



## **Joint Submission Shadow Report to the United Nations Committee on the Elimination of Discrimination against Women**

**Kenya 48th Session 17 January – 4 February 2011**

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**FEDERATION OF WOMEN LAWYERS-KENYA (FIDA-K)  
CENTRE ON HOUSING RIGHTS AND EVICTIONS (COHRE)**

### **Names of Organisations Consulted:**

- 1. Aids Law Project [ALP Fahamu Kenya**
- 2. Association of Women in The Media Network in Kenya [AMWIK]**
- 3. Centre For Education and Awareness Creation [CREAW]**
- 4. GAY & LESBIAN COALITION OF KENYA [GALCK]**
- 5. GROOTS KENYA**
- 6. HELPAGE Kenya**
- 7. International Commissions of Jurist -Kenya [ICJ -K]**
- 8. Tomorrow's Child Initiative [TCI]**
- 9. Women Empowerment Link [WELL]**
- 10. WOMAN KIND KENYA**

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## **Submitting Organizations**

### **FIDA KENYA**

The Federation of Women Lawyers-Kenya (FIDA-K) is a non-profit, non-partisan membership organization committed to the creation of a society that is free from all forms of discrimination against women.

FIDA-K works towards improving the legislative and policy framework for women's rights. A core activity of the organization is to monitor the government's progress in domesticating international human rights instruments.

Over the years FIDA-K has carved itself a niche as a defender of women's rights at the international, national and local level. FIDA-K is connected with like-minded players with whom she shares practices and innovations. These include strategic institutions of government through which to exert policy and practice influence.

FIDA-K also has a long-term working relationship with parliament and the judiciary and in recognition of its contribution to women rights struggles; she sits in a number of strategic committees situated within the government. FIDA-K uses these spaces to influence transformative change for indigent woman at national level.

At the international level, FIDA-K is recognized foremost as an African actor in the area of women empowerment. FIDA-K enjoys special consultative status with the United Nations Economic and Social Council (ECOSOC) and observer status with the African Commission on Human and People's Rights. FIDA -K uses these international spaces to bring pressure to bear on the Kenya policy makers in favour of marginalized women. Further information about FIDA-K can be accessed at [www.fidakenya.org](http://www.fidakenya.org)

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## COHRE

**The Centre on Housing Rights and Evictions** (COHRE) is an independent, non-Governmental, non-profit human rights organization campaigning for the protection of housing rights and the prevention of forced evictions around the world. COHRE's overall objective is to promote and protect the housing rights of everyone, everywhere. To achieve this, COHRE has developed varied work programmes guided by international human rights law. COHRE work involves housing rights training and education; research and publications; monitoring, documenting and preventing forced evictions; undertaking fact-finding missions; participating and lobbying at the United Nations and regional human rights bodies; and providing advice to communities and organizations involved in housing rights campaigns. Further information about COHRE is available at: <http://www.cohre.org>. Information on COHRE's women's rights programming is available at: <http://www.cohre.org/women>.

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## **Executive Summary**

The Federation of Women Lawyers (FIDA-Kenya) in partnership with the Centre on Housing Rights and Evictions (COHRE) – takes this opportunity to submit a joint shadow report to the Seventh Periodic Report of Kenya to the Committee on the Elimination of All Forms of Discrimination of Women (for the period of February 2006 to April 2009).

The Kenyan Government ratified CEDAW in March 1984 and has not ratified the Optional Protocol to CEDAW at the time of this submission. From the time Kenya ratified CEDAW, no steps were taken towards domestication. There has been an apparent reluctance to domesticate as demonstrated by a number of legislations that are linked to CEDAW that have been pending for a long time including: Family Protection Bill 2007; Marriage Bill 2007 and Matrimonial Property Bill 2007.

A number of laws, programs and policies have however been initiated to address discrimination against women which include the following;

- a) The Penal Code, The Sexual Offences Act, The HIV Prevention and Control Act and the Trafficking in persons Act. These are some laws that provide a platform for redress through the court system. Other complaints mechanisms available other than the courts is the now merged Commission on Human Rights and the Gender Commission [KNHREC]
- b) The Family division of the High Court, established in 2001, with aim of easing congestion and faster processing of Family disputes;
- c) The Constitutional provisions on non discrimination, equality before the law, family and marriage and for 30% representation in all elective and nominative posts;

A key achievement that is of great significance to this report is the ratification of the new Constitution of Kenya, 2010, following the referendum on 4th August 2010, which alters the context in this reporting period. The effect of the new Constitution is to turn Kenya from a dualist into a monist state.

Article 2(6) of the new Constitution provides that: 'any treaty or convention ratified by Kenya shall form part of the law of Kenya under this Constitution.' Up till now, the Executive has both signed and ratified human rights treaties; and Parliament has then had to domesticate such treaties to become part of Kenyan law. From now henceforth, the Executive will sign treaties and Parliament will ratify them, subsequent to which they will become part of Kenyan law.

This shadow report highlights several areas of concern related to the status of rights of women and girls in Kenya. Specifically on discrimination against women, legislative measures to guarantee basic human rights and fundamental freedoms, suppression of exploitation of women, women's political and public life, participation at the international level, nationality, equal rights in education, health care and family planning, economic and social benefit, rural women, equality before the law and family law.

The report was prepared by FIDA Kenya in collaboration with key stakeholders in the women's rights movement.

The methodology used in preparing the shadow report was by looking at the Government report as presented and critiquing the sad report article by article as presented in the country report.

## **ARTICLE 1: DEFINITION OF DISCRIMINATION AGAINST WOMEN**

According to Article 1 of CEDAW, discrimination against women refers to “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civic or any other field.”

The Government of Kenya is aware and has acknowledged that discrimination against women is rampant and has incorporated a definition of discrimination against women in the new national Constitution which is compliant with provisions under CEDAW this is in the Bill of Rights under article 10(2). Indeed, the State Party report acknowledges that discrimination against women has been manifested in various forms, including gender-based violence, but notes its efforts to comply with its CEDAW obligations through the adoption of the new Constitution.

While this is a positive step, it is important to stress that the problem of discrimination against women in Kenya is not solely one which can be traced back to the absence of laws, but rather most often to the ineffective implementation of existing legislation and the misguided interpretations of this legislation adopted by the courts. The provisions of the new Constitution while positive on their face, risk restrictive interpretation by Kenya's courts, which interpret women's rights from a very patriarchal point of view.<sup>1</sup> This reality continues to make it difficult for women to actualize their right not to be discriminated against on the basis of gender.

