



**Convention on the Elimination
of All Forms of Discrimination
against Women**

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**Committee on the Elimination of Discrimination
against Women**

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**Responses to the list of issues and questions with regard to
the consideration of the combined fifth and sixth periodic
report**

Kenya*

* The present document is being issued without formal editing.

General

1. Government departments involved in preparation of the report

The core team in the preparation of Kenya's report was comprised of the Kenya National Commission on Human Rights, the National Commission on Gender and Development and Gender Department in the Ministry of Gender, Sports, Culture and Social Services; a collaboration between the government and representatives of civil society organizations.

The Government ministries involved were

- Ministry of Gender, Sports, Culture and Social Services
- Ministry of Justice and Constitutional affairs,
- Ministry of Health
- Ministry of Environment and Natural Resources
- Ministry of East African & Regional Cooperation
- Ministry of Regional Development
- Ministry Cooperatives
- Ministry of Lands and Housing
- Ministry of Finance
- Ministry of Agriculture Office of the Attorney General.
- Ministry of Environment & Natural Resources
- Ministry of Lands
- Ministry of Agriculture
- Ministry of Education

Adoption by cabinet and presentation to Parliament

Whereas presentation of the periodic report to cabinet and Parliament is appreciated, the same is not a requirement to the country's reporting procedures. However the Ministry of Gender, Sports, Culture and Social Services has initiated the process to have this report, previous reports and general comments and any future reports forwarded to cabinet and presentation to parliament.

2. Dissemination of concluding comments on combined third and fourth periodic report

Dissemination of the concluding comments on combined third and fourth periodic reports was done together with the dissemination of the contents of the Convention, the country's fifth and sixth periodic report, The National Gender and Development Policy and the sessional paper No. 2 of 2006.

Organizations represented at the dissemination workshops included the following:

- Government ministries and departments at the national and regional levels
- Local authorities
- State corporations and parastatals such as the Kenya National Chambers of Commerce, National Council for Persons with Disabilities, Kenya News Agency, National Coordinating Agency for Population and Development.
- Judiciary
- National and District Aids Coordinating Committees
- Anti-Corruption Committees
- Social Development Committees

- Human rights organizations
- Women organizations
- Women groups
- Community based organizations
- Workers Unions
- Media Organizations
- Financial Institutions
- Persons with Disabilities organizations
- Children's rights organizations
- Youth organizations
- Religious leaders and Faith based organizations such as Muslim Associations and Christian groups
- HIV/AIDS organizations
- International NGOs
- United Nations Bodies

The emerging issues and recommendations from the dissemination workshops included the following:

- Formulation of a simpler version of the Convention for ease of understanding by the wider public
- Formulation of a clear plan of action for the dissemination of the Convention up to the grass roots
- Strengthen networking between the national machineries and other organizations including those at the community level to be able to gather more information and disseminate the Convention widely
- The need for the Committee to address issues of older persons
- Inclusion of men in delegations that are formed to participate in forums that are addressing gender concerns such as the Convention
- Media to be used a channel in the dissemination of the Convention
- Issues of culture and religion should be approached with caution in the domestication of the Convention to avoid conflict with some communities
- The 5th and 6th combined report on Committee on the Elimination of Discrimination against Women to be disseminated through use of local languages for ease of communicating to communities at the grassroots
- The Department of Gender should make a follow up to assess the impact of dissemination of the Convention

Constitutional and legislative issues and national machinery for the advancement of women

3. Particular issues and concerns raised by Kenyans society with regard to provisions relating to equality of men and women of the proposed new Constitution

Under the proposed Kenyan new constitution which was rejected at the November 2005 Referendum, several provisions had been made to address the issue of equality of women and men and these included, inter alia:

(a) Article 36- had provided for the equality of all persons before the law, including equal enjoyment of all rights and freedoms.

(b) Article 37- had provided for general equality of people and non-discrimination on the account of race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth.

(c) Article 38 had provided that women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social activities: women and men to have equal right to inherit, have access to and manage property; it outlawed any culture, law, custom or tradition that undermines the dignity, welfare, interest or status of women and men; and it call upon the State to protect women and their rights, taking into account their unique status and natural maternal role in society, and further to provide reasonable facilities and opportunities to enhance the welfare of women to enable them realize their full potential and advancement.

