

Beijing +15

How Far Have We Come, How Far to Go?



Assessing the Implementation of the Beijing Platform for Action in Kenya

Written by:

African Women's Development and Communication Network (FEMNET)
Association of Media Women in Kenya (AMWIK)
Centre for Rights Education and Awareness (CREAW)
Federation of Women Lawyers -Kenya (FIDA-K)
Girl Child Network (GCN)
GROOTS Kenya
Maendeleo ya Wanawake Organization (MYWO)

Compiled and Edited by:

Naisola Likimani, FEMNET

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Appreciation

The Beijing +15 National team members namely Association of Media Women in Kenya (AMWIK), Centre for Rights Education and Awareness (CREAW), Federation of Women Lawyers –Kenya (FIDA-K), Girl Child Network (GCN), GROOTS Kenya, Maendeleo ya Wanawake and African Women’s Development and Communication Network (FEMNET) are grateful to all who worked tirelessly to ensure that this report is successfully compiled. We are extremely grateful to all organisations and individuals that agreed to share information that has informed this Report. It has been a great collaborative effort and each organisation’s input and commitment to the process in the last four months is greatly appreciated. What is most unique about this process is that all organisations have worked tirelessly without any additional resources to generate the information that has been used to compile the report. Members were able to work against all odds to move the process “from commitments to action.”

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All comments and feedback are welcome (email to advocacy@femnet.or.ke)

- Beijing +15 Kenya CSOs Taskforce

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LIST OF ABBREVIATIONS

ACWICT	African Center Women and Information Technology
AMWIK	Association of Media Women in Kenya
ANPPCAN-K	Alliance Network on the Protection and Prevention of Children against Neglect - Kenya
ASALs	Arid and semi-arid lands
ASCU	Agriculture Sector Coordinating Unit
AWCFS	African Women and Children Feature Service
BPfA	Beijing Platform for Action
CAT	Convention Against Torture
CBSS	Community Based Support Systems for Children
CDF	Constituency Development Funds
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CERD	Convention on the Elimination of All Forms of Racial Discrimination
CIPEV	Commission of Inquiry on Post-Election Violence
CoE	Committee of Experts on the Constitution
COVAW	Coalition on Violence Against Women - Kenya
CPU	Child Protection Units
CRADLE	The Children's Foundation
CRC	Convention on the Rights of the Child
CREAW	Center for Rights Education and Awareness
CSOs	Civil Society Organizations
DTM	Development through Media
ECWD	Education Center for Women in Democracy
EPAs	Economic Partnership Agreements
ERSWEC	Economic Recovery Strategy for Wealth and Employment Creation
FGM	Female Genital Mutilation
FGM/C	Female Genital Mutilation/Cutting
FIDA-Kenya	Federation of Women Lawyers in Kenya
FOI	Freedom of Information
GBM	Green Belt Movement
GCN	Girl Child Network

GDP	Gross Domestic Product
HIV/AIDS	Human Immunodeficiency Virus/ Acquired Immunodeficiency Syndrome
HPV	Human papillomaviruses
ICCPR	International Convention on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICJ	International Commission of Jurists
IDPs	Internally Displaced Persons
IIEC	Interim Independent Electoral Commission
IOM	International Organization for Migration
KAACR	Kenya Alliance on the Advancement of Children
KEWOPA	Kenya Women Parliamentary Association
KIMC	Kenya Institute of Mass Communication
LATF	Local Authority Transfer Fund
M&E	Monitoring and Evaluation
MDGs	Millennium Development Goals
MOEST	Ministry of Education, Science and Technology
NAAIA	National Accelerated Agriculture Inputs Access
NALEAP	National Legal Aid and Awareness Programme
NASEP	National Agriculture Sector Extension Policy
NGOs	Non-Governmental Organizations
NPA	National Plan of Action
PAC	Post Abortion Care
PEV	Post Election Violence
RHRA	Reproductive Health and Rights Alliance
SACCO	Savings and Credit Cooperative
SDGEA	Solemn Declaration on Gender Equality in Africa
SGBV	Sexual and Gender Based Violence
GBV	Gender Based Violence
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Fund
VAW	Violence against Women
WEF	Women's Enterprise Fund
WRAP	Women's Rights Awareness Programme

1. SUMMARY

Kenya ranks 98 out of 134 countries in the World Economic Forum Gender Gap Index for 2009. The report's Index assesses countries on how well they are dividing their resources and opportunities among their male and female populations, regardless of the overall levels of these resources and opportunities. Kenya ranked 50th in the area of Economic Participation and Opportunity in the index, and ranked 106th in Educational Attainment, 110th in Health and Survival, and a dismal 122nd in Political Empowerment. The report also shows there has been no significant change in Kenya's overall ranking between 2006 and 2009¹

The Kenya Beijing +15 Shadow Report reflects some of these disparities in the equal promotion and protection of women's human rights in Kenya, most evident in the areas of violence against women, health, education and political participation. This review by civil society attempts to assess the level of implementation of the Beijing Platform for Action, which is a commitment by Governments to accelerate the realization and enjoyment of women's human rights in 12 critical areas of concern. It also highlights the contributions by civil society, the gaps in government's implementation of the Platform for Action, the challenges and constraints, and the explicit recommendations by civil society for the urgent realization of these rights before Beijing +20, which will be the last official review worldwide, and the deadline for achieving the Millennium Development Goals (MDGs).

A few steps forward

It is noted severally in the report that there has been some progress in the implementation of the Beijing Platform for Action since the last review in 2004, however the progress has been slow, uneven, and retarded by the failure by government to swiftly and effectively implement policies, laws and the national reform process.

Some of the major achievements noted include the enactment of the Sexual Offences Act in 2006 and the establishment of the Women's Enterprise Fund in 2007. Additionally, progress has been widely acknowledged in the formulation of various policies and laws that seek to bridge the gender gap and end discrimination, particularly in the areas of employment and education. Moving beyond measurements of progress, tangible results are evident in the narrowing gender gap in primary school enrolment.

The current reform agenda underway in the country is also widely acknowledged by women's civil society organisations as a positive step forward in addressing the broad spectrum of injustices and inequalities faced by women in Kenya, particularly in reference to access to land, justice, and participation in governance and democratic processes.

¹ The Global Gender Gap Report, World Economic Forum, 2009. Available at <http://www.weforum.org/pdf/gendergap/report2009.pdf>

A few steps back

For all the policies and laws enacted by Government, women in Kenya continue to disproportionately bear the brunt of discrimination, poverty, the HIV AIDS pandemic and harmful traditional practices. These and other mitigating factors such as their lack of ownership of land and access to productive resources, lack of adequate participation in the formal economy, violence in everyday life and most notably in the Post Election Violence of 2007 and 2008, and inadequate access to healthcare, serve as persistent barriers to women's full and equal enjoyment of their human rights.

The government has also shown little political will in addressing the fundamental issues that besiege women and keep them at the bottom of the economic, political and social ladders. For example, the report shows in almost every critical area of concern that the failure by government to enact the long overdue Family Protection, Marriage, and Matrimonial Property Bills is a clear signal to the women of Kenya that their rights and issues are not a priority. Additionally, the State has failed to ratify the AU Protocol on the Rights of Women in Africa, which has clear and Africa-specific provisions on the issues of inheritance, harmful traditional practices and reproductive health rights.

The failure to address the patriarchal traditional and social practices and beliefs that are deeply embedded in institutions from the household level to the national level, is another reason that 15 years after Beijing, Kenyan women are still fighting the same battles for the rights to inherit property, for the right to own land, for equal participation in the economy and positions of leadership, for adequate redress for gender based violence, and for full recognition of the value of the unpaid work women all over the country engage in.

The Post Election Violence in 2007/2008 was a watershed moment in Kenyan history that also served to erode many of the gains perceived to have been made by women. The report highlights how the crisis cost women severely through loss of life and unspeakable violations, through continued impunity for the perpetrators of this violence, through loss of income and property, and through a lack of participation in the conflict resolution and peace building processes. Therefore even as women's civil society organizations laud the constitutional, election, reconciliation and cohesion reform processes underway, the slow pace at which they are progressing, and the invariably gender-blind tendency of the processes, are cause for grave concern.

Way Forward

The Kenya Beijing +15 Shadow Report makes many key recommendations based on the organisations' on-the-ground experience and expertise in the areas of women's and human rights, that are imperative for the government to undertake in order to realize their commitments to the women of Kenya. The primary recommendations relate to the Agenda 4 reforms as articulated in the Kenya National Dialogue and Reconciliation Framework and its implementation; the enactment and implementation of the "gender bills"; and the accelerated finalization, enactment and implementation of the National Land Policy.

Kenya Women's civil society are calling on the government to urgently review and consider the recommendations in this report as part of the development agenda for the nation, and as part of their responsibility to the rights of the more than 50% proportion of the population – the women of Kenya.

2. THEMATIC AREAS

2.1 *Women, Poverty and the Economy*

Women and Poverty: Strategic objectives in the Beijing Platform for Action:

1. Review, adopt and maintain macroeconomic policies and development strategies that address the needs and efforts of women in poverty.
2. Revise laws and administrative practices to ensure women's equal rights and access to economic resources.
3. Provide women with access to savings and credit mechanisms and institutions.
4. Develop gender-based methodologies and conduct research to address the feminization of poverty.

Women and the Economy: Strategic objectives in the Beijing Platform for Action

1. Promote women's economic rights and independence, including access to employment, appropriate working conditions and control over economic resources.
2. Facilitate women's equal access to resources, employment, markets and trade.
3. Provide business services, training and access to markets, information and technology, particularly to low-income women.
4. Strengthen women's economic capacity and commercial networks.
5. Eliminate occupational segregation and all forms of employment discrimination.
6. Promote harmonization of work and family responsibilities for women and men.

In ²Kenya, over 80 % of women live in the rural areas where the majority is engaged in the farming of food and cash crops, livestock keeping and in agro-based income generating activities. It is estimated that women constitute over 70 % of all employees in the agricultural sector. The majority are casual or seasonal employees with no security of tenure and no employment benefits such as housing, medical schemes and pension. Their wages are low and uncertain, and they are classified as being among the poorest of the poor, with particular reference to those heading households.

In many areas of the country, social and cultural constraints persist that hinder women's participation and inclusion in decision-making at the family, community and institutional levels. Major decisions affecting women's participation in agriculture and food production are therefore made without their participation. Traditional and social practices also deny many women the right to property ownership. This puts women at a disadvantage in seeking access to credit, agricultural inputs, marketing outlets and the opportunities accruing from membership of agricultural co-operatives. In most cases, access to credit, training and improved production techniques are linked to

² National Gender and Development Policy-Sessional Paper No. 5 of 2005

access to land ownership. Women cannot therefore qualify for any credit that is tied up with collateral requirements, which are often based on a land title deed.

Furthermore, traditional and social practices governing land and livestock ownership, access and control over resources and benefits accruing from agricultural production, severely limit women's capacity for increasing production. This limitation is compounded by the high rate of illiteracy among women in the rural areas, which is a great hindrance to their self-reliance and ability to acquire knowledge.

Poverty is now recognized as a major threat to a very significant section of Kenyan households with serious implications on the security and economic stability of the country. By definition, poverty is multi-dimensional including shortage of income and deprivation in access to basic social services (education, health and water), food security, shelter, credit and employment. It can be defined in absolute and relative terms. Absolute poverty refers to inability to attain a minimum standard of living measured by a range of economic and social indicators such as household incomes and expenditure per capita, health status, life expectancy, access to basic social services, infant mortality rate, nutritional status and literacy. It therefore manifests in hunger and chronic malnutrition, high levels of illiteracy, lack of sufficient income and productive resources, increasing morbidity and mortality, homelessness, inadequate housing, and social discrimination. Relative poverty on the other hand compares the status of an individual to those around them.

The weight of poverty falls disproportionately on women. Female members of poor households are often worse off than male members because of gender-based differences in the distribution of resources within the family. In rural areas, female-headed households tend to be among the poorest.

In October 2009, GROOTS Kenya carried out a rapid assessment in 4 areas namely Kakamega, Kitui, Gatundu and Nairobi to establish the extent of advancement of women (especially grassroots women) in the areas of poverty and economy for women. Some of the key findings of the assessment include that grassroots women and their communities have continued to face challenges in food (cash and food crops) production and distribution, literacy, especially in the access to higher and tertiary level education, sexual harassment at work, and inadequate ownership of land and property. The assessment also found that knowledge of international and regional instruments that seek to advance women's empowerment was low within grassroots communities. Additionally there was still low representation of women in devolved funds committees as well as incidences of corruption in these committees thereby hampering the effective investment in communities' socio-economic advancement. Challenges in the uptake of funds provided in national catalytic funds such as Women Enterprise and Youth Funds also continue to hamper gains in poverty reduction. Women have continued to face challenges in accessing large credit facilities to expand their business due to inaccessible regulations in banking institutions.

The post election violence (PEV) experienced after the general election in December 2007 also had a negative effect on the nation's GDP, economic activities and

cohesion within communities, which subsequently impacted women's economic advancement.

Actions Taken by Government in 2004-2009

The following captures some of the Government's contribution in promoting women's economic advancement and facilitating poverty reduction in the country, since the Beijing +10 review in 2004:

- a) **Launch of the Vision 2030 in 2008-** this document acts as long-term development blueprint for the country. The document also forms the basis for all stakeholders to draw from towards creation of a globally competitive and prosperous country with a high quality of life by 2030.
- b) **Development and adoption of a National Policy in Gender and Development in 2005** - The policy is intended to facilitate the mainstreaming of the needs and concerns of women in all areas of development. The policy includes regulatory and institutional reforms that need to be undertaken to ensure that obstacles to equitable and sustainable development³. A Plan of Action has also been finalized that will be used as a guide by stakeholders' in the implementation of the policy.
- c) **Enactment of the Employment Act No. 11 of 2007**, which came into operation on December 27, 2007 and replaced the old employment law. The legislation has some very progressive provisions that seek to remove discrimination of women at the work place. The provisions include prohibition of discrimination and termination on basis of sex or pregnancy, provisions on sexual harassment, requirement for equal pay for all men and women performing work of equal value and provisions that ensure female employees entitlement to 3 months maternity leave with pay. The government, through a ministerial directive, has also ensured participation of women in military service.
- d) The Government has also put in **various mechanisms to improve agricultural productivity in rural areas** in order to facilitate food security in the country. These reforms include Agriculture Sector Coordinating Unit (ASCU), the National Agriculture Sector Extension Policy (NASEP), the Support for Rural Communities and Poverty Eradication and Food Security Initiatives and National Accelerated Agriculture Inputs Access (NAAIA)
- e) **Ministry of Cooperative Development has put in place special measures** to facilitate transformation of women's merry-go round activities from informal self-help groups into formal institutions with legal backing in the form of women's Savings and Credit Co-operative (SACCO) societies.