Equally, there is no indication of what is being done to improve the protection of women's right to non-discrimination through efforts aimed at training and empowering judicial officers in Kenya. Apart from the Constitution, language in general legislation is most often gender neutral, thus making it difficult to deal with discrimination that results when laws do

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<sup>1</sup> Echaria v. Echaria , 2007 on equal shares of matrimonial property and women's contribution and Kamau v. Kamau sale of matrimonial property without spouse consent ,2006 (in both cases the Court was retrogressive in interpretation of the existing laws and calls for the Government efforts to pass the Matrimonial property Bill.)

not specifically define gender discrimination or make discrimination an offence.

**Recommendations/Questions for the Committee to consider:**

- With the new Constitution defining discrimination in line with CEDAW and moving on to guarantee women's right in various areas, the State's should prioritise and focus on ensuring enabling statutory and policy framework that promotes the implementation of the rights in the new Constitution.
- The Constitution recognizes treaties that Conventions which Kenya has ratified shall be part of the Laws of Kenya and obligates the Government to domesticate and enforce their provisions under Article 2(6). The State take measures to implement these provisions through enacting legislation to fulfill its international obligations on human rights.
- The Government should strengthen the Jurisprudence of Equality program of the Kenya Judiciary, a donor funded initiative that trains judges and magistrates on international law and incorporating international law in their in their decision making.

**ARTICLE 2: POLICY MEASURES TO BE UNDERTAKEN TO ELIMINATE DISCRIMINATION**

The State has taken several measures to ensure that certain policies and structures are put in place in order to eliminate discrimination against women. This has been realized by enactment of legislations and policies such as:

- The New Constitution of Kenya, which provides for non discrimination and equality for both men and women Discrimination on the basis of sex is explicitly prohibited under article 27 (3) & (4)
- The Employment Act No.11 of 2007 which contains several provisions which expressly prohibit discrimination of women at the work place and matters pertinent to employment.
- The National Cohesion and Integration Act. No.12 of 2008 whose main objective is to encourage national cohesion and integration by outlawing discrimination.
- The National Policy on gender and Development 2000. The policy was to provide a framework to guide different sectors and agencies in advancement of women empowerment.

- Sessional Paper No. 2 of 2006 on Gender Equality and development, its objective is to ensure the mainstreaming of all the needs of women and men in all sectors of development and to generate sex disaggregated data to ensure equity in development initiatives.
- The Sexual Offences Act, 2006
- The Truth, Justice and Reconciliation Act No.6 of 2008 whose main objective is to establish an accurate, complete and historical record of violations and abuses of human rights and economic rights.
- The National Land Policy.
- The recently enacted Anti trafficking in Person Act

A lot has been done in terms of enacting of laws however there has been laxity in ensuring proper and effective implementation of the policies and laws. There is need for the state to invest in setting up the structures and institutional measures that will enable the full implementation of the above laws and will also ensure monitoring of the implementation is undertaken.

For example a research undertaken by FIDA- K <sup>2</sup> identified institutional challenges on the implementation of the Sexual Offences Act. The Task Force on The Implementation of the Sexual Offences Act was set up in 2007 and it was not until 2010 that the task force started working on a national framework and guidelines for administration of sexual violence. Secondly the Task Force is mandated with public education and awareness on the Act but has not been able to achieve that among its other mandates even as its mandate expires on 31<sup>st</sup> of December 2010.

The National legal Aid and Awareness program (NALEAP) was officially launched in 2008 where six pilot projects were created to carry out its mandate. However since they are pilot projects and only provide the bare minimum advisory services they have been unable to offer legal aid to the needy Kenyans expected to have a national body taking care of their legal needs. Thus the poor women who cannot marshal resources to act on the advice given by instituting suits or seeking administrative redress rarely benefit from the said legal aid schemes. Furthermore, it is worth noting that the schemes depend on donor funding thus they cannot self sustain.

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<sup>2</sup> FIDA –K(2010) Research on Implementation Of the Sexual Offences Act –Justice Sector

The National Cohesion and Integration Act, No. 12 of 2008 whose purpose and objective is to encourage national cohesion and integration by outlawing discrimination is largely geared towards dealing with the problem of discrimination on ethnic grounds and treats gender discrimination amongst other subsidiary facets of discrimination. It would have been expected that given the intention of the legislation it should have been the right time for Kenya to seize the opportunity and legislate extensively on gender discrimination.

The Sessional Paper No. 3 of 2009 on the Land Policy is one of the other legal frameworks that recognise the glaring inequitable access to land for women as an issue that deserves special attention and obliges the State to enact, repeal and or enforce laws to protect land rights of women. Specifically the policy obliges the State to review The Law of Succession Act and enact a Matrimonial Property law and other related laws and protect the rights of widows and divorcees through legislating on co-ownership of matrimonial property. The policy further obliges the State to provide for joint spousal registration and documentation of land rights and joint consent of land disposals. This provides an opportunity for the State to prioritize gender reforms in the area of land and property rights for the benefit of women's equal access, control and ownership of land. The policy recognizes the existence of informal settlements and suggests an inventory of genuine squatters. This is very important for identification of the number of women living in informal settlements for the purposes of benefiting from urban land reforms suggested by the policy.

The implementation of the Land Policy has been very slow though the State has set up a Land Reform and Transformation Unit (LRTU) to spear head implementation of the land policy and land sector reform. It is however not clear on the participation of women and whether it has incorporated gender inequalities as one of its focus areas.

Formulation of legislation and policies is the first step towards eliminating discrimination against women. However, without proper and effective implementation of those policies, there can never be change in the efforts of eliminating discrimination against women and promoting gender equality. This is the status quo in Kenya.

**Recommendations/ Question for the Committee to consider:**

- The State to bring forward a similar but independent legislative initiative which is geared towards addressing gender discrimination given that the National Cohesion and Integration Act is concerned

- with ethnicity and relegates other facets of discrimination like gender to the periphery.
- The state should undertake decisive steps to eliminate discriminatory customary practices that impact negatively on women's access to housing, land and property
  - What steps are being taken by the government to ensure proper and effective implementation of formulated policies and legislations a case in point being the Sexual Offences Act 2006?
  - What are the steps the government intends to take to integrate gender concerns effectively within the remit of the National Cohesion and Integration programme?
  - What measures or initiatives is the government taking in order to provide a legal aid scheme that goes beyond merely advising the affected women to actually ensure that the requisite redress are actually sought and awareness on access to justice?