(d) Article 42 had provided for equality of women and men in marriage and entitlement to equal rights in relation to the marriage, at the time of marriage, during marriage and at the dissolution of marriage.

The above provisions were comprehensive, reflected the Convention principles of the equality of women and men, and could have gone a long way to advancing the principle of gender equality and equity in Kenya.

However, during the referendum, a substantial number of Kenyans around the country rejected the proposed constitution, citing some of these gender equality provisions as the reason. In particular, the provisions relating to equal inheritance of property, especially land, by men and women became a problem, with the majority, both men and women, arguing that culture did not allow women to inherit property from their fathers and that if that were to happen, there was going to be conflict in homes. This perspective extended to right of married women to own property while in marriage either in their individual capacity or joint ownership.

What was observed during the referendum debates is that a lot of civic education on issues of human rights and gender equality has to be carried out among Kenyans for them to appreciate them. Further, the obligations of Kenya under international human rights and in particular under CEDAW ought to be made known to Kenyans so that they can understand what they are and how they are meant to impact on Kenyan domestic laws. Most Kenyans voted against the gender issues of the proposed constitution because of this lapse in appreciating the universality of human rights as opposed to the relativist approach that they preferred for Kenya.

How the Government intends to address the issues

To address the lacunae created by the failed proposed constitution, the Government has already made efforts to revive the constitutional talks and most likely some minimum amendments to the existing constitution which will capture affirmative Action in the representation of parliament and local authorities among other issues, may be taken on board. Further, the government through the Kenya Law Reform Commission is undertaking a review of marriage laws, matrimonial property laws, gender equality and Affirmative Action laws, and laws relating to domestic violence which will address the issues of equality of men and women in marriage and divorce situations. These laws will also address the issues of equity and equality in the sharing of matrimonial property in cases of divorce. The Commission will also come up with a new legislation that will address gender equality

and provide mechanisms of affirmative action to address the injustices occasioned by the gender inequality and inequity that has persisted in the country over the years. These laws will be ready by the 15th of June 2007.

The government has also incorporated women right to ownership of in the Draft National Land Policy discussed in No. 22 below.

4. Government intention to re-initiate a constitutional reform process

Like stated above, the government has already taken steps to jumpstart the constitutional review talks which are in progress, with positive signs of consensus being struck on a number of issues, including affirmative action for women.

Alternative strategies for legislative reforms envisaged to enhance de jure compliance with the Convention and plans incorporation of definition of discrimination in accordance with Article 1 of the Convention

Legislative efforts through the Kenya Law Reform Commission are meant to produce reviewed and more equitable marriage laws, provisions for the sharing of matrimonial property, new equality laws to ensure gender equality and affirmative action, which will capture an appropriate definition of discrimination against women in accordance with article 1 of the Convention.

It should also be noted that the President of the Republic of Kenya has put these particular laws that target women as a priority and in addressing the nation when opening the 9th Session of Parliament. The President promised Kenyans that he will ensure the speedy enactment of these laws. Similarly through the Presidents directive to have all public service institutions have 30 per cent recruitment of women has led to policy statement which has been followed with circulars from the Office of the President through the Head of Public Service to the civil service, parastatals and state corporations to ensure that the directive is being implemented. This shows political good will.

5. Measures by government to prioritize pending bills pertaining to gender equality, order of priority and timeframe of enactment

The Government considers all the four laws i.e. the domestic violence (family protection) Bill, the marriage Bill, the matrimonial property Bill and the Equality Law/Affirmative Action Bill as very important. The President while opening the 9th Session of parliament specifically mentioned the domestic violence (family protection) Bill as a priority to urgently address the perpetration of violence against women. He has also, through the Minister for Justice and Constitutional Affairs, expressed interest in the earliest enactment of the matrimonial property law to cover the lacunae on the law in this regard. However, much depends on the calendar of Parliament which no other persons has control over.

The Government has also initiated public debates (public hearings) on the matrimonial property and marriage Bills through the Law Reform Commission.

6. Impact of succession cases in relation to women's ability generally to assert their rights under succession laws

The Judiciary has created commendable jurisprudence in the area of property inheritance which a number of women have relied upon to claim gender equality in property ownership. With the help of the media, land mark cases are printed and publicized by the media. Severally human rights and

women rights organizations are able to use the cases to lobby for passage of laws. There has also been a public debate on the Land question prior to the tabling in parliament the Draft National Land Policy discussed under No. 22 herein below which has been greatly publicized by the media creating more awareness to women especially as pertains the issues of land and inheritance that affect them.