³ Millennium Development Goals Status Report for Kenya-2007

- f) **Introduction of Catalytic Funds namely the Women’s Enterprise Fund (WEF) and the Youth Enterprise Fund** that have enabled women access to micro-credit facilities as well as opportunities to develop their capacities in entrepreneurship.
- g) **Establishment of Decentralized Funds such as the Constituency Development Fund (CDF)** with the aim of uplifting the socio-economic lives of rural women and men.
- h) **Improved Social Protection through the National Hospital Insurance Fund and National Social Security Fund.** These facilities are accessible to persons both in the formal and informal sector throughout the country.
- i) **Legislative and Policy Reforms-** The draft Kenya National Land Policy was passed by cabinet this year and awaits consideration by the parliament. The policy has some progressive gender provisions that ensure access and ownership of land by women. The policy provides joint spousal registration of land rights, joint spousal consent to land disposal and protection of widows through the enactment of matrimonial property. The current legislative reforms being undertaken by the Law Reform Commission of “Gender bills” (Matrimonial Property Bill, Marriage Bill, Equal Protection Bill, Family Protection Bill) will complement the process of land reforms. Additionally the Department of Land Adjudication and Settlement introduced a mandatory administrative requirement that provides for 30% of District Settlement Plot Allocation Committee to be women. The presidential decree to have 30% of women holding positions in public office is also another positive step to women’s empowerment.
- j) **Improved Monitoring and Evaluation (M&E) on Gender Mainstreaming-** the finalization of the M&E framework for Gender Mainstreaming and the Kenya Data Sheet by the Ministry of Gender, Children and Social Development provide frameworks to demonstrate gender position and conditions across social, economical and political arenas. The tools are also important in monitoring the gender mainstreaming in the country as well providing sex disaggregated data.

Actions Taken by Civil Society in 2004-2009

After the Beijing Platform for Action was launched civil society organizations (CSOs) have taken the initiative of promoting and increasing the meaningful participation of women in local and national economies. CSOs have been instrumental in promoting socio-economic advancement of women especially in mobilizing community members to address negative social cultures and norms that hinder women’s empowerment. CSOs have been able to organize and build the capacity of women self-help groups to register with the government and access funds to support their activities. As a result there has been an increase in the number of women’s groups

taking up and utilizing funds under WEF and Youth Enterprise Fund and these can be largely attributed to both awareness creation and capacity development on different economic issues carried out by CSOs.

Policy advocacy has been another area where CSOs have greatly contributed to especially in pushing for reforms in the CDF Amendment Act, Kenya National Land Act, Gender Bills Reforms, ratification of the African Union Protocol of the Rights of Women in Africa, and also for Agenda 4 institutional and constitutional reforms taking place. CSOs have also acted as watchdogs to ensure that laws and policies are put into practice and benefit women in an equitable fashion. The Federation of Women Lawyers in Kenya for example, released a study in 2009 showing that there were several barriers to women accessing the funds in the WEF.

Strategies Implemented

The strategies employed by government and CSOs in poverty eradication and improving the economic situation of women are:

- ***Establishment of catalytic funds*** such as the Women and Youth Enterprise Funds
- ***Institutional and Policy Reforms***- Establishment of the Gender Ministry; the Secretariat to coordinate WEF to articulate issues of women more widely.
- ***Legislative reform***- Reforms in the Land Policy and “Gender Bills”.
- ***Utilization of Sector Wide Approach***- Others departments/ministries within and without the Ministry of Gender have been involved on this process. Additionally the government has also involved other partners such as CSO in promoting women’s empowerment.
- ***Community mobilization*** and community-led campaigns to address cultural norms and practices that hinder women empowerment.

Challenges and Constraints

The following are some challenges that hindered women from economic advancement during the period under review:

1. **Post Election Violence**- Increased and wide spread gender based violence (GBV) especially as witnessed during the post election violence after the December 2007 general elections has reduced women’s economic empowerment and advancement. A total of 354 cases of the violence were reported during the PEV and women and girls formed the majority (63.9%) of internally displaced persons (IDPs) in camps, enduring a lot of physical, emotional and psychological suffering. The



post election violence also resulted in negative economic impact affecting the country GDP and economic growth. Women suffered more loss in the form of lives, property, agricultural livelihoods and business⁴.

2. **Low Ownership of Land and Property**- Only 3% of Kenyan women own title deeds thereby minimizing their opportunities to access credit. Empirical evidence reveals that there is a significant gap in poverty between female-headed households and male-headed households. In rural areas 48% percent of male households have been classified as poorer compared to 50% of female-headed households. In urban areas the gap is larger and stands at 30% for male-headed households while female-headed households constitute 46%.⁵
3. **Societal Practices that Limit Opportunities in Education for Girls and Women** have continued to pose the biggest challenge in women's participation in the labour force. Evidence shows that girls enter into elementary school in large numbers but at the higher and tertiary level of education the presence of girls and women reduces. This means that they do not acquire necessary educational qualifications and technical competencies to secure paid employment. Factors driving this situation include forced or coerced early marriages, unplanned or early pregnancies, cultural norms and GBV and competing needs for the limited resources of poorer families.
4. **Widespread Poverty**- Poverty is another factor that hinders women from equal participation in economic development and employment. Many parents still prefer to educate the boy child when resources are meagre. The HIV AIDS pandemic has exacerbated poverty in that the premature death of breadwinners often leaves orphans without parental care. The pandemic also reduces income levels of households if the bread winner(s) suffers from frequent illness.
5. **Unpaid and Unrecognized Work of Women** – women constitute 70% of the labour force in family and commercial farms in Kenya. Additionally, women continue to mitigate and respond to disease challenges at the community level by providing community and home base care. They are the main food providers and insurers of the health of their family members. However these contributions have continued to go unrecognized and uncompensated mainly because Kenya has not developed a framework for quantifying this labour and analysing its contribution to the sustenance of the economy and society in general.

⁴ A situational Analysis on Sexual and Gender Based Violence in IDP camps after the Post Election Violence in Kenya (Feb 23, 2009)

⁵ Kenya Vision 2030

6. **Under-representation of Women in Devolved Funds Committees-** There is insufficient representation of women in management committees of devolved funds whose main objective is poverty eradication such as in the Constituency Development Fund (CDF) Fund and LATIF (Local Authority Transfer Fund).
7. **Widespread Corruption-** the endemic corruption that has continued to plague government institutions and in developed fund committees' has only served to further hinder women's economic empowerment.
8. **Insufficient Social Protection for Women-** the National Hospital Insurance Fund only covers in-patient costs. There is need to ensure that the special health care needs of women are catered for and subsidized by the government. There is need to increase sensitization among the workers in the informal sector about the benefits of savings through the National Social Security Fund scheme.
9. **Enhancing Access to Credit and Financial Facilities-** While the government has introduced catalytic funds (such as the Women's Enterprise Fund) to facilitate women access to micro-credit facilities, women are still not able to access credit facilities of large amounts because they cannot prove ownership of property and land which is needed as collateral to access these facilities. The FIDA-Kenya report identifies some key challenges facing the WEF including inaccessibility of the application forms, lack of knowledge of how to fill in the application forms, high interest rates charged by banks who disburse the Funds, and financial institutions who demand collateral from women before giving them loans, which, since lack of collateral was the main reason for creating the fund, flies in the face of the fund's objectives.
10. **High Cost of Food and Cash Crop Production and Distribution-** Most women particularly those living in poor communities incur high costs of food production and distribution. Farmers also lack reliable markets for their products and often face unfair trade policies at the international level. Most farmers have resulted in abandoning cash and food crop farming and opted to venture into other income generating activities or move to the city/ big towns looking for greener pastures. However, the majority end up living hand to mouth in very poor conditions in the slums of Nairobi and other towns. This has left many rural and urban communities facing problems in food and nutritional security



11. **Sexual Harassment in the Work Place**- Women working in lower cadres of the employment chain continue to experience sexual harassment at the workplace and many are forced to provide sexual favours in order to secure preferential treatment for accessing housing facilities, promotions, training and other fringe benefits.

Recommendations for Further Action

- Agenda 4 issues (including constitutional, institutional, economic reforms and national cohesion efforts) as articulated in the Kenya National Dialogue and Reconciliation Framework and its implementation matrix should be effectively implemented to ensure national cohesion and reconciliation and thereby preventing violence of the magnitude of the PEV.
- The 'Gender Bills' need to be swiftly enacted and implemented
- The Kenya Land Policy should be adopted and operationalized by the government
- Implementation of Vision 2030 needs to be fast tracked.
- Aggressive campaigns to transform communities from harmful traditional practices and GBV need to be embarked upon by the government in partnership with CSOs, as noted in the Solemn Declaration for Gender Equality in Africa (SDGEA, 2004), which Kenya is a party to. Male participants in these campaigns should be increased in order to ensure ownership and transformation of both genders on the values of women empowerment.
- National efforts in the prevention, mitigation and response to HIV AIDS especially in rural areas should be strengthened with a special focus on addressing the intersection between violence against women and girls and the spread of HIV/ AIDS.
- So as to transform negative perceptions and ensure women's work is adequately compensated, government, in partnership with civil society, needs to embark on mobilization and awareness campaign on the importance of women's role in care giving and encourage men's sharing in care giving responsibilities to reduce the burden on women and girls.
- There is need to ensure women's participation in CDF and LATIF committees by introducing quotas for women on all the management boards for these funds.
- NHIF should move quickly to provide cover for outpatient costs for its members.
- Government should amend banking policies and regulations in order to ensure flexible requirements and lower interest rates. Special efforts should be made to

popularize the WEF particularly in the provinces showing low utilization, and remove the barriers that women face in accessing the Fund

- Government should ensure policies to enhance agricultural development are fast tracked and properly implemented across the country. The government should work with other partners to influence alternatives to Economic Partnership Agreements (EPAs) of the World Trade Organization in order to ensure farmers (particularly women farmers) are not further disadvantaged by the unfair provisions of this framework.
- Government in partnership with civil society should ensure, through aggressive information and media campaigns that all employers are aware of and have operationalized the new Employment Act in addition to putting in place gender policies in the work place. There should be quota for women in trade unions and this quota should be legislated in the Employment and Labour Relations Acts. This will not only ensure women's voice in labour relations but also enhance participation of women in bargaining for better work conditions and terms in the work place.
- Government should raise awareness on the provisions of the Sexual Offences Act and ensure accessible, affordable and efficient dispensation of justice for women who suffer gender and sexual violence violations.

2.2 Education and Training of Women

Strategic objectives in the Beijing Platform for Action:

1. Ensure equal access to education.
2. Eradicate illiteracy among women.
3. Improve women's access to vocational training, science and technology, and continuing education.
4. Develop non-discriminatory education and training.
5. Allocate sufficient resources for and monitor the implementation of educational reforms.
6. Promote lifelong education and training for girls and women.

Empowerment of women in education and training has been a slow process for the Kenyan woman. This is evidenced in the low literacy levels experienced in Kenya where 59 % of the women in Kenya are literate in comparison to their male counterparts who have a 64% literacy rate.⁶ To-date women continue to find difficulty in accessing information, formal and informal education and training programs, which is attributable to poverty, gender inequality and socio-cultural biases.



Therefore there is urgent need for government to prioritize education and training for women to bridge the gender gap in this area. The tables below show the inequities in obtaining education for girls in Kenya. Table 2A shows that girls have held about a 49% enrolment into primary school, however what is not evident from the table is 1) the disparities between different regions in the country, for instance in North eastern Province boys numbered almost double the number of girls in primary school enrolment⁷ and 2) the drop out rate of girls once enrolled.

However what is clear from a comparative analysis between Tables 2A, 2B, 2C and 2D is the progressive attrition of girls in the educational system. Table 2B shows that the proportion of girls in secondary school has decreased by almost 3% since 2000, and Table 2C further illustrates how at least 20,000 girls disappear from secondary school between Forms I and IV. Finally, Table 2D highlights that at the university level, girls comprise only a third of students.

⁶ Kenya National Adult Literacy Survey (2006)

⁷ Ministry of Education, Statistics Section, 2005-2006

Table 2A: Primary School Enrolment by Sex, 2000 – 2008 (In 000)

Year	Boys	Girls	Total	% Girls
2000	3064.5	3013.6	6078.0	49.6
2001	3002.5	2939.1	5941.6	49.3
2002	3074.0	2988.8	6062.7	49.3
2003	3674.4	3485.1	7159.5	48.7
2004	3,815.5	3579.3	7394.8	48.4
2005	3,902.7	3688.8	7591.5	48.6
2006	3,896.6	3,735.5	7,632.1	48.9
2007	4261.0	4069.1	8330.1	48.8
2008*	4358.7	4205.1	8563.8	49.1

Source: Ministry of Education, Science and Technology

Table 2B: Secondary School Enrolment by Year and Sex, 2000 – 2008

Year	Male	Female	Total	% Female
2000	402504	356463	758967	47.0
2001	403390	359855	763245	47.1
2002	411777	369824	778601	47.5
2003	462750	419763	882513	47.6
2004	490506	435644	926150	47.0
2005	494157	439992	934149	47.1
2006	546072	484008	1,030,080	47.0
2007	638690	541577	1180267	45.9
2008	735680	593284	1328964	44.6

Source: Ministry of Education, Science and Technology, 2009

Table 2C: Secondary School Students Enrolled by Form and Gender

Form	2004		2005		2006		2007	
	Male	Female	Male	Female	Male	Female	Male	Female
I	146,145	126,557	139,469	124,384	161,588	137,873	170,297	142,672
II	124,585	114,053	122,867	109,471	132,015	119,077	173,444	149,602
III	117,975	105,118	120,912	107,770	120,978	115,443	157,903	134,765
IV	101,301	89,416	110,909	98,367	131,491	111,615	137,749	113,835
Total	490,006	435,144	494,157	439,992	546,072	484,008	639,393	540,874

Source: Republic of Kenya, National Bureau of Statistics, Statistical Abstract (2008),

**Table 2D: Total Student's Enrolment in Public Universities including part time,
1995/1996 - 2008/2009**

Year	Male	Female	Total	% Female
2000/2001	33,444	17260	50704	34.0
2001/2002	39,637	23,040	62677	36.8
2002/2003	46875	24957	71832	34.7
2003/2004	47087	25464	72551	35.1
2004/2005	53394	28097	81491	34.5
2005/2006	53737	27940	81677	34.2
2006/2007	56517	34820	91337	38.1
2007/2008	60504	36603	97107	37.7
2008/2009*	62753	37896	100649	37.7

Source: Joint Admissions Board

Actions Taken by Government in 2004-2009

The following are the actions taken by government to address education and training for women in Kenya:

- a) **Development of the Gender Policy in Education**, which addresses need to ensure gender equality at all the various levels of education. For example, this policy supports the continuation of girls' education even after an unplanned pregnancy. Efforts have been made to ensure that pregnant girls do not miss taking their final examinations just because they are pregnant.
- b) **Implementation of affirmative action** where entry points for girls transiting to higher education have been lowered to increase the proportion of girls in public universities. The affirmative action takes cognizance of the obstacles that girls face in attaining education, such as harmful cultural practices and negative perceptions towards girls in education, among others.
- c) In the Ministry of Education, Science and Technology (MOEST) there is a **program on Technical Industrial Vocational and Entrepreneurship Training**. One of the objectives of this program is "to reduce inequity in society through increased training opportunities for the females, the disabled and learners from poor households".⁸
- d) **Revision of the adult literacy program/adult education** by government in order to achieve Education For All goals
- e) **Facilitating all eligible students**, for example those in flooded areas or in IDP camps, to sit for their final examinations

⁸ Ministry of Education, National Action Plan on Education for All (2003-2015) p.79

Actions Taken by Civil Society in 2004-2009

- Participation of CSOs in the development, validation and lobbying of the enactment of the Gender Policy in Education. This led to the inclusion of gender – responsive provisions in the policy for example Girl Child Network contributed to 4 thematic areas of the policy: Gender Responsive Learning and Work Environment (sec 2.14), Gender Based Violence and Sexual Harassment (sec 2.15), Gender Responsive Management of the Sexual Maturation Process (sec 2.17) and Gender Pedagogy (which has been mainstreamed throughout the policy)
- Lobbying for initiatives such as the affirmative action that gives girls an equal opportunity to access educational opportunities as their male counterparts.
- Organizations such as Education Center for Women in Democracy (ECWD) carry out trainings for women on various skills and knowledge such as inheritance and property rights, civic education and governance. These initiatives aim at enhancing women’s participation in the social, economic and political spheres and increase legal literacy among women.
- CSOs have also engaged women and built their capacity on Reproductive Health Rights and HIV/AIDS issues. This is primarily due to the fact that women and girls are the most vulnerable to GBV (including FGM), and acquiring HIV, which serve as a barrier to educational advancement.
- Organizations such as AMWIK have sponsorship programs for women to join higher education learning institutions.
- Establishment of women self help groups that are forums where women offer support to one another and assist on various issues such as literacy programs.
- Support of Girls’ education in North eastern region by organisations like WomanKind Kenya in Garissa, which targets vulnerable girls such as those escaping FGM and those infected or affected by HIV AIDS

Strategies Implemented

- ***Lobbying and advocacy*** - through which initiatives such as the affirmative action in universities were put in place.
- ***Creating awareness for women*** - on their rights and the legal instruments that govern these rights.
- ***Building women’s capacity*** - with skills and knowledge that will allow them to access resources that would empower them and engage in Income Generating Activities that enhance their economic independence.
- ***Partnering with media*** - to create awareness on the rights of women and the need for their empowerment in society.

- **Use of role models** - particularly women who have been able to overcome various obstacles and achieve educational and career goals. Forums are created at the community level where these women can share their testimonies

Challenges and Constraints

1. **Poverty** - which continues to make it difficult for women to access educational and training programs, as there are other “competing priorities” especially at the family level.
2. **Low awareness** by women of adult education opportunities that increase their literacy and facilitate economic empowerment.
3. **Lack of clear policies** on Adult Education thereby slow implementation of the program.
4. **Socio-cultural perceptions** towards women who are perceived as primarily homemakers thereby limiting them to access empowerment opportunities.
5. **Limited data** to show the progress made by girls and women to access better employment as a result of improved access to education and training opportunities.

Recommendations for Further Action

- Where a uniform statutory scheme is already in place, all discriminatory provisions that adversely affect women with regard to access to education and property rights must be repealed in keeping with the provisions of the Convention for the Elimination of all forms of Discrimination Against Women (CEDAW) and the Protocol on the Rights of Women in Africa
- Government must do more to address the causes of low female enrollment and completion rates by developing policies that are responsive to women.
- Resources should be provided to institutions to facilitate the implementation of numerous legal reform measures such as reproductive rights, access to education and economic and development for women and girls, among others.
- The private sector at all levels is an engine of economic growth and development and should therefore bolster opportunities for the advancement of women’s education and training. They must act responsibly and recognize their social responsibility for advancing the rights of women.
- Partnership between government and civil society in advancing adult education in the country and reducing illiteracy levels among women should be intensified.

- The government, private sector, media and the civil society should continue to create awareness on the importance of women's empowerment particularly through education and training.
- The Kenya Employment policies should provide for the absorption of a percentage of male and female graduates on a yearly basis into the civil service and support their retention in the service.
- Government and civil society should closely monitor the job market in relation to the relevance of the education and training offered at different levels and by different institutions of higher learning.

2.3 Women and Health

Strategic objectives in the Beijing Platform for Action:

1. Increase women's access throughout the life cycle to appropriate, affordable and quality health care, information and related services.
2. Strengthen preventive programmes that promote women's health.
3. Undertake gender-sensitive initiatives that address sexually transmitted diseases, HIV/AIDS, and sexual and reproductive health issues.
4. Promote research and disseminate information on women's health.
5. Increase resources and monitor follow-up for women's health.

The Children's Act outlaws Female Genital Mutilation (FGM) to persons below the age of 18.⁹ The current Kenyan legislation therefore leaves women over the age of 18 with no legal grounds to resist FGM. The Kenyan Constitution guarantees its citizens protection against inhuman and degrading treatment, therefore the Kenyan Government has an obligation to provide accessible, affordable and quality health services and to ensure that patients can seek redress when their rights are violated in this context. The Government cannot act in contravention of the international human rights instruments, and specifically, the rights delineated in CEDAW, which it acceded to, and the Protocol to the African Charter on the Rights of Women in Africa, which it has signed.

Maternal mortality and morbidity are one of the greatest human rights and development challenges experienced on the continent. Ending the needless death and injury of women from complications of pregnancy and childbirth and achieving Millennium Development Goal (MDG) 5 to improve maternal health will only happen if concerted action is taken to protect and fulfill everyone's right to sexual and reproductive health.¹⁰ Many Kenyan women are dying or injured during childbirth, frequently due to inadequate health facilities and trained health personnel, lack of transportation and poor roads to get women to hospitals in time, but mostly because of the lack of value and priority on women's lives, even though they constitute over half the country's population and make significant contributions to the country's wellbeing and development.



⁹ Article 14 of the Children Act No 8 of Laws of Kenya.

¹⁰ Addis Call to Urgent Action for Maternal Health, October 26, 2009.

Women also undergo unsafe abortions in Kenya. Although accurate statistics are hard to obtain since abortion is illegal, about 300,000 abortions are performed each year in Kenya, causing an estimated 20,000 women and girls to be hospitalized with related health complications. This translates into about 800 abortions a day and the death of 2,600 women every year.¹¹ It is estimated that more than 40 percent of Kenya's maternal mortality rate is due to unsafe abortions. A Bill proposed by Reproductive Health and Rights Alliance (RHRA), a coalition of civil society organizations in Kenya, sparked the debate about legalizing abortion. The Bill seeks to promote safe motherhood as well as prohibit FGM for all women regardless of their age. The issue of abortion needs to be tackled, as thousands of women die every year from unsafe abortions. The procedure is currently illegal unless the pregnant woman's life is in danger.¹² More needs to be done to empower women with the necessary knowledge and support in order for them to make informed reproductive and sexual health choices.

Kenya has a population of 10.32 million women ages 15 years and older who are at risk of developing cervical cancer. Current estimates indicate that every year 2635 women are diagnosed with cervical cancer and 2111 die from the disease. Cervical cancer ranks as the most frequent cancer among women in Kenya, and the 2nd most frequently occurring cancer among women between 15 and 44 years of age. About 38.8% of women in the general population are estimated to harbour cervical HPV infection at a given time, and 60.9% of invasive cervical cancers are attributed to HPVs 16 or 18.¹³ The high cost of vaccine against cervical cancer has put 9.82 million women aged 15 and above at risk of contracting the disease.¹⁴ A vaccine is available, however not in the public health facilities. The cost of the vaccine is estimated at between Kshs 9,000 to Kshs 15,000. This is expensive for the majority of women in the country. The government has committed to respect, protect and fulfil the rights of women including the right to the highest attainable standard of health but majority of women are far from realizing this right.

The Government of Kenya recently increased funding for the health sector, allocating 9.4% of its gross domestic product, or Kshs. 43 billion (approximately USD 582 million), to the Ministry of Health budget. This is an increase of Kshs. 13 billion (approximately USD 176 million) from the previous year.¹⁵ However, this allocation still falls short of the 2001 commitment made by African heads of state and government of the Organization of

¹¹ Concluding Remarks for ECOSOC

¹² Section 240 of the Penal Code Chapter 63 Laws of Kenya. It provides that "A person is not criminally responsible for performing in good faith and with reasonable care and skill a surgical operation upon any person for his benefit, or upon an unborn child for the preservation of the mother's life, if the performance of the operation is reasonable, having regard to the patient's state at the time and to all the circumstances of the case."

¹³ HPV Information Centre *Human Papillomavirus and Related Cancers: Kenya Summary Report Update 9 October 2009*.

¹⁴ P. Opiyo "9.8M Women Risk Contracting Cervical Cancer" *The Standard*, Thursday October 30, 2008.

¹⁵ Opiyo P "9.8 Women Risk Contracting Cervical Cancer" *The Standard*, Thursday October 30, 2008

African Unity (now the African Union) to allocate 15% of annual national budgets to bettering health services.¹⁶ The allocation to the health sector in the financial year 2007/08 translated to 9% of the total Government expenditure which is also below the Economic Recovery Strategy for Wealth and Employment Creation (ERSWEC) 2003-2007 target of 12%.¹⁷

Actions Taken by Government in 2004-2009

- a) **Creation of the FGM National Office:** As much as we commend the government of Kenya for instituting a National Office under the Ministry of Gender to deal with issues of FGM in the country, we still call upon the government to expedite actions to intensify educational programs and sensitization in the communities where there are higher numbers of cases of FGM.
- b) **Formulation of the National Action Plan on FGM**
- c) **Labour Legislation:** The new laws are; the *Labour Institutions Act, 2007*; the *Employment Act, 2007*; the *Labour Relations Act, 2007*; the *Work Injury Benefits Act, 2007*; and the *Occupational Safety and Health Act, 2007*. These legislations are fairly progressive and could go a long way to liberating the working community in Kenya. The Employment Act provides for maternity leave for women for a period of three months and paternity leave for men for a period of 14 days. These laws provide for the right to just and favourable conditions of work for women as provided by Article 2 of CEDAW.
- d) **Adolescents' Policy:** The Plan of Action for Kenya's Adolescent Reproductive Health and Development Policy 2005-2015, recognizes that information and education on sexual and reproductive health is important for adolescents and that they need accurate, appropriate information to make sound choices, enjoy healthy and positive lifestyles, and avoid undesired consequences like unwanted pregnancies and sexually transmitted infections.¹⁸
- e) **Reproductive Health Policy:** The 2007 National Reproductive Health Policy, which seeks to address the issues of reproductive health in the country.

¹⁶ Abuja Declaration on HIV/AIDS, Tuberculosis and Other Related Infectious Diseases, OAU/SPS/Abuja/3 (2001) 6, available at www.un.org/ga/aids/pdf/abuja_declaration.pdf.

¹⁷ Institute of Economic Affairs *The Budget Focus - Health Sector: Budget Performance 2003-2008 and Emerging Policy Issues*, A Publication of the IEA Budget Information Programme, Issue No 16 May 2008

¹⁸ Adolescent Reproductive Health and Development Policy, Action Plan 2005-2015.

Actions Taken by Civil Society in 2004-2009

- a) Intensified activities for eliminating violence against women in the public and private spheres of their lives. These include the Men to Men initiative that has been implemented in Kenya since 2003
- b) The launch of the We Can Campaign
- c) The activities of the Nairobi Women's Hospital, which provides specialised health care services for women including checking for cervical and breast cancer and counselling for victims of violence
- d) Promotion of water and sanitation programs at the grassroots level
- e) Promotion of sex education and HIV/ AIDS awareness through schools and other women's rights groups



Challenges and Constraints

1. **Detention of women in healthcare facilities for inability to pay:** This occurs in both public and private healthcare facilities where women who have just delivered babies endure severe mistreatment including being forced to sleep on the floor instead of the bed, being denied sufficient nutrition even though they are breastfeeding, and verbal and psychological abuse. This inhumane practice will only serve to deter women from seeking professional maternal health services, which will counteract efforts to reduce maternal mortality and morbidity rates.
2. **Impact of restrictive abortion law:** In order to reduce unwanted pregnancies and therefore abortions, there is need for family planning facilities and information that are easily accessible for women and men. The need for these services is much higher compared to the available facilities and their capacity. Women are also stigmatised for seeking Post Abortion Care (PAC) and are therefore hesitant to seek PAC for fear of prosecution or mistreatment.
3. **Lack of information about patients' rights:** Women do not know they can complain and where they have this information the complaint mechanisms are not user-friendly or patient - focused. Currently systems are very protective of the medical personnel while responses to patient issues are very slow and/or insufficient.

Recommendations for Further Action

- Ratify, domesticate and implement the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, for the women of Kenya to enjoy the rights stipulated in the Protocol.
- Domesticate the principles of Articles 12 of CEDAW and General Recommendation 24 and Article 12 of ICESCR and General Comment 14 on the right to the highest attainable standard of health.
- Explicitly outlaw the practice of detention in all medical facilities.

- Increase budgetary allocation to health to the facilities that are accessed by women.
- Increase health care facilities in the rural health centres. Health care facilities required by women should be made available in all District Hospitals in Kenya
- Remove financial barriers that result in denial or delay of necessary health care services
- Improve access to information within health care system.
- Strengthen structures to protect patients' rights by:
 - Instituting public awareness programmes to educate patients on their rights
 - Requiring health care facilities to establish formalized complaint mechanisms as part of licensing requirements
 - Strengthening complaint mechanisms at the Kenya Medical and Dentist Board Councils.
 - Providing information to judges and legal professionals on rights violations in health care context.
- Provide monitoring and oversight of health care facilities, both public and private.
- The government should introduce and implement the new HPV vaccines in all public health facilities in Kenya to prevent women and girls from dying of cervical cancer
- Provide adequate health-related education and information to women
- Integrate messages about Female Genital Mutilation into the education curriculum.
- Monitor implementation and compliance with the provisions in new Labour Laws especially relating to maternity and paternity leave, especially for women who form the larger part of group employees.
- Encourage private sector employers to adopt worker/ employee friendly policies that support a healthy family/ work balance
- The government needs to spearhead discussions with opposing camps to find practical solutions in dealing with those opting for abortion whether legally or not, as well as provide social security for those opting to carry unwanted pregnancies to term.
- Make adolescents a priority by increasing investment in adolescent sexual and reproductive health and education, to facilitate young women to make positive choices and know their rights in the context of forced or early marriage, FGM, planned pregnancies and HIV AIDS.