### **ARTICLES 3 & 4: ALL APPROPRIATE MEASURES, INCLUDING LEGISLATION TO GUARANTEE BASIC HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS**

The New Constitution in its preamble recognises the principles of gender equity including social justice parity and fair representation. This is critical in addressing gender equity.

As recommended by the CEDAW Committee, the State passed the Sessional Paper No.2 of 2006 on Gender Equality and Development. This policy is an indication of the State's commitment in addressing the various inequalities that exist between men and women in Kenya. Under the policy, the State has established several programmes such as the Youth Enterprise Fund, Women's Fund, Gender Responsive Budgeting and the Social Protection Fund which are the mechanisms aimed at steering the State's efforts to bring about equality and eliminate discrimination. The impact of these programmes are however yet to be felt by a majority of the women in Kenya. The established programmes have benefited a selected few leaving out the larger population of women.

The Government has also worked on developing institutions and processes in line with each of these policies. A National Commission of gender and development was established in 2003 to coordinate, implement gender mainstreaming in national development and to advise the Government on gender concerns. The commission will soon be merged with the Kenya National Commission on Human rights to form the Kenya National Human Rights and Equality Commission as provided in the new Constitution. The Government also has a Ministry of Gender, Children and social Development. The Ministry's objectives include the promotion

of gender equality and women's empowerment through gender mainstreaming, domestication, dissemination and ensuring compliance with gender and social related regional and international commitments to which Kenya is signatory to.

The above efforts are commendable but it is important to highlight the drawbacks that linger over such progress, for example Kenya ratified CEDAW in 1984 but it is yet to ratify the Optional Protocol to CEDAW.

Some of the challenges identified are the inadequacy of resources to support these gender machineries which are plagued by serious financial constraints. The second challenge is the lack of political commitment on the above transformative initiatives which is seen through the inconsistency in the efforts towards gender mainstreaming and unavailability of resources and insufficiency of technical capacities in the above institutions to undertake this work.

The steps taken by the State (paragraph 50 of the State report) through Governance, Justice, Law and Order Sector (GJLOS) to work with traditional leaders to moderate harmful cultural practices are commendable. However, the State admits that GJLOS reached limited parts of the country. While the project reported successes in having 20 women restored to the matrimonial homes the project cannot be said to have had an impact. Evictions by in-laws alone cannot be taken to reflect adequate action in relation to protecting and promoting women's property rights. Women across the country continue to experience violations of their property rights including evictions from their matrimonial and natal homes because of harmful practices on inheritance and divorce. There is more the State can do through positive statutory legislation and increasing its programme of creating awareness and capacity of traditional leaders to protect the property rights of women.

It remains that women's lack of property rights especially in land and housing contribute to feminisation of poverty, violence against women, incapacitate women's ability to mitigate effects of HIV/AIDS and hinder their economic advancement.

**Recommendations/Question for the Committee to consider:**

- The State should commit to allocating resources and technical capacities required to implement the above policies and support the institutions and machineries.

- The Government should commit and plan to educate Kenyans on CEDAW and disseminating the concluding observations to Kenya.
- The Government should ratify the Optional protocol to CEDAW to ensure women enjoy the mechanisms provided therein.
- When will the Government enact and implement adequate legislations as provided in the Constitution for the advancement of women?
- How will Government ensure that gender issue are addressed and not sidelined with the merger of the when the Gender Commission and the Kenya National Human rights body?

## **ARTICLE 5: SEX ROLES AND STEREOTYPES**

Gender stereotyping is a major hindrance to efforts of elimination of all forms of discrimination against women. Due to the patriarchal order of the Kenyan society, certain roles are relegated to women, while others are restricted only to men. The State has indeed taken steps to try to eliminate sex roles and stereotypes in Kenya. It has formulated several Bills such as the Equal Opportunities Bill which are aimed at ensuring that all forms of sex roles and gender stereotyping are eliminated. The State needs to demonstrate genuine commitment to have these bills expeditiously passed and properly implemented if they are to achieve their intended objectives of ending stereotypes Kenya women currently face.

The society generally still holds the patriarchal mentality and if the State is to succeed in eliminating sex roles and stereotypes, it is imperative that it undertakes public awareness campaigns which will sensitise the public on the message of equality of men and women.

In Paragraph 95 of the States Parties report, the State notes that only 3 percent of women own title deeds and thus are disadvantaged in terms of economic opportunities. The report goes to analyze this in terms of rural and urban where it is demonstrated that female households in the urban are poorer than their male households headed counterparts. However, the State does not report on actions that it has taken or intends to undertake to address the situation especially for female households.

The former UN Special Rapporteur on adequate housing, in his report on his mission to Kenya in 2004, indicated that female-headed households in urban slums live in poorer housing conditions than their male-headed

counterparts and struggle to provide for their needs. The report further demonstrated that lack of proper sanitation in slum areas is a security hazard for women and without sanitary facilities nearby (or in existence at all), women have to leave their homes at night, running the risk of being sexually assaulted or other personal attacks.<sup>2</sup> The review of the same report in 2009<sup>3</sup> by the new UN Special Rapporteur on adequate housing found out that these challenges still existed, which has been further confirmed by the recent Amnesty International report on women insecurities in Nairobi slums.<sup>4</sup> As part of social advancement of women and improving property ownership, there is need to implement housing and slum upgrading policies that improve the housing situation of women slum dwellers.

Although the State does not report on the impact of its pilot slum upgrading programmes to housing rights of women in its report, these programmes have not systematically addressed gender equality challenges of the urban women. For example the Kenya Slum Upgrading Programme (KENSUP) registration of programme beneficiaries used the head of the household approach which did not at all consider the joint ownership on housing units as suggested in the Land Policy Session Paper. The majority of women living in slums cannot afford better housing options. As a result women and girls face eviction threats and bear the brunt when forced evictions occur including gender based violence. Legal reforms are a significant step forward, but are in no way sufficient to ensure women's right to adequate housing.

**Recommendations/Question for the Committee to consider:**

- The Government of Kenya should take measures to design and implement extensive education and sensitization programmes to raise awareness on elimination of stereotyping on the basis of gender particularly in adoption and implementation of programmes, laws and policies in relation to women's housing, land and property rights.
- Will the Government adopt an education and sensitization programmes to eliminate discrimination and stereotypes? If yes whether they will target leaders and community members?

