase is attributable to higher enrolment levels in the public universities following the introduction of new courses in addition to upgrading of university colleges. Women student enrolment rose by 25.0 per cent to 131,375 in 2013/14 while male student enrolment increased by 42.6 per cent from 135,436 in 2012/13 to 193,185 in 2013/14.

The Government in partnership with non-state actors has supported the establishment of women centres in the leading public universities. This is exemplified by the African Women's Studies Centre, University of Nairobi which exists to promote scholarship and influence policy from African women's perspectives through research, teaching, publication and dissemination and engaging with policy makers.

Non-tolerance of learners' abuse: TSC Circular No. 3 of 2010 and Database on Disciplinary Measures including offences against a learner. Revisions of the code of ethics for Teachers – supposed to give interpretations on sections of protection of female learners. Moreover, the Ministry of Education Science and Technology (MoEST) is considering development of a Learners Protection Policy to prevent circumstances where girls are impregnated by their teachers. Review of Children's Act (2001) to strengthen protection mechanisms including protection of girls from all forms of violence including sexual harassment at school.

Article 11: Elimination of Discrimination against Women in the Field Of Employment

The Kenya law clearly states that there shall be no form of discrimination in employment. Both the Employment Act, section 5(3) and the Constitution of Kenya, Articles 26-51, bar any form of discrimination on the grounds of gender, (among others) in accessing employment and in employment security. In addition, Section 5 gives responsibility to the Minister, labor officers and the Industrial Court to ensure that employers promote equality of opportunity in employment in order to eliminate discrimination in employment.

Women and men cannot work in the same industries (especially mining sector). (Section 91 of the Employment Act, 2007). According to article 27 of the Constitution, employees can't be discriminated based on race, sex, pregnancy, marital status, health status, ethnic or social origin, color, age, disability, religion, conscience, belief, culture, dress, language or birth. Sexual harassment at workplace is prohibited by law and an employer is supposed to create a policy statement prohibiting sexual harassment at workplace.

All workers are meant to be treated equally as the law instructs, which means men and women should get the same pay if they do work of equal value. If a worker is discriminated in this regard, the law stands on their side in case of a lawsuit since discrimination in work compensation is unlawful and a liable offence in Kenya (Section 5.4 and 5.5 of the Employment Act, 2007).

The Micro and Small Enterprises Authority coordinates small and medium enterprises which are largely dominated by women. The National Micro and Small Enterprises (MSE) Bill (2011) takes cognizance of the fact that MSEs are the drivers of Kenya's economy and it aims at an organized, regulated and well-coordinated MSE sector in Kenya for improved productivity and growth. Recognizing the obstacles that women entrepreneurs face, the ILO supported the Government in the strengthening of member based associations and networks and the provision of business training and credit.

Unpaid and unrecognized work of women constitute majority of the labor force in family and commercial farms in Kenya. For example, women continue to mitigate and respond to disease challenges at the community level by providing community and home-based care. However these contributions have continued to go unrecognized due to the manner in which GDP is calculated.

Article 12: Measures To Eliminate Discrimination of Women in the field of Health

The framework for free maternal health services is provided for under several local, regional, and international mandates. Article 43(1)(a) of the Constitution of Kenya 2010 states that: Every person has the right to the highest attainable standard of health, which includes the right to health care services, including reproductive health care. The Constitution of 2010 further provides that a person has the right to emergency treatment (Article 43(2)), the right to inherent dignity and the right to have that dignity respected and protected (Article 28), and the right to access information (Article 35).

The Kenya National Patients' Rights Charter (2013) outlines the right to access health care, the right to receive emergency treatment in any health facility irrespective of

ability to pay, the right to the highest attainable quality of health care products and services, the right to be treated with respect and dignity, the right to information, and the right to complain, among others.

The Constitution explicitly permits abortion when “in the opinion of a trained health professional, there is need for emergency treatment or the life or health of the pregnant woman is in danger, or if permitted by any other written law Article 26(4)]. A “trained health professional” should be interpreted to include doctors, clinical officers, nurses, and midwives who have the appropriate training.

Training of community health workers: The Kenya Essential Package for Health has been updated to include health education on GBV which had largely been seen as posing risk to women in the reproductive health-age bracket. Similarly, the Government has spearheaded the training and follow-up of health care workers including community midwives in skilled care during pregnancy, child birth and thereafter launch of the maternal and neo-natal health roadmap on maternal health in 2010.

The Plan of Action for Kenya’s Adolescent Reproductive Health and Development Policy 2005-2015 recognizes that information and sex education is important for adolescents and they accurate appropriate information to make informed choices, enjoy healthy and positive lifestyles and avoid undesired consequences like unwanted pregnancy and STIs. The availability of youth friendly services has made this possible.

Adult HIV prevalence (ages 15-49) in Kenya, estimated at 6.3% in 2009, has declined from 8.4% in 2001. Between 2009 and 2010, the number of new HIV infections among children in Kenya has declined 43%—from 23,200 to 13,200. HIV prevalence among pregnant women was 5.6% in 2009, and in 2010, there were an estimated 87,000 pregnant women living with HIV in Kenya. The majority (92.5%) of health facilities in Kenya offer PMTCT services. HIV testing among pregnant women increased from 31% in 2005 to 83% in 2010 and 67% of pregnant women with HIV received efficacious ARVs for PMTCT in 2011. Kenya has adopted WHO Option A regimen for prophylaxis, and a Multi-Sectoral National AIDS Strategic Plan (2009/2010 – 2012/2013) is in place, of which PMTCT is a component.