Measures taken by the judiciary on awareness and information campaigns to ensure women know the provisions of the Succession Act and Cases decided by the judiciary that support Gender Equality.

The Judiciary itself is undertaking reforms which include opening of a website, posting of decided cases onto the website through the National Council of Law reporting, which is a department of the Judiciary. The judiciary also had an historical Judicial open day where members of the public freely interacted with the bench and had an opportunity to ask them questions, plenary discussions and also view materials on the work of the judiciary and land mark cases which included succession cases.

By its very nature, the judiciary cannot engage in activism and public education beyond the simply stated. However, greater efforts will be made to educate the general public, especially the rural folk who may not access the websites.

7. Impact of the work of the Commission

The Gender Commission is in the process of assessing the Impact of its work.

Achievements since establishment in 2004

- Developed a strategic plan for the period 2005 to 2010
- Conducted a Desk Survey on Gender Issues in Kenya
- Produced a documentary on Care Givers of HIV/AIDS
- Organized an international conference on Nairobi + 21
- Input in development of the Sessional Paper No. 2 of 2006 and the National Policy on Gender and Development.

How weaknesses and short comings are being remedied

- Strengthening collaboration with the Department of Gender and Social Services in carrying out various activities for effective use of limited resources
- Seeking funding and technical support from international communities. The United Nations Population Fund and United Nations Development Fund for Women have strengthened the staff capacity level by deploying United Nations volunteers at the Commission.

Update on the establishment of gender divisions in line ministries

The proposal to establish Gender Divisions in line ministries was finalized and presented to Cabinet. These establishments have a backing of the Sessional Paper No. 2 of 2006 and a positive response is anticipated from the cabinet which issues circulars for the operationalization of the divisions.

8. Status of the five-year Plan of Action for implementation of the National Policy on Gender and Development (if complete)

A Draft Plan is in place and will be shared by stakeholders in May 2007.

Major objective and Strategies of the Plan, Financial Resources, Technical assistance by International community

The main objective of the Plan of Action is to facilitate the mainstreaming of needs and concerns of women and men in all areas of the development process in Kenya. It aims at institutionalizing gender mainstreaming through a systematic manner and ensure focused implementation of the Gender Policy.

Implementation strategies of the Plan are:

- Social mobilization, awareness creation and sensitization for planners and decision makers
- Institutional strengthening and programme implementation on gender mainstreaming through sector reforms, systematic interventions, development of policy statements, allocation of resources to gender issues, setting up of gender desks with clear Terms of Reference.
- Lobbying and advocacy for gender sensitization
- Building Coalitions and mobilizing support for policy development, law reform, enactment and implementation
- Research, information, monitoring and reporting

Financial and technical assistance is currently being offered by UNFPA who also supported the preparation of the draft plan. There also exists a lot of good will from other development partners who await completion of the plan to support its implementation.

Monitoring and evaluation mechanisms in place

During the workshop scheduled for May 2007, the stakeholders will be engaged in developing a Monitoring and Evaluation Mechanism that will assist the Ministry of Gender track implementation of the Plan.

Content and purpose of sessional paper No. 2 of 2006

Sessional paper No. 5 on Gender Equality and Development was revised, presented and passed in Parliament as Sessional Paper No. 2 of 2006. Its overall objective is to facilitate the mainstreaming of the needs and concerns of women, men, girls and boys in all sectors of development initiatives and driven by the focus by all population groups to participate in and benefit equally for the development process. It promotes the most effective way of managing resources and to ensure sustainable development.

The sessional paper captures and reiterates Government's commitment in revamping economic growth addressing the socio – economic agenda, gender related obstacles to growth, application of resources focusing on gender dimensions and equality concerns while recognizing that women and men have different needs. It includes provisions on access to and effective participation of women in judicial process, political participation and decision making, gender based violence, trafficking of women and children, education and training, health and population (addressing HIV/AIDS and ARV therapy, malaria and abortion), environment sustainability, peace, security and conflict and the media and information technology. The Sessional Paper further spells out the mandate of institutions responsible for implementation of programmes namely Gender Department, Gender Divisions and the National Commission on Gender and Development.