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<sup>2</sup> Report by the Special Rapporteur, Milton Kothari, 'Adequate housing as a component of the right to an adequate standard of living: Addendum: Mission to Kenya (9-22 February 2004),' UN Doc.

E/CN.4/2005/48/Add.2.

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<sup>4</sup> Amnesty International, 'Insecurity and Indignity: Women's Experiences in the Slums of Nairobi, Kenya,' London (2010). See also: The Centre on Housing Rights and Evictions, 'Women, Slums and Urbanisation: Examining the Causes and Consequences,' Geneva, (2008).

## **ARTICLE 6: SUPPRESSION OF EXPLOITATION OF WOMEN**

Exploitation of women is a major vice that faces many women in Kenya. Prostitution is on the increase and statistics show that the numbers are growing especially among adolescent girls (as young as 9 years old). Sexual exploitation is outlawed under the Penal code CAP 63 Laws of Kenya .The Penal Code criminalises at section 153 and 154 both men and women who live on earnings of prostitution. This is also mirrored in the Sexual offences Act and the Children's Act of 2001. However, the vice still continues even though proper legislation is in existence. Prostitution and sexual exploitation can only be eliminated by examining and addressing the root causes. Poverty is the main root cause that leads women into prostitution. Incidences of poverty in Kenya is estimated at 56 percent of the population 38 million people<sup>5</sup> and the number of those living in poverty has risen from 3.7 million in 1972-1973 to 15million today.<sup>6</sup>

As a result of low economic status and limited employment opportunities, women are more likely to be affected by poverty. Wherever there is rampant poverty, people always resort to vices such as prostitution and organised crime. The State has to play a larger role in tackling the issue of poverty in Kenya. It should come up with initiatives (such as creating more job opportunities) which aim at empowering women economically so as to bring about sustainable development.

The Penal Codes handling of prostitution criminalises feminised poverty and does not reflect the equal protection before the law.

Trafficking in persons, especially in women and children is still rampant in Kenya. Statistics show that women and children in Kenya are increasingly being trafficked for exploitation. Some of the forms of exploitation include slavery, prostitution and forced marriage. Kenya recently passed legislation to deal with trafficking, the Counter Trafficking Act, however there is need to have proper implementation plans. This is based on the experience that Kenya has had with the other only legislation that deals with trafficking in Kenya, the Immigration Act Cap172 and the Children's Act of 2001, the latter specifically criminalises trafficking in children. The immigration Act lacks proper definition of trafficking and proper provisions for counter trafficking. This gap in legislation left the victims of trafficking in the hands of the exploiters and without any legal redress.

### **Recommendations/Question for the Committee to consider:**

<sup>5</sup> The Republic Of Kenya, 2006, " A Report on the African Charter on Human and People's Rights

<sup>6</sup> United Nations Development Assistance Framework (UNDAF), KENYA, 2004-2008  
<http://www.ke.undp.org/UNDAF.pdf>

- The State should come up with proper mechanisms to assist victims of trafficking. These mechanisms should move a step further to provide repatriation for the victims. They should provide psycho-social counselling, temporary shelters and economic empowerment to the victims in order to re-integrate them onto the society.
- The Government should do away with the penal code provision on prostitution as they victimise women.
  - What measures are in place to help address prostitution especially child prostitution in Kenya?

## **ARTICLE 7: POLITICAL AND PUBLIC LIFE**

The number of women participating in electoral processes both at the local and national level has been increasing steadily over the past few years. The new Constitution provides a legal framework for women representation which was not provided for in the old Constitution. Articles 81, 90 and 91 delineate the composition of women representation in elective public bodies, in political parties, Political Parties Fund and affirmative action.

The right of every person in Kenya to be elected to political offices and participate in decision making is further guaranteed in the Constitution. However, this guarantee doesn't fully extend to women. Women still experience discrimination in as far as nomination and election into political offices.

The state Party report indicates that it has enacted the Political Parties Act 2007. This is a positive development because it advocates for one third of political party office bearers should be of opposite gender. The level of women's participation is still low due to lack of implementation of this provision.

Despite provisions in the Political Parties Act 2007 and the Persons with Disability Act, which provides for equality before the law for men and women, all political parties failed to nominate persons with disabilities after the 2007 general elections.

The States Party report further indicates that there has been an increase in the number of women nominated and elected into political offices. However the latest survey by UNIFEM<sup>7</sup> shows that women constitute 10%

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<sup>7</sup> See Baseline Report, Prepared by UNIFEM-Women Representation and Participation in the Public and private sectors in Kenya (August 2010)

representation in the current National Assembly, out of 222 members of parliament, only 21 are women. This trend makes it very difficult to measure women's participation and the impact of their contribution in terms of laws and policy adoption.

On the other hand, the State Party report does not highlight the challenges women seeking nomination and election to political offices face. These women continue facing threat of and actual violence and abusive language whenever they declare their intention of entering into politics. This infringes on their Constitutional right to compete for political offices. The impact of this violence is the erosion of women's confidence to venture into the political arena.

The establishment of the Kenya Women Parliamentary Association (KEWOPA) by women members of parliament is a positive development. Its main vision is to ensure that women and men are equally represented in Parliament and other decision making bodies.

The UNIFEM survey<sup>8</sup> highlights as well, that a small section of senior judicial officers comprises women. The study reveals that the higher the rank within the judiciary, the lower the number of women represented. For example the Chief Justice is currently a man and has always been a man while in the Court of Appeal the highest court of the land there is no women currently sitting and at most there has only been two women who have ever been elevated to this court.

The State needs to play a more active role in ensuring that there is affirmative action not only in Parliament, but also in every decision making organ in the country including the judiciary. A lot of hope is now being pegged on the new Constitution which advocates for equality between men and women in political and public life. The Constitution clearly stipulates for inclusion of women in senior governmental appointments and the requirement that in all constitutional commissions the chair person and the deputy must be of opposite gender

**Recommendations/Questions for the Committee to consider:**

- The State should outline measures it will undertake to give effect to the provisions in the Constitution, on reserved seats for women in the Senate and other quotas for women in other elective positions.
- The Government should urgently enact enabling legislation on affirmative action, elections and representation as provided in the fifth schedule of the Constitution

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<sup>8</sup> Ibid

- The Government should put up measures to address the prevailing structural barriers so as to ensure increase in women's representation across different spheres of decision-making.
- What measures is the Government putting in place to develop an affirmative action policy and mechanism on equal participation of women in political and public life as enshrined in the Constitution of Kenya?