2.4 Violence against Women

Strategic objectives in the Beijing Platform for Action:

1. Take integrated measures to prevent and eliminate violence against women.
2. Study the causes and consequences of violence against women and the effectiveness of preventive measures.
3. Eliminate trafficking in women and assist victims of violence due to prostitution and trafficking.

Violence against Women (VAW) is a global problem affecting millions of women and girls of all cultures, religions, socio-economic strata, educational levels and other diversity. It is recognized as a human rights issue that manifests itself in physical, psychological, sexual, social and cultural forms. Violence is the result of the complex interplay of individual, relational, social, cultural and environmental factors. The root cause of violence in most societies is the unequal power relations between females and males, which makes violence a critical gender issue.

VAW has serious consequences which are far reaching and include the erosion of self-esteem, self-worth, physical, mental and psychological health, loss of productivity, costs of health care, unwanted pregnancies, HIV AIDS and other STDs, legal and judicial costs.

VAW includes:

Domestic violence, such as wife battering, child defilement, desertion, and abusive language, marital rape, incest, child labor and sexual exploitation of domestic workers;

Economic violence, which includes deprivation of necessities such as food and basics like clothing and school fees for girl children, the denial of the right to work and grabbing of widow's or widower's property by relatives of the deceased spouse and orphaned children;

Socio-cultural practices which include Female Genital Mutilation (FGM), early and forced marriage, discriminatory dietary practices, child labor and wife inheritance;

Sexual violence which includes incest and different types of rape - attempted, gang, date, marital and systemic, as well as sexual harassment, demands for sex in return for favours, sexual abuse of children and mentally or physically disabled people, forced marriage, denial of the right to use contraceptives, forced abortion, violence against the sexual integrity of women including FGM, and forced prostitution; and

Trafficking of women and girls.

Violence against women is widespread in Kenya and has for decades been perceived as normal behaviour. Kenya Police statistics indicate that 1440, 1365 and 1291 cases of rape were reported in 2004, 2005 and 2006 respectively. The figures are however not conclusive, as many women who are raped or suffer other forms of violence are too intimidated by cultural attitudes, stigma and state inaction to report

violations or seek redress. According to a study conducted by UNAIDS in 2006 on violence against women and girls several facts were revealed: 49% of Kenyan women reported experiencing violence in their lifetime; one in four had experienced violence in the previous 12 months, 83% of women and girls reported one or more episodes of physical abuse in childhood; 46% reported one or more episodes of sexual abuse in childhood, Over 60% of these women and children did not report the event to anyone. Only 12% who had been physically or sexually abused reported to someone in authority such as a village elder or the police, and in Kenya, 25% of 12-24 year olds lost their virginity by force.

According to the Economic Survey (2008), there were 18,424 reported cases of GBV in Nairobi in 2007 alone. Nairobi Women's Hospital reports that on average 230 cases of GBV are treated in their institution per month, with approximately 45% being children, 49% women and 6% men.

Actions Taken by Government in 2004-2009

- a) **Enactment of the Sexual Offences Act (2006):** Sexual offences that were contained in the Penal Code¹⁹ were not adequately defined and penalties provided for. Therefore, with the enactment of the Sexual Offences Act, more sexual offences have been covered and stricter penalties provided for.
- b) **The Kenyan Law Reform Commission has now refined and redrafted various bills which are progressive to women's rights.** The Bills have been submitted to the Cabinet for approval thereafter they will be presented to parliament for debate and enactment. This is in recognition of the need for women's protection on matters concerning marriage and family and the complications, contradictions and inequalities wrought by the existence of various marriage laws. The refined and redrafted bills include:
 - **Family Protection Bill of 2007** which seeks to address domestic violence against women within family settings;
 - **Marriage Bill of 2007** which seeks to harmonize and consolidate all the substantive marriage laws, give equal legal recognition to all types of marriages and provide for a simplified procedure for matrimonial matters; and
 - **Matrimonial Property Bill of 2007** which makes clearer provisions for married women's rights to ownership, access, control and disposition of matrimonial property.
- c) **There has been positive and encouraging progress in judicial processes** which have set and clarified the applicability of CEDAW in Kenyan courts as well as provided the legal framework for CEDAW's applicability in the country
- d) **National Legal Aid and Awareness Programme (NALEAP)** - The Kenya government is, in collaboration with development partners, implementing A National Legal Aid and Awareness Programme (NALEAP) under the Ministry of Justice, National Cohesion and Constitutional Affairs. The NALEAP was officially launched by the Government in September 2008. In partnership with the judiciary and civil society

¹⁹ Cap. 63 Laws of Kenya.

organizations, the Scheme is already providing legal aid to Kenyans, including women who have previously been unable to access legal aid and related education due to prohibitive costs and financial and physical inaccessibility. Once the pilot stage is over, its successes and challenges will be comprehensively assessed with a view to roll it out nationally.

Actions Taken by Civil Society in 2004-2009

There are numerous women's organizations and organizations focusing on women's human rights in Kenya. They are rigorously involved in various activities, some of which include:

- a) **Legal aid initiatives** by some civil society groups, for example CREAM, FIDA, and CRADLE who provide legal services to poor women and children who are not in a position to afford it.
- b) **Partnership with law enforcement including** training the police force to be sensitive when handling victims of sexual and domestic violence. Various civil society groups have held workshops for the training sensitization of the police and members of the judiciary on gender-based violence issues.
- c) **Empowering women:** CSOs like FIDA, CREAM, AMWIK, COVAW and others have participated in women's empowerment throughout the country by educating them on their rights on various issues ranging from domestic to national issues.
- d) **Right of protection:** Most of the victims of sexual and physical violence are further exposed to violations when they are forced to return to the place they were abused due to a lack of shelters and safe houses. In Nairobi, the Women's Rights Awareness Programme (WRAP) has continued to provide shelter for women who have been victims of violence and who must be removed from their home situations.
- e) **Advocacy:** various CSOs have advocated for the government's to provide security for women and protect their human rights through citing domestic and international laws. A case in point:, COVAW constantly engages the government and other relevant machinery to lobby for policy and legislative change and for the government to commit itself to implementing provisions stipulated in different human rights instruments by ensuring that the government signs, ratifies and domesticates these instruments.



f) **Watchdogs and lobbyists:** CSOs have lobbied for the government to ratify and report on conventions such as the AU Protocol on the Rights of Women in Africa (2003) that protect and promote the rights of women and girls. They have vigilantly submitted shadow reports on the government's record on implementation of conventions, treaties, and international instruments that protect and promote the human rights of women and girls.



g) **Men working to eliminate violence:** Men for Gender Equality Now is a pioneer men's network that was established in 2004 by the African Women's Development and Communication Network (FEMNET) to champion elimination of gender stereotypes and roles. The organization has opened up debates on gender roles and stereotypes by engaging men in issues of positive masculinity, responsible fatherhood, men's roles in combating gender-based violence and promotion of gender equality through: seminars, inter-gender dialogue, rapid response services for survivors of sexual and gender-based violence and Men's Traveling Conference which usually coincides with the period of 16 days of activism on violence against women

Strategies Implemented

- ***Increased women participation in decision-making:*** There has been institutionalized gender-sensitive participatory planning and monitoring mechanisms to ensure that women's participation in various decision-making mechanisms is guaranteed.
- ***Women's empowerment:*** It is realized that the millennium goals have a better chance of succeeding if the concepts of gender equality and women's empowerment are taken as key factors in social transformation. This has therefore sparked the need for women's economic empowerment through projects like the Women's Enterprise Fund.
- ***Lobbying and advocacy*** the government to implement policies and laws. Some organizations like COVAW have moved from providing direct services to survivors of violence to focusing purely on lobbying and advocacy for pending bills to be enacted and international instruments to end violence to be ratified and implemented.
- ***Networking and collaboration:*** by government and civil society organizations to end violence have been stepped up. The networking and collaborations efforts have seen work to end violence gain visibility and created positive impact over the years.

Challenges and Constraints

1. **Delay in new constitutional dispensation:** This has jeopardized the hopes of women, as there are so many recommendations that can create positive change. For example, the new constitution will address issues of men and women having equal rights to inherit, having access to and control over property; prohibiting any law, culture, custom or tradition that undermines the dignity, welfare, interest or status of women in Kenya, therefore contributing largely to the fight against gender based violence.
2. **Delays in debating and passing of several Bills into law:** For example, the Family Protection Bill²⁰, which is supposed to address violence within the family; Affirmative Action Bill, which is supposed to enhance the position of women in Kenya by correcting the gender imbalance in both parliament and the public service.
3. **Challenges with the Gender Desk Programme:** Though an excellent initiative the programme has not been very successful as there are not enough trained police officers to staff the desks. The transfer policy within the police force (every officer is required to transfer every three years) also affects the consistency of operations of the gender desks. The initiative has also been poorly publicized.
4. **Lack of political goodwill** in domesticating all the ratified International and Regional Human Rights instruments on the part of the government as promises to do the same are given during political party campaigns during elections and are shelved once political mileage is gained.
5. **Under-representation of women in critical decision-making processes:** Women are under-represented in decision-making structures in Kenya and this has affected the way in which gender is included in policy and law enforcement
6. **Lack of coordination among the human rights organizations to increase safe houses/shelters:** Statistics have shown that the many stakeholders working against gender violence in Kenya are not well coordinated to provide the required support. Many concentrate on advocacy and direct services while few provide required assistance, such as running safe homes for survivors of gender violence.²¹
7. **General obstacles for women in their access to justice²²:** Women are much more disadvantaged, compared to men, in accessing justice, especially when dealing with domestic violence as well as other forms of gender-based violence. The issue of reporting is central in cases of violence against women. One of the obstacles is represented by women's economic dependence on men. According to the OMCT,²³ the majority of women have limited access to resources for seeking justice, both in terms of legal services and the costs of medical consultations.

²⁰ Among the reasons why the Domestic Violence (Family Protection) Bill has not yet passed is because it would outlaw marital rape. The Sexual Offences Act 2006 was passed only after certain provisions, including that recognizing the offence of marital rape, were removed from the bill.

²¹ Status of Gender Desks at Police Stations in Kenya: A Case Study of Nairobi Province

²² Situation of Violence against Women and Children in Kenya: Implementation of the UN Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment; Alternative report to the UN Committee Against Torture (November 2008)

²³ OMCT, *Addressing the economic, social and cultural root causes of torture in Kenya*.

8. **Social and legal obstacles in reporting sexual and domestic violence:** Reporting sexual or domestic violence is further compromised by social obstacles. Many women do not report violence because they fear revenge, social stigma, or losing custody of their children. The legal challenges include complicated procedures for filing a complaint - in cases of violence, women are required to produce three documents: a police abstract, a "P3" Form (which has only one police officer/doctor who can review and present in court) and a medical report. It is a long procedure, which clearly deters women wishing to get justice for violence meted against them.
9. **Attitude of law enforcers:** Attitudes of police and other law enforcement officers with regard to the issue of domestic violence further aggravate the persistence of violence against women. In most police stations, the officers are reluctant to record any cases of domestic violence, as they are unwilling to interfere in "domestic issues". Domestic violence is still not treated with the same gravity as other cases when they are reported. Often the victim reporting the incident is asked what she did to provoke the violence and is encouraged to resolve the issue at home.
10. **Discrimination in the judicial system:** The judicial system in Kenya is perceived as discriminatory against women with a low percentage of female judges and little knowledge of gender issues and international standards on women's rights.
11. **Resource constraints:** Lack of adequate finances to fund advocacy campaigns in both the government's implementation strategies and in human rights organizations has served as a major challenge
12. **Cultural practices:** rooted in the belief of patriarchy and male domination. For example, at the grassroots levels, there is a strong cultural foundation that has not yet fully been broken to end the culture of wife battering, FGM and wife inheritance in some communities. Further to this very few organizations work with the traditional council of elders to advocate for the end of the aforementioned practices.



Recommendations for Further Action

- **Elimination of discriminatory laws and practices:** The State should take appropriate action to eliminate all discriminatory laws, practices and traditions and to ensure women's equality with men particularly in marriage and divorce, burial and devolution of property upon death in accordance with the provisions of CEDAW.
- **Enactment of relevant Bills:** It is recommended that there should be speedy enactment of the relevant bills; including the Domestic Violence (Family Protection) Bill, the Equality Protection Bill, HIV/AIDS Prevention and Control Bill of 2002, and the Public Offices Code of Ethics Bill of 2002.

- **Implementation of enacted laws:** The passing of an act like the Sexual Offences Act is not an end in itself - it should be followed by rigorous community and law enforcers' sensitization to adequately serve the purpose it was set out for.
- **New constitutional dispensation:** The new constitution once enacted will reconcile Kenyan citizenship laws with the provisions of article 9 of CEDAW in order to eliminate all provisions that discriminate against women in the area of citizenship and nationality.
- **Deepening the awareness campaign:** Increasing the efforts to create awareness in society about the need to change stereotypical attitudes and discriminatory behavior towards women and girls through, inter alia, specific programmes directed at men and boys, as well as to conduct educational campaigns directed at both women and men in this regard. The media is also encouraged to project a positive image of women and to promote the equal status of women and men in both the public and private spheres.
- **State and Non-state partnership:** The State party's relevant ministries should continue working with civil society, including non-governmental organizations, in order to create an enabling environment for legal reform, effective law enforcement and legal literacy.
- **Constantly reviewing/enacting policies:** the State should periodically review the measures taken in order to identify shortcomings and to adjust and improve those measures accordingly. For example the Government of Kenya should enact and implement a clear policy on refugees and internally displaced persons²⁴.
- **Increased gender-sensitive training:** There should be increased gender-sensitive training for public officials, particularly law enforcement personnel, and the judiciary and health services providers on violence against women, from the national level to the grassroots level.
- **The right to protection:** The State should ensure access to shelter, safe houses and psychosocial assistance, a crucial component of accessing justice, for survivors of violence.
- **Seconding ICT experts to Police Stations:** It is recommended that government second ICT experts to police stations to carry out surveys, compile, analyze and disaggregate data and prepare reports for decision making.

²⁴Kenya Progress Report on the Implementation of the African Peer Review Mechanism (APRM) National Programme of Action, June 2006 – June 2008.

2.5 Women and Armed Conflict

Strategic objectives in the Beijing Platform for Action:

1. Increase the participation of women in conflict resolution at decision-making levels and protect women living in situations of armed and other conflicts or under foreign occupation.
2. Reduce excessive military expenditures and control the availability of armaments.
3. Promote non-violent forms of conflict resolution and reduce the incidence of human rights abuse in conflict situations.
4. Promote women's contribution to fostering a culture of peace.
5. Provide protection, assistance and training to refugee women, other displaced women in need of international protection and internally displaced women.
6. Provide assistance to the women of the colonies and non-self-governing territories.