The Sessional Paper similarly reiterates Government's commitment to domestication of international law this as an indirect implementation of international law ratified or acceded to in improving the status of women and advancement of their rights.

Relationship of sessional paper No. 2 of 2006 to the Action Plan

The National Plan of Action is derived from the sessional paper. The Plan focuses on the key areas of concerns in the sessional paper and proposes programmes and activities that should be undertaken by various actors for the purpose of achieving gender equality.

9. Impact of measures taken against stereotype attitudes and discriminatory behaviour towards women and girls

Enrollment of girls has gone up due to introduction of free primary education and girls educated on the effect of FGM and Early marriages increased their awareness on these issues.

Training on health and reproduction issues with stakeholders reduced rate of mortality i.e. from 560 in 1998 to 414 in 2003.

The presidential directive for 30 per cent appointees in public service to be women backed by the sessional paper No.2 of 2006; an alternative means to achieve affirmative action.

As a result of enactment the enactment of the children Act the provincial administrators specifically the chiefs and district officers in conjunction with children officers have ensured arrests of perpetrators of FGM and Early/Forced marriages. However the challenge is that majority of the perpetrators are parents of the children and breadwinners of families and their arrest and imprisonment raises several other social implications detrimental to a wider family showing enactment of stringent laws as not the true solution.

Comprehensive strategy on elimination of stereotype attitudes (Include specific goals, timelines and monitoring mechanism)

The Policy Government strategies to eliminate stereotype attitudes have been discussed herein below in No. 10, 13 and 17

10. Overall strategy of the Government on the elimination of female genital mutilation

The Ministry of Gender, Sports, Culture and Social Services was identified as the focal point for all FGM activities in the country. In this regard the Ministry is coordinating an inter-ministerial Committee on FGM. Among the key activities of the Committees is to facilitate implementation of the National Action Plan on the Eradication of FGM (1999 – 2019). The Committee has also developed its own plan of action to guide its operations in the Implementation of the National Action Plan. Among the key activities is a national survey on FGM that has been conducted which is expected to inform future activities on the practice. The study has been completed and will be shared with stakeholders in May 2007. The study has made recommendations on coordination and implementation structures that will enable the Ministry of Gender fulfill its role as the national focal point.

Objectives of the National Action Plan:

(a) To reduce the proportion and prevalence of girls and women who undergo any type of female Genital Mutilation (FGM);

(b) To increase the proportion of communities supporting the elimination of FGM through positive change in attitudes, belief, behavior and practices;

(c) To increase the proportion of primary, secondary and tertiary health care facilities that provide care, counseling and support to girls and women possessing physical and psychological problems associated with female genital mutilation;

(d) To increase the technical and advocacy capacity of Institutions agencies and communities in Development, implementation and management of FGM and elimination program.

Strategies laid out in the Action Plan:

- Establishment of National and District FGM programme co-ordination mechanisms
- Establishment of multi-sectoral collaboration to ensure integration of FGM elimination interventions in all key development programmes
- Mapping of new and ongoing interventions on FGM
- Co-ordination of new and ongoing FGM interventions
- Adequate investment in human resource and organizational capacity building
- Decentralized programme design and implementation
- Establishment of proactive mechanisms for resource mobilization and allocation to the FGM elimination programme

Targets:

- To reduce by 40 per cent the proportion of girls and women undergoing FGM by the year 2019
- To increase by 40 per cent availability and use of support services for victims/resistant of FGM at community district and national levels
- To increase by 50 per cent the proportion of girls enrolled in and completing primary and secondary education in the FGM practicing communities

The Ministry with support from UNICEF will also disseminate the National Action Plan in the Districts. Further the government is closely working with non-governmental organizations (NGOs), community-based organizations, and faith-based organizations which are implementing alternative rite of passage ceremonies, which instill the same life skills to the girls without them under going the cut. Alternative rituals include Education of the girls by the community elders and Public Health Educators in retreat or seclusion for several days. During the ceremonies the girls receive talks on sexuality, HIV/AIDS, sexually transmitted infections and boy- girl relationships while the emphasis is on the cut as a harmful cultural practice. They are also encouraged to follow other positive cultural practices.