## **ARTICLE 8: PARTICIPATION AT THE INTERNATIONAL LEVEL**

The States Party's report indicates that there has been increase in number of women ambassadors and high commissioners who represent the State party at the international level. However, it indicates that the number is yet to reach the 30% mark. We want call attention to the fact that this has been a trend that has remained since 2006, that out of the 40 ambassadorial postings, women compromised only 27.5%.

This is as a result of lack of political will to ensure equality in appointments. Women continue to experience discrimination at the political level which hinders them from participating in politics. The report indicates that one of the obstacles that hinder participation of women at the international level is the difficulty of balancing family responsibilities with public service by women. This is however not a major obstacle because most women are not even given the chance of representing the State at the international level. This is a stereotypical attitude by the Government which needs to be discarded. It is the 21<sup>st</sup> century and many career women have mastered the art of balancing their careers and their family responsibilities.

### **Recommendation for the Committee to consider:**

- The state should come up with strategies in increasing appointments of women not just of the ambassadors and High Commissioners in the Kenyan consulate abroad but also during appointment of senior staff in those offices.

## **ARTICLE 9: NATIONALITY**

We applaud the provisions of the new Constitution in the Chapter on citizenship; citizenship is clearly defined and broadened to be fair to both

men and women. Citizenship is also not lost through marriage or the dissolution of marriage. Dual citizenship is provided for and women will confer citizenship to their spouses and there is a clear protection of the status of citizenship and clear rights and duties for citizens.

The States Parties report indicates that the barriers of obtaining passports by women have been removed. Married women no longer need the consent of their spouses. They are only required to produce a marriage certificate.

This requirement is unsatisfactory because there are women who undergo customary marriages which do not have a marriage certificate. This is a loophole which has been overlooked by the immigration office and needs to be addressed urgently.

The other question is what happens to single mothers who cannot produce a marriage certificate or birth certificates showing the fathers of these children, which criteria will the immigration office use to grant their children passports? This is a loophole which has been overlooked by the immigration office and needs to be addressed urgently.

**Recommendations/Question for the Committee to consider:**

- The Government should urgently enact the citizenship Law as obligated under the Constitution
- How does the Government plan to address the issue of women married under customary law and also children born of single mothers in issuing of citizenship/travel documents?

**ARTICLE 10: EQUAL RIGHTS IN EDUCATION**

Following the enactment of the Children's Act 2001 and Government declaration in 2003 that ushered in free primary education, both boys and

girls have been accorded equal educational opportunities resulting in a share in enrolment close to parity between boys and girls.

The Government of Kenya has further invested in the education sector with an estimate of 7.0 % of the country's GDP, a higher rate than that of other more developed countries.<sup>9</sup> Despite significant improvements in recent years, gender disparities continue to be a key issue in the education sector.

The difference in girls and boys enrolment rates has been traced to begin earlier, through the ministry of Education data on national pre school gross enrolment rates for 2004- 2008 the gender gap has remained consistent, ranging between 2 and 4 percent. Participation in preschool education in Kenya has remained low and it is estimated to be 60.2 % as at 2008 (6.16 % for boys and 5.87 % for girls).<sup>10</sup>

Despite introduction of free primary education, the cost of preschool is still an impediment to low income households thus so many parents opt to keep their children at home until they reach the entitlement age for free primary education

At secondary school level, figures available<sup>11</sup> show that in secondary schools, girl's enrolment was estimated at 46% in 2008 compared with enrolment 54% for boys. This implies that the gender ratios realized in primary level are not maintained at secondary level; and reasons for this variance include early marriages, and dropping out due to pregnancy, among other socio-cultural factors.

Enrolment trends for Kenya's public/privates universities and technical, industrial, vocational, educational and training institutions, confirms that transition rates for females are lower than those of males who dominate the national polytechnics, technical training institutions and institutes of technology. Females have however been tended to dominate the youth polytechnics. The high number in the youth polytechnics is explained by the large number of girls who do not progress to tertiary institutions due to their performance, attitude and the choice of subjects in secondary education. This also reflects the high number of girls who miss secondary education.

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<sup>9</sup> GOK,2007 Kenya Vision 2030; A globally competitive and prosperous Kenya, Nairobi: Ministry of planning and national development and the national Economic and social Council (NESC)

<sup>10</sup> GOK 2009 Education facts and figures 2002-2008, Nairobi: Education Management information systems (EMIS ) Ministry of Education

<sup>11</sup> Ibid

These disparities suggest differences in access to appropriate education and training for a large number of women where females lagged behind in primary and secondary education, it is likely that the trend carries over into admission rates at technical, industrial, vocational, educational and training institutions and universities.

The Government of Kenya has tried to address the transition rates of females from secondary into public universities, for example by lowering the cut off admission points for female candidates by 1-5 points. This has translated into an increase in female enrolment: the enrolment of female candidates has increased over time from 36.7 % in 2004 to 40.13 % in 2008 in public universities because of this policy measures.<sup>12</sup> But because of the poor performance of female candidates in mathematics science and other technical subjects, those wishing to do so are still unable to secure admission into science, mathematics and technology based degrees programmes offered at public universities<sup>13</sup>.

Besides that the relatively lower admission of female students into universities reflect the cumulative effects of socio-cultural and religious factors that hinder girls' participation, good performance and progress at the lower levels.

Poverty puts girls at a distinct disadvantage in terms of education. For male and female children from disadvantaged homes, the decision to pursue ones education and training can be perceived as inimical to the immediate needs of the family, especially when family needs are compared to the attendance cost of education which increases with as a student progresses up the education system.<sup>14</sup>

### **Recommendations for the Committee to consider:**

- The Government should implement Sessional Paper No.1 on the Policy Framework for Education, Training and Research which will increase the proportion of women in teaching, administration and research at all levels of higher institutions.
- The Government should implement affirmative action on admission of female students to public universities, allowing girls who drop out of primary and secondary schools due to pregnancies to re-enter

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<sup>12</sup> Bunyi, G.2003 Interventions that increase Enrolment of Women in African tertiary Institutions in Regional Training Conference on improving Tertiary Education in sub-Saharan Africa: Things that Work.[www.worldbank.org](http://www.worldbank.org)

<sup>13</sup> Ngethe, N, D, McCormick, Et al (2005) Review of Initiatives for Enhancing Women's Participation in Higher Education: The case of the University of Nairobi Kenya

<sup>14</sup> (SID)2010,Kenya's Vision 2030: An Audit From an Income and Gender inequalities Perspective

- and complete their education, and for new recruitment and appointments in the public sector.
- The Government should carry out community empowerment on the importance of educating girl's and voting for women in leadership positions

## **ARTICLE 11: EMPLOYMENT**

The State has made commendable efforts in ensuring the elimination of all forms of discrimination against women in the field of employment. The State enacted the Employment Act No. 11 of 2007 which is in line with the principles of the 1998 ILO Convention. It clearly defines and provides for elimination of all forms of discrimination at the work place and promotes equality in all matters related to employment.