Sexual violence against women in armed conflict is a crime against humanity, a war crime, and an unacceptable, terrorizing weapon of war. Raping, sexually assaulting and mutilating, forcibly impregnating and infecting with HIV/AIDS the wives, daughters and mothers of the “enemy” not only have terrible physical and psychological effects on the victims themselves, but are also capable of disrupting, if not destroying, whole communities.²⁵

In the intra-conflict between the Turkana, they rape their own women from mothers to aunties to sisters, as they return from raids and they do this when their adversary has overpowered them. Though, it is occurring more and more even when they have not been overpowered. Sexual violence against women appears to be taking on a life of its own. The woman's role has even changed visibly with women using the gourd that was traditionally used to carry milk to carry bullets instead, seen in the North Rift communities. They have also resulted to selling bullets to survive thus contributing to fuelling the conflict.²⁶



Like most violence that occurs in the course of armed conflict, violence against women is not accidental. It is a weapon of war, a tool used to achieve military objectives such as ethnic cleansing, spreading political terror, breaking the resistance of a community, rewarding soldiers, intimidation, or to extract information.²⁷ Many forms of violence that women suffer during armed conflict are gender specific in both

²⁵ Sexual violence against women in armed conflict.(doc. 11916): Report of the Committee on Equal Opportunities for Women and Men; 15th May, 2009

²⁶ A Report On The Human Rights Situation In Kenya Presented At The 2004 ISIS-WICCE EXCHANGE Programme Institute (pg.8)

²⁷ *Gender-based Persecution: Report of the Expert Group Meeting*, U.N. GAOR, Division for the Advancement of Women, 9 52, U.N. Doc. EGM/GBP/1997/Report (1997)

nature and result. Recent investigations have clearly demonstrated that in any number of conflict situations, the targeting of victims and the forms of the abuse carried out were based on gender as well as other identifying markers, such as ethnicity or race.²⁸

The abuse of women in armed conflict is rooted in a global culture of discrimination that denies women equal status with men. Social, political and religious norms identify women as the property of men, conflate women's chastity with family honour and ethnic identity, and legitimize the violent appropriation of women's bodies for individual gratification or political ends.

During the PEV in 2008, women and girls - in their homes, fleeing their homes and those who sought sanctuary in the internally displaced person (IDP) camps - were exposed to and experienced gender-based violence ranging from all forms of sexual abuse and exploitation to physical and domestic violence.

The findings of an inter-agency report, undertaken by the GBV Sub-cluster,²⁹ found that encamped women repeatedly expressed fears of sexual violence as a result of makeshift sleeping arrangements in the IDP camps where males and females (not of the same family) were forced to sleep together in one tent. There were also concerns expressed over the lack of regulations and screening procedures at the camp that allowed men from outside to enter the camp without verification of their IDP status, or who were posing as volunteers. Sexual exploitation was also a concern as women and girls were coerced into exchanging sex for basic resources such as food, sanitary supplies and transport.

State violence occurs in particular during armed conflicts. This is, however, largely disputed by security forces and undocumented. A situational analysis of women and children undertaken in 2007³⁰ in the Mount Elgon District of Kenya, a region frequently plagued by land-related conflicts, revealed that during the occurrence of violence, both the militia groups and the Government of Kenya security forces inflicted sexual violence on women and children. According to the analysis, security forces violated women and girls during the curfew imposed from 6 p.m. to 6 a.m. While it was in fact acknowledged that the curfew reduced the number of abductions and the killing of people by the militia groups in the area in question, the most frequent complaints were that security forces harassed people by looting and confiscating their property, by illegally extorting money from them and raping women and girls.

In the Maela camp for IDPs from the Rift Valley, women were frequently raped by security personnel when they left camp in search for food or for work as day labourers. One woman reported, "even though we knew this was likely to happen, we

²⁸ 'Rape used as weapon in Kenya's ethnic clashes.' (<http://www.msnbc.msn.com/id/23153090>)

²⁹ Gender-Based Violence Sub cluster; A Rapid Assessment of Gender-Based Violence during the Post-Election Violence in Kenya, conducted January – February 2008.

³⁰ COVAW, *Situational analysis on the women and children in the Mount Elgon District in Kenya*, October 2007.

continued to do this work because our children were hungry and we had no choice."³¹

Actions Taken by Government 2004-2009

- a) **Establishment of a Humanitarian Fund**³²: The government operationalized the Humanitarian Fund for Mitigation of Effects and Resettlement of Victims of Post 2007 Election Violence expeditiously by establishing a bipartisan, multi-sectoral Board with streamlined procedures to disburse funds rapidly. This was undertaken by the Ministry of Special Programmes in conjunction with other ministries.
- b) **Addressing the land problem**: The question of land has been a perennial problem right from independence. The government (cabinet) adopted the Draft National Land Policy, which is hoped will deal with land-related armed conflicts.
- c) **Law reforms**, including formation of a Truth Justice and Reconciliation Commission where women can be heard and hopefully attain justice for violence meted against them during the post election crisis and other politically instigated violence of 1991, 1997 and 2008. The commission will also look into all the historical injustices against women spanning from independence until today. Additionally, the enactment of National Accord and Reconciliation Act 2008 after the successful peace settlement between the two principles of power, and the establishment of a Commission of Inquiry on Post-Election Violence (CIPEV) - which has since published its reports and recommendations on legal and institutional reforms together with proposals for establishment of a Special Local Tribunal in lieu of which, deferment of suspected post election violence perpetrators to the International Criminal Court in The Hague for prosecution will be made - are also notable initiatives by the government.
- d) **Addressing the insecurity problem**: The problem of insecurity has always dogged the government. The government has made attempts at addressing this perennial problem through disarmament campaigns and tightening the security at the borders so that illegal arms are not brought into the country.
- e) **Provision of security and protection**: The government made attempts to provide security and protection to vulnerable groups, especially women and children during the PEV, the Mt. Elgon clashes and the, Turkana clashes..
- f) **Equitable distribution of resources**: Attempts are being made to ensure that there is equitable distribution of the available scarce resources in the country including the creation of the ministry to deal with the development of arid and semi-arid lands (ASALs).
- g) **Constitutional reforms**: Reforms in the proposed new constitution make provisions for dealing with land, women's participation in public governance, decision-making issues and the cultural provisions allowing for discrimination.

³¹ AMNESTY International USA; Violence Against Women in Armed Conflict: A Fact Sheet

³²Report on the Role of the Ministry in Relation to the Post Election Violence forwarded to the Commission letter dated 20th August 2008(Ref: OP/SP.3/55/2A).

- h) **Police reforms:** There was a reshuffle in the police force in 2009; a task force was formed to inquire into the functioning of the police force and make recommendations. The taskforce made recommendations which precipitated the reshuffle of the senior personnel in the police force. Other recommendations of the taskforce include; the establishment of a Police Service Commission and the Creation of an Independent Civilian Police Oversight Authority, which will provide the checks and balances in their functionality.



Actions Taken by Civil Society 2004-2009

- a) **Advocacy, campaigns and lobbying:**³³ civil society has advocated for the government's commitment to providing security for women and protection of their human rights through domestic and international laws especially during armed conflict.
- b) **Training and capacity building:** Women have been supported to realize and exercise their role in peace building particularly in the areas most affected by the 2008 post election violence.
- c) **Conflict resolution and peace building:** Civil society was an active player during the post-election crisis, lobbying for the two principles to meet and reach a compromise. Additionally both negotiation teams had women as key players.
- d) **Psychosocial Care:** Organisations such as the Red Cross and Nairobi Women's Hospital, and various health care providers, relief workers and protection officers devoted special attention to the health and psychosocial needs of survivors of gender based violence during the PEV.
- e) **Humanitarian assistance:** Civil Society continued to play an important role in providing humanitarian assistance especially during and after the armed conflict

Challenges and Constraints

1. **Absence of a comprehensive national legislation on women and conflict:** Kenyan laws and policies do not currently deal with violence in the context of conflict, including violence perpetrated by those in authority.
2. **Lack of comprehensive database:** There is no comprehensive database that can be used to adequately reflect the true picture of gender-based violence during armed conflict in Kenya and this has hindered by lack of policy formulation and legislation. Also because of this lack of a comprehensive database, the severity of the armed conflicts' effect on women may not be fully appreciated and hence not taken seriously by policy makers. For instance Civil Society has noted that in the Beijing +10 and Beijing +15 reviews, the report

³³ Role of civil society in security sector reform; Simmon Rynn: working for the prevention of armed conflict (Saferworld)

- from the Government of Kenya failed to include any analysis under the Women and Armed Conflict critical area of concern.
3. **Difficulty in documenting women's human rights abuses:** Many victims of gender-based violence during armed conflict are reluctant to talk about their suffering. Pressure from parties to the conflict, the government, the family or community all serves to intimidate women into silence. Continuing violence or conflict often prevents women from reporting. In many regions reprisal, shame and social stigma are attached to certain types of violence against women, particularly rape. Fear of the consequences of reporting sexual violence, such as facing rejection, alienation, divorce, being declared unfit for marriage, and severe economic and social repercussions all discourage women from reporting the violence suffered.
 4. **Lack of information on reported cases:** It has hitherto been impossible to obtain information about State officers who have been convicted of sexual violence crimes as the trials are conducted by courts martial to which the public have no access, and the decisions reached by the courts martial are not available in the public domain.
 5. **Failure by the government in its responsibility to protect:** The guiding principles on Internal Displacement explicitly call on governments to provide protection for women and girls. Provisions regarding displaced women and girls are guided by two core concerns: to safeguard them from gender-specific violence and to uphold their rights to equal access to services and participation in assistance programmes. But abuses against displaced women and girls have generally been perpetrated with impunity, and a majority of displaced women and girls do not have adequate access to physical, legal and social protections.³⁴
 6. **Proliferation of small arms:**³⁵ The proliferation of small arms and light weapons that exacerbate armed violence is a challenge to peace and security in the nation.

Recommendations for Further Action

- **Due compensation:** It is the duty of the State to compensate for the consequences of violence. This includes and goes beyond access to legal remedies and rehabilitative and support services, possibly involving financial damages for any physical and psychological injuries suffered, for loss of employment and educational opportunities, for loss of social benefits, for harm to reputation and dignity as well as any legal, medical or social costs incurred as a consequence of the violence.
- **Legislation to deal with the issue of women and armed conflict:** Kenyan laws and policies do not currently deal with violence in the context of conflict, including violence perpetrated by those in authority. Legislation has to be amended in order to improve the situation of internally displaced women in accordance with international instruments and standards.

³⁴ Global Overview of Women on Gender-Based Violence (2006)

³⁵ A Report On The Human Rights Situation In Kenya Presented At The 2004 ISIS-WICCE EXCHANGE Programme Institute

- **Prompt and effective investigation mechanisms:** The Government should put in place mechanisms to ensure prompt and effective investigation of all allegations of rape and sexual violence committed in conflict areas, and prosecute and punish perpetrators immediately, giving appropriate penalties to promote justice and curb impunity.
- **Information, Education and Communication:** Public information campaigns on the subject of sexual violence should be launched - while still respecting cultural sensitivities. Topics could include preventive measures, seeking assistance, laws prohibiting sexual violence, and sanctions and penalties for perpetrators. Pamphlets, posters, newsletters, radio and other mass media programmes, videos and community entertainment can all be used to transmit information about preventing sexual violence. Community and health workers must understand the severity of the problem and have the confidence to report all cases of sexual violence as soon as possible.

2.6 Women in Power and Decision-Making

Strategic objectives in the Beijing Platform for Action:

1. Take measures to ensure women's equal access to and full participation in power structures and decision-making.
2. Increase women's capacity to participate in decision-making and leadership.

Equitable participation of women in leadership, politics and government is essential to development, and building and sustaining democracy in Africa. Women comprise over half of the world's population, but continue to be under-represented as voters, political leaders and elected officials. As of September 2009, women comprised 18.5% of parliamentarians worldwide, on average. In Africa, women comprised 18.3% of parliamentarians, with Rwanda at the top of the list (worldwide) with 56.3% representation, South Africa third worldwide with 44.5% and Uganda 21st worldwide with 30.7%.³⁶ Kenya ranks 104th worldwide, with 9.8% women in Parliament. Though this is the largest number of women in Parliament since Independence, it amounts to only a slight improvement since 2002 when women comprised 8.1% of parliamentarians, and it indicates the great distance yet to be covered to get Kenya not just to 30% representation, but to gender parity in parliament as set out by the African Union.



There has been a slight increase in the number of Kenyan women ambassadors and high commissioners who represent the government in foreign missions abroad. In 2003, 7 women out of 40 ambassadors represented the country abroad, giving a 20.6% of the total, whereas in the current reporting period there are 11 women ambassadors, 27.5% of the total. The 2007 General Elections have also seen women represented by a 15.9% of the total percentage of permanent secretaries in the government, showing a slight appreciation compared to that of 2003 which saw women represented by a 12.5% of the total percentage.

For the very first time, Kenya now has a woman chairperson holding the leadership of the Kenya National Commission on Human Rights. Recently a woman was appointed as a provincial commissioner, contributing to a 12.5% of women's representation in provincial commissioners. The number of women cabinet appointees, judges, nominated parliamentarians, magistrates, and local authorities also appreciated after the 2007 General Elections.

³⁶ Women in National Parliaments, Inter-Parliamentary Union. <http://www.ipu.org/wmn-e/world.htm>

In the civil service, the government has also officially recognized that:

“Women are still grossly underrepresented in senior decision-making positions within the civil service. For instance, in the top most levels of the civil service, male representation stands at 84 per cent, against 16 per cent female representation. At the lower cadres of the civil service, female representation stands at 74 per cent, with 26 per cent male representation.”³⁷

Multiple barriers exist - including structural, cultural and institutional – that restrict the advancement of women in decision-making and leadership. These include the persistence of traditional gender stereotypes towards women, including by popular media; discrimination and gender inequalities in the home, and in terms of access to education, information, land and other resources; and persistent poverty experienced disproportionately by women.

However research shows that it is essential to support women to assume roles in leadership and decision-making because:³⁸

- Women are highly committed to promoting national and local policies that address the socio-economic and political challenges facing women, children and disadvantaged groups.
- Women are particularly effective in promoting honest government. Countries where women are supported as leaders and at the ballot box have a correspondingly low level of corruption.
- Women are strongly committed to peace building, as they often disproportionately suffer the consequences of armed conflict. Reconstruction and reconciliation efforts take root more quickly and are more sustainable when women are involved. By helping women become participating members of a democracy, one can look to mitigate conflicts or stop conflicts before they begin.
- Women are strongly linked to positive developments in education, infrastructure and health standards at the local level. Where rates of gender development and empowerment are higher, human rates of development and standards of living are also higher.