However the biggest challenge to the alternative rites approach has been that some of the girls who graduate through the rite are secretly forced to undergo FGM by family members or the community on grounds of belief in religious sects, FGM as a rite of passage to womanhood, forceful FGM by outlawed groups, maternal duty in belief that they are acting in their daughter's best interests, particularly with regard to her marriage prospects, parents resorting to olden days belief that FGM would control the sexuality of young teenage girls and allow them complete school a challenge in parenthood, which reasons also cause the resurgence of the practice even in communities thought to have stopped example some parts of Central province.

The government's effort to put in place legal framework to curb the practice is met with the challenge that majority of the perpetrators are parents who are the bread winners to families and

imprisoning them raises more social problems to the wider family. It has emerged that the elderly people are not pleased with the idea of abandoning an all-time culture that they see as preserving the integrity of women. They see the anti-FGM campaign as an idea being imposed on their community by other people with a different kind of thinking. In this regard, it has been seen that to effectively eliminate FGM, the primary target should be the young parents, youth and young children who are willing to learn, eager to know and able to adopt to change easily. There is an enabling environment for change: even in these conservative communities, people are talking about FGM and its adverse effects. As people get educated, they will question the usefulness of FGM. An educated woman is unlikely to cut her daughter.

The strategy includes involving communities in finding lasting solutions. In some districts Christianity has led in the decline of FGM. Islamic leaders through the chairman of Supreme Council of Kenya Muslims have also come out in public to denounce the practice as being associated with Islam, it is contrary to Koran teachings. Advocacy/media coverage vividly brings to the Kenyan public the plight of women and girls who have undergone FGM as a strategy to eliminate the practice.

Role of high-ranking public officials

A few members of parliament have come out strongly to condemn FGM and Early/Forced marriages especially female members of Parliament most of whom who also happen to come from the constituencies where the practice is rampant and who engaged in lobbying Parliament to pass stringent laws against the practices through the sexual offences act to protect women above the age of 18 years who are not covered under the Children Act. Unfortunately their efforts were met with resistance from majority of male members of Parliament who argued it was denial of communities' cultural rites and should be allowed for adult women who wished to undergo the cut.

The female members of Parliament and women in general are encouraged to take the lead in issues that affect them like FGM while being sensitive on dissenting views and patiently dialogue further. Currently adult women who are forcefully taken through the ritual have recourse under the penal code to have the perpetrators charged with the offence of assault which carries a maximum sentence of 5 years imprisonment.

Provincial, District administrators, Social Services officer employed by the government and local chiefs are very instrumental in fighting FGM and early marriages as they help fish out the perpetrators. They are also facilitators of community awareness campaigns and trainings.

Statistics of recorded number of FGM incidences among women and girls the past 5 years

In Kenya, official figures from the Kenya Demographic and Health Survey (KDHS 1998) indicate that 38 per cent of women between 15-49 years of age have been circumcised this statistics excluded the Northeastern province, where the practice is rife. However in collaboration with UNICEF recent data was collected, Kenya Demographic and Health Survey (KDHS 2003), indicating that there are huge differentials in the prevalence of circumcision across ethnic groups. In some areas, it is as high as 97 per cent. The age of the procedure also varies, ranging from infancy to up to 16 years. According to the Survey the National prevalence on FGM has gone down from 37.6 per cent in 1998 to 32.2 per cent in 2003 (see attached Annex 1). A UNICEF study conducted in two districts (Garissa and Moyale) found that 60 per cent of FGM practitioners felt increasing pressure to abandon the rite. Almost half said that religious leaders provided the strongest impetus to abandon the practice while 40 per cent cited an increased awareness of girls' rights.

The government is challenged in recording yearly incidences but is now in the process of setting computerized data base under the

11. Education policy, its goals and targets

There exists an Education policy as a result of the sessional paper of 2005 on “Education Policy Framework for Education, Training and Research” whose goals are achieving education for all and the government’s commitment to the attainment of the Millennium Development Goals.

In addition, the Ministry of Education came up with the Kenya Education Sector Support Programme as the main way to achieve the education policy goals.