The positive aspects of the legislation are:

The Employment Act enhances the realisation of women's rights in equal employment opportunities, and eradication of discrimination in employment policy and practice, safeguarding affirmative action measures in recruitment, equal pay for work of equal value, sexual harassment recognised through ensuring that employers enactment a sexual harassment policy and lastly the Act provides for three month maternity leave.

Though the Employment Act is favourable to equal employment and non discrimination, Kenya does not have institutional frameworks to ensure equal opportunities, in the informal sector or agricultural sector where women account for over 80 % of those employed.

The result being that these positive provisions lack proper implementation and therefore have not transformed into improving women's status insofar as employment opportunities.

It is also worthy of note that though the States Parties report states that there has been an increase in the number of women entering into the public and private sector, several obstacles still hinder more women to access these sectors.

Statistics from the 2008 labour Force Report and the Kenya Integrated Household Budget Survey (KIBHS) of the same year indicate that Kenya's economically active population- those aged 15-64 years constituted 12.7 million persons and 1.9 unemployed persons, while the inactive population

amounted to 5.3 million persons.<sup>15</sup> The overall participation rates were slightly higher in urban than in rural areas. A gender analysis showed that the proportion of working females in the rural areas was higher than that of males, recording 77.1 % and 70.3 % respectively. This difference could be explained by the fact that a majority of the women who reside in the rural areas are engaged mostly in agricultural activities.

This can be highly attributed to the gender disparities in access to education whereby a huge percentage of women drop out school due to poverty, and other challenges mentioned above under the education sector.

Whereas participation of women in modern sector wage employment had risen from 12.2% in 1964 to 29.5% in 1999 and 30% in 2007, nevertheless women are still grossly underrepresented in senior decision making positions within the public sector. A case in point is the civil service where male representation in top most level of staff cadre still stands at 84% against 16% female. Conversely, at the lower cadre of the civil service, female representation is 74% against 26% male. This trend is also replicated in other sectors even in the elective positions.

#### **Recommendations/Question for the Committee to consider:**

- The Government should establish the Equal Employment Opportunities Commission, with specific mandate to regularly audit employment practice and monitor aspects of the Employment Act, like Implementation of the affirmative action in employment and the equal pay principle.
- How is the State planning to build the capacity of the labour officers to enforce the labour laws?
- What measures will the State put up to regulate employment in the informal sector?

#### **ARTICLE 12: (REPRODUCTIVE HEALTH) HEALTHCARE AND FAMILY PLANNING**

Before the passing of a new Constitution which guarantees right to health under the bill of rights in articles 26 & 43. The old Constitution did not guarantee right to health and presented difficulties especially for women.

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<sup>15</sup> Ibid

Women specific challenges have persisted in the form of high maternal and infant mortality rates, lack of adequately equipped maternal health care facilities and skilled birth attendance (especially in North Eastern and Coastal Provinces and all informal urban settlements), and de-facto discrimination against poor women and women with HIV/AIDS in access to maternal health care.<sup>16</sup>

All this continue to happen despite the fact that Kenya has policies for ensuring access to comprehensive HIV/AIDS/STI care and treatment options for all including: pregnant women, mothers and infants (including mother to child transmission).

These include the Sessional paper No. 4 of 1997 on HIV, The HIV Prevention and Control Act of 2006 that officially made HIV treatment a right in Kenya, Vision 2030 and the Medium Term Plan 2008-2012, and the relevant health sector policies and guidelines including those on PMCT.<sup>17</sup>

There has been limited access to sexual and reproductive health services and contraceptives, especially in rural and deprived urban areas resulting in a high number of unsafe abortions in Kenya. It is estimated that over 800 women die of unsafe abortions in Kenya every day<sup>18</sup>. The victims are young women who go to unqualified medical personnel.

Access to family planning stands at 46 per cent for married women representing an unmet need of 54 per cent. Modern methods of contraception are commonly used (39 per cent) than traditional methods (6%)<sup>19</sup>.

In 2007, Fida Kenya in conjunction with Centre for Reproductive Health commissioned a study on the state of Kenya's largest public maternity hospital, Pumwani Maternity Hospital in Nairobi. The report brought out the Kenyan Government's failure to take responsibility for severe human rights violations in health facilities that offer services to the poorest and youngest women. The reported violations included physical and verbal abuse by overworked staff, detention in health facilities for inability to pay, shortage of funding, medical staff and equipment. Lack of basic supplies and equipment such as anaesthesia, gloves, syringes, surgical blades, soap, disinfectant and even beds are a common phenomenon. Women are

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<sup>16</sup> Concluding Remarks of the Committee on Economic, Social and Cultural Rights in Kenya, 41<sup>st</sup> session, November 2008.

<sup>17</sup> Kenya National AIDS Control: Kenya National aids strategic Plan iii 2009/13 Delivering on Universal Access to Services

<sup>18</sup> <http://kma.co.ke/downloads/maternal-deaths.pdf>

<sup>19</sup> Kenya Demographic and Health Survey 2008/2009

required to carry their own supplies and share beds before and after labour.<sup>20</sup>

Second to reproductive health issues, HIV/AIDS remains a great concern among women. Its prevalence is higher in women than men. This is due to the persistence of unequal power relations between men and women, poverty and the inferior status of women which hamper their ability to negotiate safe sexual practices. The HIV/AIDS crisis has also introduced the angle of child-headed household of AIDS orphans where girls have disproportionate responsibilities that make them vulnerable to HIV/AIDS and prostitution.

More women than men are infected with HIV/AIDS in Kenya. HIV/AIDS create more widows and orphans and studies have shown that women and girls affected by or infected with HIV/AIDS face inheritance and property violations<sup>21</sup>.

In paragraph 189 of the States Parties report, it is reported that the strategy for mainstreaming gender in the National HIV/AIDS Strategic Plan was done and it recognises value of reducing the negative social and economic impact of HIV/AIDS on women. Having the strategy is one step forward, but continued lack of protection of land and housing rights of women in the context of HIV/AIDS still greatly affects their health and social means to mitigate the pandemic.