37 Kenya Vision 2030 at 117

38 Women's Political Participation, National Democratic Institute
http://www.ndi.org/womens_programs#AboutWomenandDemocracy

Actions Taken by Government 2004-2009

In 2007, the Political Parties Act, No. 10 was enacted and took effect in January 2009. The Act seeks to ensure equal participation between men and women in political life and decision-making on political matters. The law provides that a political party shall not be registered if founded on gender or promotes gender-based propaganda, if it has a constitution or operational ethic which provides, in any way for discriminatory practices contrary to the provisions of the country's constitution or of any written law, or accepts or advocates the use of violence or force as a means of attaining its political objectives. However, the Act did not make any provisions that 30% or 50% of all elected parliamentarians be women.

Women have also been appointed to the various commissions as part of the ongoing Agenda 4 Reforms, including the Truth Justice and Reconciliation Commission, Committee of Experts on the Constitution (CoE), National Cohesion Commission, and the Interim Independent Electoral Commission (IIEC).

Actions Taken by Civil Society 2004-2009

Civil society organisations such as FIDA-Kenya, CAUCUS, Maendeleo ya Wanawake and League of Kenyan Women Voters have implemented programmes to increase the social empowerment of Kenyan women and their participation in positions of leadership. CSOs also work to support participatory development, effective governance and democratic development by increasing the level and quality of participation of women in decision-making and democratic processes. The overall objective of these and other initiatives is to change attitudes and practices hindering women's progress while empowering women with the information necessary to assert their rights and participate effectively in decision-making and democratic governance, including election processes³⁹

Challenges and Constraints

1. A presidential Decree of 20th October 2006 acknowledged the inadequate representation of women in public life and directed that at least 30 per cent of new employees recruited into public service and appointments for public offices should be women. However **the decree is yet to be adopted as policy** and the relevant legal provisions for it enacted.
2. In Kenya, of the 76 registered parties in 2006, only two had a woman as its leader. The Kenya Women Parliamentary Association (KEWOPA) has noted that the **lack of internal democracy in Kenya's political parties** has worked to reduce opportunities for women to get to leadership, and relegated women to peripheral roles in the women and youth leagues of the political parties.⁴⁰

³⁹ "Women's Advocacy Project-Gender Mainstreaming. "UNDP 2008

⁴⁰ KEWOPA Strategic Plan: 2006-2010

3. There has been a noticeable failure to nurture younger women who can keep the women's agenda afloat. A strong women's movement in Kenya would guide and feed women's issues in politics and development in Kenya. It has been noted that **party politics and ethnicity block women's participation in politics** in Kenya.
4. **Poverty and dependency** is increasingly keeping women down the economic ladder, particularly in rural areas where women depend on handouts during elections thus voting for the wrong candidates. Women need to be empowered economically and made aware of their rights and responsibilities in elections.⁴¹

Recommendations for Further Action

- There is a need for **Affirmative Action** measures to be implemented to provide for a minimum of 30% seats for women in Parliament, and in all decision-making levels.
- The level of **information and awareness** on women in leadership should be increased in order to increase the representation of women in power and decision-making processes. This can be done through the following strategies, and must include partnership with the media for the strategies to be broadly effective:
 - Inform women about their political rights and responsibilities through panels, seminars, conferences, books and brochures, among others.
 - Raise public awareness on the importance of women's participation in the parliament, local authorities and district authorities.
 - Carry out activities to promote female role-models taking part in decision-making mechanisms in both the private and public sector
 - Collect and publish on a regular basis gender specific data on the echelons of power and decision-making mechanisms in the public sector.
 - Create discussion platforms in which all relevant stakeholders will participate, in order to enhance the representation of women in the parliament and local authorities, and informing the public of the outcome of these discussions.
 - Work at the local level with women's councils, which are platforms that bring women from different sections of society together to increase the awareness about the participation of women in politics.
- Special efforts need to be made to **nurture young women leaders** in all sectors of society, from the civil service to parliament, to the private, media and non-governmental sectors

⁴¹ Politically and Powerfully Participating in Elections, AU Monitor <http://www.pambazuka.org/aumonitor/comments/363/>

2.7 Institutional Mechanisms for the Advancement of Women

Strategic objectives in the Beijing Platform for Action:

1. Create or strengthen national machineries and other governmental bodies.
2. Integrate gender perspectives in legislation, public policies, programmes and projects.
3. Generate and disseminate gender-disaggregated data and information for planning and evaluation

The elements of the institutional mechanisms for the advancement of women are: policy guidelines and frameworks; organizations, institutions and their cultural or traditional values, attitudes, behaviour and practices; formalized incentive systems, that is, rewards and punishments; regulations, operating procedures and standards such as affirmative actions and quota systems in recruitment or selection procedures; and laws, constitutions and visions.

In general, a variety of structures and mechanisms for the advancement of women exist to give expression to women's and gender issues at the local, national, sub-regional, regional and international levels. The **National** level comprises:

- **Government structures** that deal with gender or women's issues such as: Ministries of Gender or women's affairs; and/or national women's bureaux or commissions of women in development; gender focal points in all ministries relevant to the advancement of women including education, planning, finance, health and environment; legal/regulatory frameworks, among them constitutions, laws, budgetary and auditing systems, which are part and parcel of institutional mechanisms in the public arena; international instruments, conventions, declarations and other agreements which by implication constitute institutional (regulatory) frameworks for dealing with gender issues.
- **Political party structures** such as women's leagues and associations; political advisers on gender at various levels of government or ruling party machinery such as presidential offices and offices of First Ladies.
- **Non-Governmental Organizations** (NGOs), umbrella organizations as well as the broad range of civil society networks; and women's associations
- **Private sector organizations**, initiatives and networks; chambers of commerce, financial and credit institutions, employers as well as employers' associations involved to varying degrees in gender issues.

Actions Taken By Government 2004-2009

Below are the Institutional Mechanisms currently in place for the advancement of women.

- a) **National Commission on Gender and Development**, created by an Act of parliament in 2003, and operationalized in 2004, with the Mandate to promote

gender mainstreaming in all government Ministries and state corporations, as a policy.

- b) The government of Kenya established a **Ministry of Gender, Children and Social Development** in 2003.
- c) Within the Ministry of Gender, Children and Social Development, the women's bureau has been upgraded to a full department.
- d) The Government adopted a **Gender Policy** in 2009 and now an action plan as noted above has been finalised. This would be a good basis for the Ministry to defend its budget in the ensuing years
- e) The **Women's Enterprise Fund** launched in 2007, created to offer credit facilities to women to increase their economic empowerment
- f) The establishment of the **Youth Enterprise Fund** established in 2006, which provides credit and loan opportunities to female and male youth
- g) The establishment of the **Gender desks and gender officers** in all ministries and state corporations, especially at the police stations.
- h) In 2006, a presidential directive was made that all government ministries' and state corporations' appointments of chief officers and directors must adhere to 30% affirmative action.

Actions Taken by Civil Society 2004-2009

Many Civil society organisations working on gender equality and women's empowerment in Kenya provide technical and other support to the various gender machineries, particularly in providing data, advocacy for gender mainstreaming in legislation, public policies, programmes and projects, and carrying out research on the impact of policies on the lives of women. CSOs also support the institutional mechanisms for the advancement of women by lobbying for implementation of regional and international instruments pertaining to the realization of women's human rights, and holding the government accountable when it falls short of its commitments.

Challenges and Constraints

1. Many successes have been registered by the established gender machinery in Kenya, however the primary and pervasive challenge and constraint is the **continued under- resourcing** of not only the machineries, but also the limited resources available for effective policy implementation. In fact the Ministry of Gender is heavily dependent on donor funding and this makes it difficult to implement a medium term or long term comprehensive program.
2. The relationship between gender machineries in Kenya and women organisations has remained quite interesting. Taking into account that the women's rights organisations and lobby groups want to see results on the various issues that they raise with the Ministry of Gender in particular, and which may not be forthcoming in many cases due to the constraints mentioned above, it is apparent that there is **need to use a more multi- sectoral approach to move the women's rights agenda**. The leadership at the Ministry level is also key to ensuring that gender issues remain

visible at all levels and this requires a lot of creativity to explore the various options that exist within the system, to ensure that there are more concrete and sustainable results.

3. The Youth and Women's enterprise funds have taken off. However, the **procedures for accessing the funds are quite cumbersome** for the ordinary Kenyan woman. There has been limited publicity for the Women's fund so that many women who would be eligible are still unaware of its existence. Channelling the funds through commercial banks has created its own challenges as some of the banks have not informed potential beneficiaries about the existence of the facility, and there is added confusion due to some banks re-branding the Fund under different names.
4. Finally, there is **still insufficient gender and sex-disaggregation** of government statistics.

Recommendations for Further Action

- Even with the Gender Policy in place and the Plan of Action finalised, it is always a challenge to defend the budget estimates of the gender ministry as some of their outputs and outcomes are not easily measurable. It is therefore critical that the Ministry of Gender and the Gender Commission **develop gender indicators**, and sensitize the technocrats in different sectors about such indicators. Efforts should also be made to quantify such indicators to the greatest extent possible in order to make it easier to communicate them to non-gender experts.
- **Refresher training** should be incorporated within the plans of the Ministry of Gender for the gender focal points, also providing a great opportunity for partnering with experts within civil society organisations and intergovernmental agencies such as the United Nations.
- **Performance indicators** should also be developed to show the extent to which gender focal points have been able to achieve gender mainstreaming in their respective sector plans and budgets and how these have translated into actions.
- It should be a policy requirement to **collect gender and sex disaggregated data** and the government of Kenya should take advantage of the Gender index that has been developed by the UN Economic Commission for Africa to update its data.

2.8 Human Rights of Women

Strategic objectives in the Beijing Platform for Action:

1. Promote and protect the human rights of women, through the full implementation of all human rights instruments, especially the Convention on the Elimination of All Forms of Discrimination against Women.
2. Ensure equality and non-discrimination under the law and in practice.
3. Achieve legal literacy.

Kenya is a signatory to several International Conventions that aim at empowering the rights of women in Kenya such as International Covenant on Economic, Social and Cultural Rights (ICESCR), International Convention on Civil and Political Rights (ICCPR) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) which is key to the enhancement of women's rights, Convention on the Elimination of All Forms of Racial Discrimination (CERD), Convention Against Torture (CAT), Convention on the Rights of the Child (CRC), African Charter on Human and Peoples' Rights, African Charter on the Rights and Welfare of the Child, and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. However, despite Kenya having ratified several of these international human rights instruments, women's rights continue to be violated.

Discrimination against women is rampant in Kenya. The definition of discrimination contained in article 82 of the Constitution of Kenya is not in conformity with the definition contained in Article 1 of the Convention on the Elimination of Discrimination against Women, which takes into account the prohibition of direct and indirect discrimination.

A prohibition against discrimination is contained in the Constitution of Kenya in article 82 (4 (b & c)), but this prohibition against discrimination is subject to various limitations, exceptions and qualifications in article 82(1 & 2). These qualifications make it difficult for women to actualize their right not to be discriminated against on the basis of gender, especially in matters covered by personal law.⁴²

The discrimination against women is glaring with regards to **citizenship**. Sections 90 and 91 of the Constitution allow Kenyan men to confer citizenship on their wives and children but women do not enjoy the same right. The Constitution and the Kenya Citizenship Act⁴³ discriminate against children born to Kenyan mothers abroad but do not discriminate against children born to Kenyan fathers abroad. Children born to Kenyan mothers abroad have to apply for citizenship and are given entry permits for

⁴² FIDA Kenya *"Kenyan Women Swimming Upstream"* A Shadow Report to the 5th and 6th Combined Report of the Government of the Republic of Kenya, on the International Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW).

⁴³ Cap 170 Laws of Kenya.

a limited duration upon entry into Kenya, while similar treatment is not accorded to children of Kenyan fathers born to non-Kenyan mothers. Additionally, women who are single must obtain their father's consent to obtain passports whereas those who are married must obtain their husband's consent. The determination of citizenship rests with the male, and in line with the current constitution the male's nationality determines that of his spouse and children. The only attempt by government to rectify this was in the Proposed New Constitution, which was rejected at the referendum on 21st November 2005. However, the Constitution Review Process has been revived and it is hoped that the government will deliver the New Constitution.

Actions Taken by Government 2004-2009

- a) **Agenda 4 Reforms**: which include: the Constitution, Electoral reforms, land reforms, Police Reforms, Judicial Reforms, Truth Justice and Reconciliation Commission, National Cohesion Commission, and the Interim Independent Electoral Commission (IIEC). We commend the government for appointing women to these commissions and committees.
- b) **Establishment of the Devolved Funds** for instance Constituency Development Fund and the Women's Enterprise Fund to improve the lives of women.
- c) **Ratification of the African Court** which provides an avenue of recourse when all legal avenues at the national level have been exhausted
- d) The **ratification of the Rome Statute** of the International Criminal Court in 2005.
- e) The **launch of the Governance, Justice, Law and Order Programme** intended to reform the legal and justice order
- f) **Mainstreaming gender in Government Ministries**: The government has since created the positions of the Gender Officers almost all its Ministries.
- g) **Creation of Family Division of the High Court**

Actions Taken by Civil Society 2004-2009

- a) CSOs such as the Federation of Women Lawyers in Kenya (FIDA Kenya) are engaged in provision of free legal aid services to needy women. Legal representation is provided in the arena of land and property rights that involves discrimination against women, as well as succession and division of matrimonial property issues. FIDA also conducts training of women in self-representation so that they are able to represent themselves in court.

- b) FIDA Kenya influences positive change of Kenyan law through Public Interest Litigation whereby a legal declaration is made on an issue that is not adequately addressed by the law.
- c) FIDA Kenya also conducts monitoring of women's rights violations, advocacy and training on gender and legal awareness. Additionally FIDA Kenya monitors government compliance with the implementation of the international human rights instruments that it is a party to.
- d) CSOs work with policy makers and lawmakers through sensitizing them and building their capacity on gender based issues in an effort to seek redress for gender based discrimination.
- e) Recognizing that women approach the police and chiefs, FIDA Kenya has through its civic engagement programme established a working relationship with the police and the local administration. Over the years FIDA Kenya has trained chiefs, assistant chiefs and police recruits on gender and women's rights issues. This has made a positive impact and the government has set up Gender desks in the police stations in the country. Despite various challenges, women reporting violations at some police stations in the country are receiving improved treatment.