Programme objectives include but are not limited to the following:

- Attainment of the MDGs
- Pursuing appropriate Policy and Strategies
- Government leadership and national ownership
- Appropriate financing modalities and public expenditure management
- Coordination and Partnership
- Harmonized Procurement System

The successful implementation of the programme will led to the actualization of the following goals:

- Attainment of Universal Primary Education and Education for all by 2015
- Achievement of a transition rate of 70 per cent from Primary to Secondary School from the current rate of 47 per cent paying special attention to girl’s education by 2008
- Enhancement and sustainability of access, equity and quality in Primary and Secondary School Education
- Capacity building for 45,000 education managers by the end of 2005
- Construction/renovation of physical facilities/equipment in Public Learning Institutions in disadvantaged areas, particularly in arid and semi arid lands and urban slums by 2008
- Development of a national training strategy for Technical Industrial Vocational and Entrepreneurship and ensure that those institutions are appropriately funded and equipped by 2008
- Achievement of 50 per cent improvement of levels of adult literacy by 2010 and
- Expansion of Public Universities to have a capacity of at least 5000 students each by 2015 and an increased proportion of all students studying science related course to 50 per cent, with at least one third of these being women by the year 2010.

Achievements and results

Since enactment of the Education policy in 2005 no formal assessment has been undertaken. However few achievements can be seen for instance increased numbers of children enrolled in schools due to free primary education and Constituency Development Funds used to construct and renovate learning institutions.

12. How the Government is addressing challenges of implementation of free and compulsory Primary Education

In addressing the challenge of shortage of teachers the government under the Kenya Education Sector Support Programme established a teacher Management Investment Programme under the Teacher Service Commission whose role is to register, recruit, transfer and promote, address remuneration and discipline of teachers. It is instructive to appreciate that the Commission currently discharges its mandate through agents in a partially and decentralized system at the districts and school levels.

Current Status- The Teacher Service Commission has put in place a demand driven recruitment policy to address the uneven distribution of teachers and teacher's shortages.

Deployment. From the year 2003, the Commission has been carrying out a teacher balancing exercise in Public Institutions across the country. The exercise is usually carried periodically in order to achieve equitable distribution and optimal utilization of teachers. A monitoring and evaluation committee was set up to oversee this exercise.

Again in the year 2005 a taskforce was set up to carry out a review of staffing norms in the country. The recommendations of the said taskforce were set up to carry out a review of staffing norms in the Country. The recommendations of the said Taskforce form the basis for current and future teacher utilization and deployment.

Other initiatives - Teacher Service Commission delegates more teachers with management functions to the school management committees Board of Governors and District Education Boards. The commission plays supervisory and quality issuance roles.

13. Girls and education

The number of girls proceeding to secondary school is minimal due to pregnancies and early marriages. These girls end up leading poor life, unable to participate in economic viable occupations, are unable to make informed decisions and are vulnerable to domestic violence as statistics show in item 15.

The government has ensured education policies to ensure pregnant girls and young mothers are readmitted to schools and not discriminated against. The education curriculums include sex education and HIV/AIDS. The young mothers are equally trained in family planning and counseling undertaken for both the young mothers and their parents.

Violence against women

14. Update of the sexual offences Act and its implementation

The Sexual Offences Act is gradually being absorbed in the justice system and the government in collaboration with stakeholders has embarked on training judicial officers, the police and the public on the provisions of the Act. Copies of the Act have been distributed to various judicial officers and Police Stations. However the implementation has been met with the challenge of some provisions causing sexual violence survivors to shy off from instituting suits under the Act example Section 38 that provides "Any person who makes false allegation against another person to the effect that the person has committed an offence under the Act is guilty of an offence and shall be liable to punishment equal to that for the offence complained of" this raising apprehension in cases of

acquittals due to various reasons that might not be occasioned by the complainant and laxity in application of sections that raise concern on principles of burden of proof.

On the 16th April 2007, the Attorney General lounded a multi-sectoral Task Force Committee whose terms of reference include *inter alia* preparation and recommendation of a National Policy Framework and guidelines for the implementation and administration of the Act in order to secure accessible and uniform treatment of the sexual offender; to recommend to the Attorney General relevant regulations for the implementation of the Act; to consider and recommend a comprehensive policy and propose effective measures to secure acceptable schemes, programmes and other mechanisms for the protection, treatment and care of victims of sexual violence and rehabilitation of offenders; to develop an inter-sectoral national action plan and co-ordinating framework to promote, monitor and evaluate the effective implementation of the Act, to carry out public education, awareness and sensitization programmes or campaigns to promote the objects of the Act, among other terms. These efforts will lead to public awareness of the Act to the people and enhance its use to victims.

Update on number of cases brought and convictions under the Public Officers Ethics Act, 2003

So far no cases have been brought to court under the Public Officers Ethics Act.