**Recommendations/Question for the Committee to consider:**

- The State should enact a legal and policy framework for minimum state provision of primary health care.
- The Government should enact comprehensive reproductive health legislation and when will this be done?
- The Government should allocate more resources to the health sector and enhance the national health insurance scheme to make it accessible to all and not limited to only those in formal employment and when ?
- The Government should increase and strengthen access to justice by women living with or affected by HIV/AIDS, including the creation of special courts, police units and legal aid for women's housing, land and property rights related violations.

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<sup>20</sup> FAILURE TO DELIVER: VIOLATION OF WOMEN'S HUMAN RIGHTS IN KENYA (2007) [www.reproductiverights.org](http://www.reproductiverights.org)

<sup>21</sup> COHRE, 2009, Shelter from Storm; Women's Housing Rights and the Struggle against HIV/AIDS in Sub-Saharan Africa

- The Justice systems must ensure that women are able to have their marital property restored to them in cases of 'disinheritance' or property-grabbing
- The Government of Kenya should provide adequate, alternative housing to women in need who are living with HIV, and their families, through the development and implementation of social housing schemes targeted to meet the needs of this population
- The Government of Kenya should provide economic empowerment opportunities to women living with or affected by HIV/AIDS. It should also increase income levels among such women which is one practical way of enabling women cope with social and economic challenges associated with the disease, including housing, HIV treatment, nutrition and living conditions.
- Special efforts should be made to allow women to access livelihoods, credits, loans, and other schemes that will permit them to raise their standard of living and access adequate housing.

### **ARTICLE 13: ECONOMIC AND SOCIAL BENEFIT**

The Constitution of Kenya under the Bill of Rights provides for social and economic rights unlike the old Constitution which focused majorly on civil and political rights.

In Kenya gender based economic inequality is intimately connected to the nature of gender relations. These tendencies are part of a broader culture of male dominance that tends to relegate women to 'women's roles', both in the family and economic relations.

Women in Kenya like men can take up advantages of opportunities created in special economic zones by setting up businesses. They however face a number of obstacles which mostly condemn them to low income occupations making them poorer compared to men.<sup>22</sup> This is attributed include absence of economic opportunities and autonomy, lack of access to economic resources, including land ownership and inheritance, among others.

A gender analysis of the labour force report in 2008, showed that the proportion of working females in the rural areas was higher than that of males, recording 77.1 % and 70.3 % respectively. This difference could be explained by the fact that a majority of the women who reside in the rural areas are engaged mostly in agricultural activities.

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<sup>22</sup> McCormick and Mitullah. 1995:ILO 1995

The above highlights the contribution of Kenyan women to the economy through business and Investment. Their input is mainly in agriculture and the informal sector as more than 75% of the women in Kenya live in the rural areas. Two main reasons have been advanced for the invisibility of women in the mainstream economy. Firstly, only 1% of all the titles over registered land in Kenya are in favour of women. A further 5-6% is held by women jointly with men. This confirms that most women have no access to credit due to lack of collateral as land is the security most favourable to financial institutions.

Apart from lack of control over land, it has been argued that the multi tasking required of Kenyan women due to their dual roles in the household economy and labour market has left them 'time poor'<sup>23</sup>. Further, most businesses in Kenya require multiple licences both from the central and local government. The requirement for licences imposes time and costs which in the long run impacts women more severely on than men.

The Government of Kenya, in 2006 initiated and established the Women Enterprise and Development Fund (WEDF) as a strategy to address poverty reduction through socio economic empowerment of women. The aim of the fund is to facilitate women's access to micro finance. The government further addressed the challenge of women's access to credit through various institutions.

FIDA Kenya has been working on creating awareness of the fund, training on entrepreneurial skills to help women venture into entrepreneurship. FIDA further conducted an appraisal on the performance of the fund (WEDF) in June 2009<sup>24</sup>. The highlight of the appraisal was the lack of skills by the women on how to manage the loans advanced by the fund, poor governance of the funds due to corruption. The report also highlighted the need for a policy on the management of the funds. The government has taken up the recommendation and is currently working on a policy on the same.

The States Party's report indicates that the enactment of the new labour laws has eliminated all forms of discrimination at the work place. This has greatly enabled women to have equal social and economic benefits with their male counter parts. There is however need to properly implement these laws so that their positive effects are enjoyed by all women in Kenya. These provisions should trickle down to the grassroots level where women are predominantly engaged in the informal sector. Ensuring

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<sup>23</sup> World Bank GENDER AND ECONOMIC GROWTH IN KENYA; UNLEASHING THE POWER OF WOMEN (2007) Judy Thongori et al.

<sup>24</sup> FIDA- Kenya WOMEN ENTERPRISE AND DEVELOPMENT FUND; AN APPRAISAL(2008)

equality of women and men in social-economic life greatly empowers women because for a long time, they have been discriminated.

The States Party's report further indicates that there has been increased enjoyment of socio economic benefits by women in the realm of property & land holding, access to bank loans, mortgages and financial credit. This indeed is a positive milestone but the reality still remains that many women in Kenya are not economically empowered to enable them access afore mentioned benefits. These benefits are enjoyed by a few of the population of women in Kenya.

### **Recommendations/Questions to the Kenyan Government:**

- The Government needs to come up with affirmative action measures to economically and financially empower women in Kenya so that they can enjoy equal social and economic benefits as their male counterparts.
- The Government should establish a legislative framework for the Women Enterprise fund
- What measures is the Government planning to undertake to ensure the progressive realization of the Economic and Social rights as provided for in the Constitution?
- What steps is the Government taking to ensure that all women in Kenya enjoy equal social and economic benefits as their male counterparts?

## **ARTICLE 14: RURAL WOMEN**

The States Parties report states that the estimate of people who live in the rural areas is 80% and a majority of these are women. It also indicates that the main economic activity carried out in the rural areas is agriculture and women form 75% of the labour force in the agricultural industry. It further outlines the various steps and policies undertaken by the Government to enhance the agricultural industry especially in the rural areas. These are indeed commendable efforts as they assist in helping farmers maximise their produce and in turn, their profits.