Challenges and Constraints

1. **Customary laws** that are still prevalent in most communities are based on patriarchal traditions where men owned, inherited and controlled and managed property. These customs are widely practised with Kenyans being ignorant of the provisions of the existing laws. The patriarchal system is deeply entrenched in all walks of life and is more the norm than the exception. This has an adverse effect on women being able to access and afford land and housing.
2. **Cultural Aspect:** Women continue to be subjects of cultural discrimination. In most communities women do not inherit from their parents. Women with sons hold the property in trust but cannot own it while unmarried women are entitled to a share although less than that of their male siblings. Male relatives inherit property that belongs to widows with no children or with girls as children. In marriage, women only have access and use of property but do not enjoy ownership.
3. **Economic Aspect:** Poverty levels mostly affect women, making it difficult for them to access and afford housing and property. This is exacerbated by the high Mortgage interest rates. The security required for loans from banks is that one has to be a landowner. However, since women do not own any property, or it is registered in their husbands' name, it makes it difficult to access such facilities that would otherwise enable them acquire property loans and develop land.

4. **Legal Aspect:** The current constitution under Article 82 prohibits discrimination on the basis of sex. However, Section 82(4) acts as a claw back clause thus legitimizing discrimination with respect to death, adoption, marriage, divorce, burial, and devolution of property upon death or other matters of personal law. The courts have often interpreted this section in favour of men thus continuing the discrimination against women. There is no law that demands consent of either spouse during registration of matrimonial property in both names thus making women more vulnerable. Equal inheritance rights for widows do not exist. According to the law of succession, women get a life interest in the estate except in personal and household effects. Women are required to give up property upon remarrying, a clause that does not apply to men. The courts rely on the Married Women's Property Act of 1882 during the division of matrimonial property. Under the Act, which is outdated and culturally insensitive, property acquired in a matrimonial setting is normally registered in the sole name of the husband and therefore equitable distribution of the property is not possible.
5. The Matrimonial Property, Marriage, Family Protection and Equality Bills are all pending. The Marriage Bill seeks to recognise all marriages including customary and "come we stay" marriages in which many women in Kenya are involved. Discrimination against women becomes more evident upon dissolution of marriage. In Kenya, this discriminative effect has been reinforced by the Court of Appeal which is the highest court in the country in their decision in the case of *Peter Mburu Echaria Vs Priscilla Njeri Echaria* where it was held inter alia that neither the status of marriage nor the performance of domestic duties would entitle a woman to a beneficial interest in matrimonial property upon dissolution of marriage. Hence the need for the enactment of the "Gender Bills" which seek to recognise joint registration of the Matrimonial home so that the interest of both husband and wife are protected in the event of dissolution of marriage.

Recommendations for Further Action

- **Immediate ratification, domestication and implementation of the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa**, which Kenya signed in 2003 but has since failed to ratify
- Review laws that are discriminatory against women including citizenship laws.
- Enact the "Gender Bills"
- The Draft National Land Policy should be adopted by Parliament and it should be implemented by the government since it reflects the broad national goals and international commitments, which include the economic and social aspect and reflect democratic and good governance principles.
- Domesticate Article 1 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) on non-discrimination.
- Ratify the Optional Protocol to CEDAW which seeks to allow complaints on women's human right violations
- Implement laws that specifically define gender discrimination or make discrimination a penal offence.

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2.9 Women and the Media

Strategic objectives in the Beijing Platform for Action:

1. Increase the participation and access of women to expression and decision-making in and through the media and new technologies of communication.
2. Promote a balanced and non-stereotyped portrayal of women in the media

A comparison of the results from the three Global Media Monitoring Project (GMMPs) reports of 1995, 2000 and 2005 revealed that change in the gender dimensions of news media globally has been small and slow across the 15-year period. As newsmakers, women are underrepresented in professional categories. As authorities and experts, women barely feature in news stories. The 2009 media monitoring is currently being finalised and the results will be published in time for key global processes scheduled for 2010, including the Beijing +15 review and the Millennium Development Goals Review Summit.



The data gathered from the 2009 GMMP will generate solid evidence of whether and how much of this has changed across the world. In Kenya like other African countries that are highly patriarchal, women continue to be underrepresented in the media both as sources of news and also as managers of media institutions. For instance, the Media council of Kenya is male-dominated.

However, since the last Beijing review, Kenya has seen some slight improvement with regards women participation in the media. More women in Kenya are today seeking admission at various institutions to pursue studies in media and communication, as opposed to more than 15 years ago when only the Kenya Institute of Mass Communication (KIMC) offered media studies. Portrayal of women in the media has improved and there are deliberate efforts to feature women in T.V and radio talk shows. A number of T.V programmes are designed to feature successful women creating change in society. Additionally, leading T.V local soap operas in Kenya are being produced by women with a greater sensitivity to women issues.

The establishment of several media houses amongst them over 100 FM radio stations has seen several women join media houses. However representation and especially at the top management level is still skewed in favour of men. The representation of women at top management level keeps fluctuating especially in the leading newspapers and T.V stations.

Actions Taken by Government 2004-2009

Kenya passed the Media Act in 2007 that also contains the code of conduct for journalists, which amongst other issues calls for fairness and objectivity in the portrayal of women and children. Other issues addressed are discouraging pornographic coverage.

Actions Taken by Civil Society 2004-2009

- a) The Association of Media Women in Kenya (AMWIK) has established a revolving scholarship fund for women in media and communication that has so far sent 13 women to pursue higher education at undergraduate and postgraduate levels to enable more women access decision making positions in media houses and other related organizations.
- b) AMWIK has conducted trainings to sensitize journalists on gender issues and reporting that eliminates sexist stereotypes, gender discrimination and promoting balance in the coverage of men and women in the media.
- c) Several media based CSOs amongst them African Women and Children Feature Service (AWCFS), Development through Media (DTM), African Center for Women and Information Technology (ACWICT) have worked with women aspirants to parliamentary and civic bodies to improve their use of the media and highlight their leadership qualities.
- d) CSOs led by International Commission of Jurists (ICJ) have worked on a draft Freedom of Information bill (FOI), while the draft Constitution contains proposals to have the FOI enacted within six months of Constitution being passed.

Constraints and Challenges

1. Kenya still does not have a Freedom of Information law enacted; instead it still retains the Official Secrets Act whose function is to gag information held by state agencies in the name of preservation of state secrets and security.
2. There is a lack of empirical data on the status of women and media thus comprehensive research is required.
3. Sexual harassment tends to be rampant in media houses though evidence is currently anecdotal and requires empirical study
4. More needs to be done to promote equal sharing of family responsibility through media campaigns that emphasise gender equality and non – stereotyped gender roles of women and men within families.

Recommendations for Further Action

Some of the actions recommended for Government amongst others are

- **Support women's education**, training and employment to promote and ensure women's equal access to all areas and levels of the media.

- **Promote women's full and equal participation** in the media, including management, programming, education, training and research.
- **Aim at gender balance** in appointment of women and men to all advisory, management, regulatory or monitoring bodies, including those connected to the private and state media.
- **Encourage and recognize women's media networks**, including electronic networks and other new technologies of communication, as a means for the dissemination of information and the exchange of views, and support women's groups active in media work and systems of communication to that end.
- Media houses should take deliberate measures to have **greater representation of women in the top management levels** of their organizations
- **Continue producing and disseminating media materials on women leaders**, showing that they bring many different experiences, including but not limited to their experiences in balancing work and family responsibilities, as mothers and as role models, and particularly highlighting the contributions of young women.
- **More resources** are needed from donors and government, promoting research and implementation of a strategy of information, education and communication aimed at promoting a balanced portrayal of women and girls and their multiple roles.
- More should be done with the media to **raise awareness on the Beijing process** as the Beijing Conference received some negative publicity when a former head of state disparaged the meeting in public media.
- **Discourage media from presenting women as inferior beings** and exploiting them as sexual objects, commodities and as consumers, rather than as creative human beings.
- Civil society need to actively **establish watchdog networks** to check how media is reporting on gender issues and related.
- Employment/Labour **laws on sexual harassment must be implemented** and monitored in media houses
- Women's organisations in Kenya need to **participate actively in lobbying for the FOI bill**; because once the bill is passed it will enhance lobbying for women's rights.

2.10 Women and the Environment

Strategic objectives in the Beijing Platform for Action:

1. Involve women actively in environmental decision-making at all levels.
2. Integrate gender concerns and perspectives in policies and programmes for sustainable development.
3. Strengthen or establish mechanisms at the national, regional, and international levels to assess the impact of development and environmental policies on women.

If greenhouse gas emissions stay at their current rate, average global temperatures will rise by at least two degrees Celsius over the next 20 to 30 years. Africa has contributed the least greenhouse gasses to the atmosphere, but Christian Aid estimates that 182 Million people in Africa are at risk of dying as a result of climate change by the end of this century.

Kenya is not exempt from the effects of environmental degradation and climate change. About 80% of Kenya's population depends directly on the land and natural resources for their livelihoods. As the country's population grows and urbanization increases, natural resources have been increasingly taxed. Several major forests are endangered including the Mau forest, which is the largest water catchment area in the country. The country has also experienced drought and water shortages in recent years, resulting in at least a third of Kenya's population facing hunger. Less rainfall could mean greater competition over resources such as lakes and rivers, and with it a risk of conflict over the resources. Scientists project that East Africa will become wetter due to global warming, due to intense storms such as El Nino, which cause great risk of flooding. This variability in rainfall frequency and intensity will impact agriculture in Kenya dramatically. The indigenous and local communities who live in the arid and semi arid parts of the country are most vulnerable to effects of climate change particularly in terms of drought and food insecurity.

Due to the warmer temperatures and variations in rainfall patterns attributable to climate change, there has also been a spike in malaria in Kenya's highlands, an area that was previously rarely touched by the disease. Kenya's tourism industry will also be hard hit by the impact of climate change, especially since the wildlife in the reserves and national parks are closely connected to climatic conditions. Increases in sea levels, drought and disease will also severely impact tourism to the region.

In various emerging contexts, women have been and will continue to be disproportionately impacted by the abovementioned due to issues of poverty and gender inequality. For example rural women often collect forest products to use for fuel, food, medicines or food for livestock; the reduction or disappearance of these products endangers their welfare and quality of life, as well as that of their families. Loss of natural resources and agricultural productivity also increases women's workload, leaving them less time to participate in education, decision-making

processes, conservation and income-generating activities. For instance women in rural areas may have to traverse greater and greater distances to collect firewood and fetch water. And with the projected water shortages and increase in drought and disease as a result of climate change, women's health will be impacted, for example pregnant women are particularly susceptible to water-borne diseases and malaria. For example anaemia, as an effect of malaria, causes one-quarter of maternal mortality.

In keeping with the commitments made under the Beijing Platform for Action, women must be involved actively in decision-making on environmental issues at all levels. The exclusion of Kenyan women from decision-making processes on the environment and climate change excludes the voices of half the country's population and also deprives the society of many skills, experiences and capacities women possess.

Actions Taken by Government 2004-2009

- a) In 2009 the Ministry of Environment and Mineral Resources announced it was working towards developing a **comprehensive climate change policy** and a fully-budgeted National Climate Change Response Investment framework in Kenya to address the challenges of climate change.
- b) In 2009 Government implemented **efforts to save the Mau Forest**. The Interim Committee Secretariat formed under the office of the Prime Minister oversaw the repossession of land in the Mau Forest. The exercise intended to repossess thousands of hectares of gazetted land from squatters, said to have settled there without legal documents. Several landowners possessing title deeds to land in the Mau had begun to surrender their deeds to the Ministry of Lands as of the writing of this report.
- c) Environment Minister John Michuki in 2009 said the government would **invest Sh80 billion annually for tree planting and growing in the Mau Forest**.
- d) **Sectoral strategies** have been put in place by the Government to cope with the effects of climate change. The different sectors include forestry, water, agriculture, health, transport, and energy.
- e) Ms. Rachel Shebesh, Kenyan Member of Parliament and member of the Pan African Parliament was in 2009 appointed Chair of the African Parliamentarian Initiative on Climate Risk Reduction, increasing participation of women in at least the regional discourse on environment and climate change. She was later also appointed as the UN International Strategy for Disaster Reduction champion for disaster risk reduction in Africa.
- f) Government acknowledged in the NEMA 2006/7 State of Environment report that **climate change has impacts on gender** and that most climate change issues, policies and programs are not gender neutral

Actions Taken by Civil Society 2004 – 2009

The Green Belt Movement (GBM) continued to lead the civil society movement in efforts against environmental degradation. Between 2005 and 2009 GBM led communities to plant close to 5 million trees a year and implemented mass tree-planting rehabilitation projects on over 2,000 hectares in the Aberdare Range, Mau Complex, Mt Elgon, Mt. Kenya and Cherangani Hills, to contribute to restoration of ecosystems in the five major water catchment areas. Additionally they have raised awareness on the linkages between governance and sustainable management of resources, most recently in the Mau Forest and Ngong Hills cases. They have advocated for the resolution of issues such as: illegal land appropriation including essential wetlands, land clashes and evictions. GBM and Maendeleo ya Wanawake also lead civic education and awareness efforts such as advocacy campaigns against illegal grazing and charcoal burning, and mobilized women to find income generating activities involving tree planting. For example in one of Maendeleo's projects women are encouraged to grow trees to produce electricity posts for sale.

Another initiative was by Dr. Cheryl Mvula, who introduced a Cow Dung Fuel Initiative in 2009, to counter deforestation in the Mara Triangle. As a result of using the dung briquettes instead of firewood, firewood collection in the five pilot villages decreased by 75 per cent.

Challenges and Constraints

Some of the mitigating constraints have been:

1. The **lack of adequate data and information** for researchers, planners, policy-makers and the general public on climate change and its effects
2. Women continue to be under-represented in many forums in decision-making on the environment and climate change, including a **low number of women in the ranks of top management** of the environment and energy sector parastatals.
3. Climate change has varied causes and effects and must be approached by numerous sectors, stakeholders and disciplines; Government policies, laws and regulations that address climate change are currently segmented in various **sectoral laws that are not well coordinated**
4. **Corruption in the management of resources:** Kenyan environmentalist and Nobel laureate, Wangari Maathai, says corruption and mismanagement are responsible for accelerating the pace of the environmental crisis. She notes:

"The Green Belt Movement is shocked and embarrassed by the continuing reckless and insatiable greed for forests, rivers and wetlands despite the inevitable suffering that is befalling the people of this country. The long-term unsustainable management, occupation, exploitation and degradation of these resources have precipitated crop failure, hunger and death. There is no water even for drinking

and for essential services. The situation is completely untenable. Our country is facing an ecological disaster of our own making."