Article 13: Measure For Elimination Of Discrimination Against Women in other areas of Social and Economic Life

Both the Government and Development Partners have increased the commitment to social protection interventions. Such measures include cash transfer programs for orphans and vulnerable children (OVC), older persons, persons with disability and the chronically food insecure in the arid lands (the Hunger Safety Net Program, HSNP).

On the safety net program, The OVC impact assessment based on various surveys (2008-2013) shows that there is 15% increase in consumption with a substantial improvement in dietary diversity of the household members. It also shows 13% reduction in poverty levels of the beneficiary households. There has been reduction of child labour by 6%, increased secondary enrolment by 6.6%, increased primary school retention by 15% and improved living dignity for beneficiaries. An audit carried out of the cash transfer programme in 21 Sub- Counties in 2013 revealed that majority of the beneficiaries of the CT-OVC and OP-CT Programme were female. 55% of the beneficiaries for PWSN were female compared to 45% male.

Article 27 of the Constitution provides for Equal and full enjoyment of rights; equal treatment in all spheres. Similarly, Article 43 e) rights to social security; g) appropriate social security to persons who are unable to support themselves and their dependants. The Social Assistance Act (2013) which provides for financial and social assistance to the poor orphans, vulnerable children, poor elderly persons, youth who are unemployed, disabled persons, widows and widowers, and people who have been disabled by acute chronic illness has been enacted to give effect to articles 43 of the constitution.

Legal Notice 21 of Public Finance Management Act: Uwezo Fund has been established as a permanent fund following the passing of Uwezo fund Regulations through Legal Notice 21 of the Public Finance Management Act 2014 published on 21st February 2014 to empower women, youth and PWDs economically.

Article 14: Measure to address the situation of rural women

The Agricultural Sector Development Strategy (ASDA) 2010-2020 is anchored in the long term development plan, Vision 2030. Key challenges meant to be overcome through ASDA include food security, poverty reduction, agribusiness development, access to markets and efficient use of inputs and agricultural credit of which the rural women and the youths are largely targeted.

Legislations on Land, Agriculture, Fisheries, and Food Authority Act, crop Act aim at accelerating production on-farm and off-farm activities besides increasing the value and marketability of the products. All these interventions will boost the household income for rural women largely dominant in small scale production.

The Economic Empowerment Program (EEP) is anchored on the Kenya Vision 2030 economic pillar of enhancing economic growth and reducing poverty. Its expected outcomes is to ensure that the poor and vulnerable (particularly women and youth) are empowered as economic agents including ensuring that the poor and vulnerable access micro-finances and new technologies. The program has since adopted the table-banking concept as mechanism of encouraging re-investible small-scale saving amongst women.

Devolution and reach to women: The devolution process has brought power, services and resources closer to the people through County Development Plans; County governments are bringing better services to the people with regards to: housing, sanitation, rural electricity, water supply, transport and communication.

Article 15: Equality of Men and Women before the Law

Enactment of a new progressive Constitution of Kenya 2010 provides the basis for equality and non-discrimination. Article 27 provides that every person is equal before the law and has the right to equal protection and benefit. Further, it provides that women and men have the right to equal treatment including the right to equal opportunities in political, social, economic and cultural spheres. Other grounds of equality provided for in the constitution include; pregnancy, race, sex, marital status, health, ethnicity or social origin, color, age, disability, religion, conscience, belief, culture, dress, language or birth. Additionally the law recognizes the equality of both parents in raising their children whether they are married to each other or not under Article 53.

In addition to the various constitutional provisions, the Judicial Service Act aims to ensure that the Judicial Service Commission and the judiciary: "facilitate access to justice to all Kenyans and "be guided in their internal affairs, and in the discharge of their mandates by considerations of social and gender equity and the need to remove any historical factors of discrimination"

Adoption of the National Land Policy which recognizes the role of women in land matters. It proposes review of succession, matrimonial property and other related laws to ensure gender equity and the enactment of specific legislation governing

division of matrimonial property to replace the English Married Women's Property Act of 1882.

Article 16-Equality in Marriage and the Family

Article 45(3) of the Constitution is one of the greatest achievements for women in the institution of marriage in the context of equality and non-discrimination. It states that Parties to a marriage are entitled to equal rights at the time of marriage, during the marriage and at the dissolution of the marriage.

The Marriage Act, 2014 is the consequential legislation for realization of article 45 of the Constitution. It repeals the previous numerous pieces of legislation that had governed the institution of marriage, thus making it easier and more user friendly for women seeking matrimonial justice.

Customary marriages which had been given second rate recognition in the previous legal regime are now anchored in law and are now registrable, thus making them less precarious and therefore offering more protection for women in customary marriages.

The Matrimonial Property Act 2013, the first time defines matrimonial property and creates space for prenuptial agreements. If the parties in a polygamous marriage divorce or a polygamous marriage is otherwise dissolved; Matrimonial property acquired by the man and the first wife, before the man married another wife, shall be retained equally by the man and the first wife only; Matrimonial property acquired by the man after the man marries another wife shall be regarded as owned by the man and the wives taking into account any contributions made by the parties.