However, it is important to note that overdependence on agriculture has largely affected the rural population especially women who comprise the majority farmers. Unforeseen circumstances which are beyond their control such as floods, drought, pest infestations and political instability all hinder production of agricultural commodities thus leaving the women financially insecure. The general elections of 2007 culminated into post election violence which caused a lot of people (over 250,000) to be internally displaced from their homes and agricultural land. Women and men who relied on agriculture as their source of livelihood were greatly affected coz they now lack agricultural land to utilise. This shows the harm of over reliance of agriculture as the only source of livelihood. The Government needs to come up with initiatives which will ensure development of other industries in the rural areas such as pottery, beadwork, carpentry, masonry, textile manufacturing and many more.

The State report rightly notes that women own only 5 percent of agricultural land. This affects women's tenure security and increases incidents of property violations as well as other abuse. It also sustains women's continued, if not increasing, poverty and economic dependence. Yet there is continued limited awareness about land, housing and inheritance rights of women.

### **Recommendations/Questions for the committee to consider:**

- The Government should educate women on science and technology in agriculture and support viable industries in the rural areas
- The Government should create awareness on land, housing and inheritance rights of women in rural areas.
- What measures will the Government put in place to ensure women in the rural areas benefit from the new structures of devolved government under the new Constitution?

## **ARTICLE 15: EQUALITY BEFORE THE LAW**

Equality between men and women before the law remains a theoretical ideal in Kenya. Women's access to the law continues to be hindered by factors such as poverty, low income levels, lack of knowledge of their rights and a result of a bad legislation on account of discrimination.

The new Constitution provides under the National Values and Bill of rights, a strong equal protection before the law to include full and equal enjoyments of all rights and freedoms.

The Kenya Law reform in collaboration with other civil society organisations like FIDA-K has drafted the Equal opportunities Bill, 2007. The Bill addresses equality in general and not only on basis of gender. It provides that all public bodies set up by a statute or appointed by any minister for the purpose of public management or for planning purposes shall endeavour to have an equal composition of women and men. It imposes a duty to all public bodies, employees and providers of all public services to make active, targeted and systematic efforts to promote gender equality in all sectors of society, enterprises and organisation.

We hope that the bill whose objectives is to promote equal opportunities for all persons and to offset direct and indirect discrimination on the grounds of gender, among other things will soon be passed in line with the new constitution.

The implementation of the National Legal Aid Scheme by the Government is a positive step towards providing free legal aid and awareness of legal rights. However, the impact of the scheme is yet to spread through out the country and a lot of women are still unable to access legal services. There is need for establishing more of these schemes all over the country so as to enable men and women to have equal access to justice.

The States Parties report stated that the Law of Succession Act is an example of areas where women are equal to men before the law. However, some provisions of this Act still promote discrimination of women. Section 35 of the Act which introduces differential treatment for widows the provision states that a woman shall have a life interest in the estate of her husband, but this interest shall subsist upon her re-marriage to another man. This qualification does not exist for the men who do not lose their interest of their wives estate upon re-marriage.

The Sexual offences Act 2006 which is a major step towards domestication of CEDAW on fight of violence against women, has a huge draw back in Section 38, which creates a new offence: on any person who makes false charges under the Act will be subjected to a penalty to a penalty equivalent to the sentence that attaches to the offence complained of. Complainants under this section are likely to be women, and face the risk of being victimised for initiating prosecutions against their abusers.

With regard to criminalisation of prostitution, while the Penal Code does not offer a definition of 'prostitute', it is clear from the language of the relevant sections that the term prostitute refers to a woman (Sections 153-155). This legislation is clearly discriminatory as it singles out women and omits men in its purview, including penal consequences for commission of offences created by it.

It is also important to note that for example despite provisions in the Political Parties Act 2007, the Persons with Disability Act, which provided for equality before the law for men and women all political parties failed to nominate persons with disabilities after the 2007 general elections.

The Government needs to ensure that all laws are gender sensitive and actually depict equality of men and women before the law and ensure adequate implementation of otherwise good legislation like highlighted above.

It is noteworthy to note that the state does not acknowledge the above as critical while highlighting its challenges.

**Recommendations/Questions for the committee to consider:**

- Parliament should amend the Law of succession, Sexual offences Act and Penal Code to do away with provisions that discriminate against women to align them with the new constitution.
- The Government should commit to passing of the equal opportunities Bill and its full implementation.
- The Government should fully implement the provisions of the new Constitution to ensure equality before the law.
- The Government should consider a possibility implementation of a state-fully funded legal aid and awareness scheme in the country

## **ARTICLE 16: MARRIAGE AND FAMILY LAW**

The new Constitution of Kenya unlike the old Constitution provides for gender equality and protection from discrimination in the area of marriage and the family. Article 45 provides for equality in marriage, at the time of marriage, during the marriage and at the dissolution of marriage and in whatever system of marriage, Article 40 provides women the rights to acquire and own property while article 53 provides for equal responsibility for child care even out of wedlock.

The Constitution further provides for enactment of enabling laws for the above articles.

The States Party report indicates that the Law reform commission has undertaken great steps in re-drafting several bills affecting marriage. These include:

- Redrafting a unified Marriage Bill which will regulate all marriages in Kenya.
- Redrafting of the Matrimonial Property Bill which will regulate property acquired during marriage.
- Redrafting the Family Protection Bill which will address issues relating to domestic violence
- Drafting the children's amendment Bill which is aimed at correcting the loopholes in the Children's Act of 2001 such as the inequality of parental responsibility as regards children born out of wedlock.

These are indeed positive steps towards addressing the various problems affecting the marriage and family life even though this has been due to advocacy efforts by civil society's organisations which include FIDA-K.

### **Recommendations /Questions for the committee to consider:**

- The Government should reignite interest in family law reform to ensure that there is no gap between law and practice enact all the above proposed bills and amendments as per the fifth schedule of the Constitution
- The Government needs to expedite the process of turning these bills into law and subsequently ensuring proper implementation so that women can benefit from the provisions therein.
- The Government should consider introducing family law education in schools to deal with cultural issues as identified in its report as a challenge to family law and marriage

**Conclusion**

Even though there are still numerous gender related challenges facing the country, the Government has taken notable strides in the passing of the new Constitution, which is a milestone in enhancing gender equality.

Months after ratification of a new Constitution Kenyans are apprehensive about the slow pace of the implementation process of the Constitution and view it as an attempt by both the Executive and Parliament to continue to act under the old order. We thus urge Parliament to show its commitment to the spirit and letter of the Constitution by abiding by the timelines contained therein a case in point is to set up the key Constitutional commissions so that implementation may ensue as envisioned in the new Kenyan Constitution of 2010.