15. National Survey on Violence against Women Findings and its impact on legislation, policy and programme development

The nature of the sample of the survey on violence and abuse of women and girls in Kenya contained 1664 women and girls from six of the eight provinces in Kenya and 70 per cent of the Nation' districts. 35 per cent hailed from the urban places and 65 per cent from the rural places. Almost 15 per cent of the women and girls in this sample reported 5 or less years of formal education, 10 per cent had done 13 or more years and at least 75 per cent had completed primary education. Marriage was virtually a universal experience and about 18 per cent were in polygamous unions. Economic hardship and levels of poverty have caused women to one way or another be involved in an occupation rather than that of a housewife. What appeared to be the case if that even though women experienced their first violence at childhood mostly reported are those by a new cadre of "*intimate enemies*" husbands and in-laws and were more sensitive to maltreatment. 60.9 per cent of women reported one or more episodes of physical abuse, 40.6 per cent on sexual abuse, 70 per cent on verbal abuse and 65 per cent emotional abuse in their adult years. Husbands and male household staff created the largest number of abusers of women.

The major reason of abuse was the gender role perceptions then culture and traditions. 72 per cent of women surveyed blamed themselves for the abuse on these grounds of the gender perception or cultural expectations. However 60 per cent admitted to have reported the incidence to someone. Only 12 per cent of the women report to people in authority and 49 per cent sought first help from neighbours. 31 per cent of the women admitted to seek medical attention though 55 per cent of the one who visited the medical facilities lied about their abuse related injuries. The aftermath of the abuse has great impact on the women attitude towards men with over 70 per cent having increased anger and hate over men affect gender relations.

Lessons learned

1. There is a relationship between years of formal schooling and gender abuse in adult years.
2. There is a very significant relationship between age at marriage and subsequent likelihood of domestic abuse.

3. Women in polygamous relationships (co-wives) tend to more frequently report domestic abuse than those in monogamous relationships.
4. There is a very clear relationship between family drug use and abuse and domestic violence.

Recommended actions

1. Improve on legal protection.
2. Education on gender relations.
3. Ensure job opportunities and fair pay.
4. Set harsher legal punishments for abusers.
5. Encourage family planning.

Impact on legislation, policy and programmes

This survey and several other data collected caused rise of advocacy and lobby for legislative reform for the protection of women against all forms of violence. This has seen enactment for the Sexual Offences Act and progress towards enactment of the Domestic Violence (Family Protection) bill, equitable marriage and matrimonial laws, Equality Bill and affirmative action laws which are to be tabled in parliament in June 2007 as discussed in No. 27. The sessional paper No. 2 of 2006 on gender and development addresses gender based violence recommending the government to take the lead in adopting and implementing the National Action Plan for an integrated approach to combating violence against women. Programmes on training police to follow up cases of violence against women, collection and delivery of evidence for gender based offences and support of stakeholders that are already providing shelter to victims of gender based violence.

Follow-up measures to regularly collect data on all forms of violence against women

As earlier stated the government is challenged in regular update of data from the police, service providers and the courts. Computerization is in process and the same is hoped to be regularized. However recent data are reflected in the Kenya Data sheet of 2005. Other regular data collection done annually in the economic survey, every 5 years for the KDHS and every 10 years population census.

16. Status and overall policy goals of the trafficking Bill

The Trafficking in Persons Bill, 2005 was presented to the Attorney-General chambers for perusal and onward transmission to Parliament the feedback was that there were so many omissions and that it was not all-inclusive. It was then taken back to the stakeholders for more input in 2006. The views of other stakeholders have been incorporated and the draft is ready for re-submission to the Attorney-General.

The overall policy goal is: -

- To provide legal framework to combat trafficking in persons, a contemporary manifestation of slavery whose victims are predominantly women and children
- To ensure effective prosecution of any person who engages in trafficking in persons
- Protection of trafficked persons and their family members from intimidation and threats of reprisals from traffickers and their associates
- To keep information of trafficked persons and their families confidential
- Cooperation with other stakeholders internationally and locally in combating TIP
- Provision of appropriate services for trafficked persons and their families including rehabilitative and protective programmes for trafficked persons.

The Sexual offences Act aims at protecting women and children from all forms of violence against them including trafficking, the Act's status discussed in No.14 above.