Recommendations for Further Action

It is recommended that: -

- Every effort should be made to **increase women's ownership of land** and other resources that facilitate their involvement in decision making on issues of agriculture, the environment, and climate change
- Accelerate development, completion and implementation of the **National Land Policy** to ensure the poor do not settle in forested/water catchment areas.
- There must be **increased investment in renewable energy sources** such as solar and wind energy and bio gas. The World Bank estimates that of the 35 countries in the world with the most potential for solar energy, 17 are in sub-Saharan Africa. However there must be political will, broad participation and involvement of particularly rural women, who are responsible for fetching wood or acquiring charcoal, in these initiatives if they are to take hold in Kenya.
- **Ensure adaptation and mitigation strategies are gender sensitive**, for instance a UNDP report on Gender and Climate Change notes that first-generation biofuels require raw materials provided by staple crops such as maize, sorghum, sugar cane, and producing them could cause price increases and limited access to and supply of these food products. This would affect women and their families because they are more vulnerable to food problems, and are the main providers and producers of food.
- **Ensure income-generating opportunities are available** under biofuel and other energy alternatives, to replace those that contribute to environmental degradation and emissions, such as charcoal vending.
- Not only must women be involved at the consultation stage of the development of the comprehensive climate change policy in Kenya, but the policy should also include specific **measures to address the gender dimensions of climate change**.
- **Long period, gender-disaggregated data on climate change** and its effects on society and the realization of vital human rights should be generated and systematically collected.
- Special efforts should be made to **recruit women to senior positions** in environmental/energy sector parastatals and the local government environment protection structures.
- Carry out a **national study on sex-differentiated impacts of climate change**, with emphasis on capacities to assimilate adaptation and mitigation measures.

- Raise awareness on the **importance of domestic work** and the knowledge it brings to matters concerning climate change, and promote men's participation in sharing of domestic activities;
- Create **educational and training opportunities for women** in the technologies and innovations related to climate change
- Encourage the **development of technologies to address environmental degradation and climate change** that take women into account, and foster the transfer of technology to women.

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2.11 The Girl-child

Strategic objectives in the Beijing Platform for Action

1. Eliminate all forms of discrimination against the girl-child.
2. Eliminate negative cultural attitudes and practices against girls.
3. Promote and protect the rights of the girl-child and increase awareness of her needs and potential.
4. Eliminate discrimination against girls in education, skills development and training.
5. Eliminate discrimination against girls in health and nutrition
6. Eliminate the economic exploitation of child labour and protect young girls at work.
7. Eradicate violence against the girl-child.
8. Promote the girl-child's awareness of and participation in social, economic and political life.
9. Strengthen the role of the family in improving the status of the girl-child.

The girl child in Kenya faces two dilemmas; firstly she is a child and secondly she is female. Too often in society a child is discounted as a critical partner in nation building and development and is continually perceived as “one to be seen and not heard”. This is worse for the girl child whose value is much lower than that of her male counterpart thereby making her most vulnerable to child abuse and exploitation. The enjoyment of her rights has been a constant battle as these rights have been considered privileges in the past, rather than undeniable entitlements. It is due to this continued disempowered position that there has been constant lobbying from Civil Society to the Kenyan government to ensure that there are laws, policies, structures and programs that are geared towards promoting the rights of the girl child. Civil Society has also engaged community stakeholders and duty bearers on gender issues with a focus on ensuring girls are regarded and given the opportunity as equal and critical partners in the development process. For indeed an empowered girl child for today is an empowered woman for tomorrow.⁴⁴



Actions Taken by Government 2004-2009

a) Legislation & Policy Level

- **Enactment of the Sexual Offences Act (2006)** which is one of the few legislations that recognize children as a vulnerable group, and provides elaborate provisions

⁴⁴ Section 41 of the Beijing Platform for Action

preventing and penalizing any form of sexual offences against children. The Act therefore presents an unprecedented opportunity to enhance child protection.

- **Enactment of the Gender Policy in Education (2007)**, which seeks to ensure gender equity and equality in the education sector. Among the strategies addressed is the re-entry policy of girls who get pregnant whilst in school and provision of sanitary towels to girls. It also addressed the need of enhancing gender friendly structures and sanitation facilities in schools.
- **Development of the National Policy on Abandonment of FGM** and a draft National Plan of Action (NPA) for Accelerating Abandonment of Female Genital Mutilation/Cutting (FGM/C) (2008-2012). The policy is yet to be enacted.
- **The establishment of the Free Secondary Education Programmes**, which promote the realization of the right to education for the girl child in Kenya.

b) Structures and Programs

- Establishment of rehabilitation institutions for the reception and care of children in need of care and protection and also children in conflict with the law. However there is need to decentralize the institutions.
- Establishment of the Area Advisory Council, which is an arm of the Children's department that seeks to protect and promote the rights of Children at the community and/or local level.
- Development of Guidelines on Child Participation in Kenya intended to address issues of children involvement in all situations that affect and shape the well being of a child.

Actions taken by Civil Society 2004-2009

a. Legislative & Policy Level:

- CSOs formed part of the taskforce that drafted, and engaged in the validation and lobbying on the enactment of, the policies and laws that promote the rights of the girl child - the Sexual Offences Act (2006), the Gender Policy in Education (2006) and the draft National Policy on Abandonment of Female Genital Mutilation.
- Prepared and submitted Shadow reports to the Committees of Experts on the UNCRC and ACRWC.
- Development of popular versions of the Sexual Offences Act both in Kiswahili and English and Child Friendly versions of the Children's Act (2001) spearheaded by organizations such as the Girl Child Network (GCN), Kenya Alliance on the Advancement of Children (KAACR) and Alliance Network on the Protection and Prevention of Children against Neglect - Kenya (ANPPCAN-K) to mention but a few.

- Sturdy partnership with line ministries in Government in the development of the National Guidelines for Child Participation in Kenya and drafting of the Implementation Guidelines on the Gender Policy in Education.
- Lobbied on the review of the Employment Act, which now categorically stipulates maternity leave to be 90 working days and paternity leave 14 working days. This strengthens the family unit as a backbone of society and strengthens the role of the family in improving the status of the girl child.⁴⁵
- Reviewed the Children Act 2001 and among the proposed amendments were the inclusion of diversion law (children in conflict with the law) and parental responsibility which promotes the principle of non-discrimination.
- Participated in the review of the Constitution with the main aim of including children rights as one of the fundamental rights provided under part five of the constitution.

b) Structures & Programs

- Civil Society is part of the membership of the Statutory Structures and Institutions established by government. The Board of the National Council for Children Services constitutes of 21 members, among which six are organizations from the Civil Society. At the grass-root level the Civil Society is also represented in the Area Advisory Council.
- Formation of National Networks and Coalitions which are advocacy forums through which Civil Society can lobby for formulation, enactment, implementation and amendments of legal and policy instruments that protect the rights of the girl child. These networks include the NGO-CRC Committee, The National Sanitary Towel Campaign Coordination Committee, Juvenile Justice Network, National GBV Sub cluster, National Steering Committee on FGM and the Women Wont Wait Campaign among others.
- Lobbied for Gender Mainstreaming in training institution curriculums and government departments. This has led to the establishment of institutions such as the Police Sector in the Ministry of Internal Security to have a department that encompasses gender and children issues; the department is known as *Community Policing, Gender Desk and Child Protection*.



⁴⁵ Strategic Objective L9 under the critical area of the Girl Child in the Beijing Platform for Action.

- Civil Society with support from development partners such as Save the Children Sweden successfully lobbied and partnered with the Government to establish Child Protection Units (CPU) in the various police stations across the country. The CPU handles children's cases and offers psychosocial support to children that are vulnerable and in need of care and protection.

c) Community Interventions

- Capacity Building and awareness creation fora on issues affecting the girl child to key stakeholders such as the community leaders, religious leaders, traditional leaders, school management community, teachers, parents, girls and boys.
- Creation of community linkages with referral systems on Gender Based Violence reporting procedures such as the Community Based Support Systems for Children (CBSS), Community Support Groups and Paralegal Networks.
- Dissemination of laws and policies that protect the rights of the child such as the Sexual Offences Act, the Children's Act and the Gender Policy in Education among others.
- Formation of girl child forums in Schools and Communities such as *Democracy Clubs, Girl child rights clubs, Safe Horizon Clubs and Tuseme Clubs*.
- Annual and Regional Children's Conferences and Meetings where girls and boys are able to participate, facilitate and speak out on issues affecting them. These meetings mainly target the girl child and the ratio is usually 2:3 (boys/girls). In these forums the children develop Communiqués and present them to Senior Government Officials on issues they want the government to address.
- Provision of sanitary towels to girls, construction of gender sensitive sanitation facilities such as girl friendly latrines.

d) Research

Civil Society Organizations have undertaken extensive research bringing out issues affecting the girl child, which among others include the inadequate implementation and amendments of laws and policy and the deep-rooted gender inequalities in education. Studies include:

- The Girl Child Network conducted research in 2004 on *"The status of Gender Equity and Equality in Basic Education in Kenya"*. The study revealed, factors that contributed to lower retention, participation, performance and transition of girls in schools which include; lack of sanitary towels and poor sanitation which leads to absenteeism of up to a week each month. This precipitated the launch of the

National Sanitary Towel Campaign that at present is a policy issue and among the strategies to be implemented in the Gender Policy in Education.

- FIDA Kenya conducted research to assess the implementation of the Children's Act 2001. The research was conducted in the Nyanza, North Eastern and Rift Valley provinces of Kenya. Among the gaps identified as an obstacle to the implementation of the Children's Act include: inadequate powers of enforcement and limited knowledge of the Act by the community and opinion leaders. The study recommended the need to carry out more awareness on the Children's Act at the grass-root level.
- In 2009 CRADLE – the Children's Foundation, conducted a research on the Trends of Sexual Violence in Kenya focusing on children. Among the findings was the increase of sexual violations against children, the most vulnerable being the girl child. Majority of the perpetrators were persons well known to the child. It also emerged that most cases went unreported due to stigma, fear of retaliation and also lack of knowledge on reporting mechanisms. The study recommended that child protection laws such as the Sexual Offences Act be fully implemented at all levels. The study further recommended that the provincial administration and duty bearers should enforce the implementation of these laws.

e) Direct Support

- Legal aid and rescue of girls who are survivors of violence and abuse: CSOs have partnered with national hospitals to create a "one stop shop" for survivors of GBV which includes children. This has strengthened the medical - legal linkages in the response to GBV.
- Psychosocial support initiatives to IDPs during the post election violence in 2008: CSOs and development partners such as Girl Child Network, UNICEF, IOM, Action Aid Kenya, Aidlink, Trocaire, Concern Universal among others were engaged in ensuring that girls and women received dignity kits among other humanitarian aid, created child friendly spaces in the camps, offered basic counseling and creation of protection rings for children.
- Emergency response to girls who have been rescued from FGM in areas such as Kuria District: Some of the Organizations undertaking this are Girl Child Network, ADRA, Maendeleo ya Wanawake in partnership with the Children's Department and the Provincial Administration.
- Sponsorship programmes for girls in school - with the main aim of increasing transition levels for girls in schools

f) Media Partnership

- Community radio programming with programs on children's voices by organizations such as Plan Kenya. This is in recognition of the fact that child

participation covers all aspects of a Child's life and that participation is not an event but a process.

- Commentaries and Opinions by Civil Society in both print and electronic media that focuses on the promotion and realization of rights of the girl child.
- Capacity Building fora and sensitization meetings that seek to enhance the understanding of gender issues of media houses and promote the rights of the girl child in the society.

Strategies Implemented

The main strategies undertaken by the Civil Society Sector in promoting, protecting and fulfilling the rights of the child includes but not limited to the following:

- ***Capacity Building and Awareness Creation*** - Civil Society has been able to build the capacity of key stakeholders on the rights of the girl child and created awareness in the community on the need to protect and promote these rights, thereby enabling the empowerment process of the girl child.
- ***Media Partnership*** – Civil Society is engaging the media in creating awareness on the plight of the girl child and the need for her empowerment.
- ***Research and Documentation*** on issues affecting the girl child in Kenya
- ***Direct Community Interventions***, which involve establishment of community support groups and networks such as Paralegal Networks to monitor any form of violation of child rights at the community level.
- ***Direct Support*** – such as psychosocial support programs during the post election violence, school feeding programs, and sponsorship for girls in schools aimed at retaining the girls

Challenges and Constraints

The following are challenges that continue to impede the empowerment of the Kenyan girl child and her participation in development processes of the society.

1. **Slow implementation and amendments** of the legal instruments, policies and systems at the grass roots.
2. **Lack of knowledge and naiveté** by society on the existing child protection systems, policies and structures. Many communities prefer to deal with GBV cases using the traditional method usually known as *"kinyumbani"* / *"kienyeji"* which is usually a mediation process and a fine is imposed on the perpetrator.
3. **Poverty** and exclusion facing majority of the people living in the informal settlements and marginalised areas. This increases the girl child's vulnerability to child abuse and exploitation.
4. **Lack of accurate national data** particularly on GBV cases.

5. **The impact of HIV/AIDS** and poverty continue to leave the girl child vulnerable to exploitation and discrimination
6. The Orphaned and Vulnerable Children's Policy and the National Children's Policy have not yet been enacted and are still drafts.
7. The proposed amendments of the Children's Act (2001) are yet to be enacted by Parliament. Some of these amendments include the Diversion
8. **Inadequate sensitisation of the media** on gender issues, yet they are critical agents in changing gender stereotypes.
9. Among the negative impacts of the Free Primary Education programme is the **decrease in the quality of education** due to congestion of students in schools and lack of adequate teachers to teach the influx of students. The Free Secondary Education programme on the other hand is not totally free as government only caters for the tuition costs but parents still have to pay for the boarding fees, uniforms, books and other amenities outlined by the school.

Recommendations for Further Action

- The government should **ensure that sufficient resources are allocated to the Gender and Children sector** in order to advance the empowerment process of the girl child and women. For example there is need for more qualified female teachers in marginalized areas. There are schools particularly in the Arid and Semi-Arid Lands (ASALs) regions where there are no female teachers.
- The government needs to work out a **comprehensive and systematic policy for financing free primary and secondary education** in conjunction with parents and community so as to ensure that the quality of education is not affected.
- Gender inequalities in Kenya have mainly been championed by the civil society. For fundamental change to occur in the community, the government and the private sector should ensure that **policy commitments are delivered** and where necessary appropriate changes to policies and laws are made. Organizations and groups in civil society, both formal and non-formal, national and international should also continue to provide focal point for debate and advocacy and continue to create awareness on the rights of the girl child.
- There is need to **sensitize the community on the existing child protection systems, policies and structures**

- To boost school access and participation in poor schools, **school feeding programmes** should be organized, as they have been known to have an immediate impact on girls' enrolment to schools.
- Need for **effective institutional organizational frameworks** to promote gender equality and the right of women and girls.
- The political will and commitments from government, the support from stakeholders and players including parents and communities are paramount and need to be sustained.
- There is need for **comprehensive dis-aggregated data collection** on gender issues particularly GBV that would better inform strategies that seek to address the advancement of women and girls.

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