Achievements so far on addressing trafficking

- The Ministry of Home Affairs heads/chairs all activities on trafficking in persons in the country
- Establishment of the National stakeholders' steering committee on counter trafficking
- Four sessions of awareness creation on trafficking through talk show Kenya Television Network, and Kenya broadcasting Network and Nation Television
- Five National stakeholders meetings convened through International Organization for Migration facilitation
- Signing of the international code of conduct by hoteliers being implemented
- Desk research by Stakeholders on trafficking in the country undertaken, which findings included that the main reasons of trafficking are poverty and general lack of awareness on human trafficking. Most victims were promised money, good jobs and better living and they came from the economically poor provinces in the country. The legal framework is weak with only the children's Act providing for child trafficking though with lenient sentences

Participation in political and public life

17. Policy on women in decision-making

The National Gender and Development Policy recognizes the immense contribution of women in socioeconomic and cultural development of the country and their peripheral position in political participation and decision making influenced by the patriarchal system. The policy objective is to enhance gender parity in political participation and decision making. The policy *inter alia* provides for deliberate steps to ensure that women get equal access to political arena, enhance appointment of qualified and experienced women to high level decision making positions with a view of achieving gender balance and encourage political parties to consciously promote the participation of women with a view of increasing their representation in the political process.

The sessional paper No. 2 of 2006 reiterates the sentiments of the gender and development policy and further provide for development and implementation of mechanisms to monitor women access and participation in senior level political and decision making processes.

Temporary special measures in accordance with article 4 paragraph 1 of the Convention

As discussed in No.4 above there is political will to ensure women incorporation in decision making positions. The Government through the Kenya Law Reform Commission is also drafting an Equality and Affirmative Action Law to be ready by 15th June 2007 that will recommend increased representation of women by at least 30 per cent in representative and appointive positions in national decision making institutions including parliament.

The government through the Ministry of Gender, Sports Culture and Social Services and in collaboration with the United Nations Population Fund carried out data collection on the number of women in decision making sphere (Kenya Gender Data Sheet 2005) which showed a very low percentage with other areas, for instance out of 8 provincial commissioners none was a woman and in the Judiciary the Court of Appeal had no woman. This Data is expected to guide the appointments and recruitments in reference to the presidential directive and the resultant policy statement.

Currently there is the Political Parties Bill tabled in parliament which the committee on administration of justice and legal affairs has given a report to the speaker that recommends clause 23 (4) of the Bill to read that no political party shall benefit from the political parties fund if its registered national office bearers does not reflect at least a third of either gender. The Bill awaits its 3rd reading.

Further the government in collaboration with United Nations Development Fund for Women has taken deliberate steps through Gender Governance and Human Rights program to train women and more specifically the 2007 women aspirants for parliament or civic seats on technical, managerial and leadership skills, promote gender sensitive training for both men and women to promote non-discriminatory working relationships and creating awareness and promoting the active participation of women in political and decision making processes at the grassroots level this quite timely during the general elections year.

Timeline of achieving the aforesaid Bills to ensure goals are achieved and effectively implemented totally relies on the parliament calendar and timetable.

18. Success of the Women Representation in the Judiciary and Lessons learned

The improvement of women representation in the judiciary can be attributed to the increased intake in girls into the faculties of law at the universities in the country. Further, there is a form of positive aggressiveness that girls have taken on, entering into disciplines such as law that have in the past been regarded as male bastions. There is also a determination on the part of these girls to join the judiciary upon completion of their law school education. Tenacity, aggressiveness and determination among women students of law and lawyers is what ought to be replicated in all disciplines in the country. Role modeling by senior women lawyers and high profiling of successful women lawyers has also motivated many young girls to join the legal profession. The recent Law Society of Kenya council members' general election saw women garner 4 seats out of a possible 12 seats an improvement from last year where the council had only one woman. The disciplinary Committee has 50:50 representation an encouragement of young legal profession women to pursue higher achievements. This could be replicated in other sectors.

It should however, be noted that lack of a women judges in the Court of Appeal, the highest Court of Justice on the land and where great jurisprudence of the country comes from, remains a challenge that needs to be addressed.

Employment, poverty and rural women

19. Implementation of article 11 of the Convention: Equal Remuneration, Benefits and equal pay for work of equal value

Kenya is a signatory to the International Labour Organization Convention and the government has its level best to adhere to the convention's provisions. As regards equal pay for work of equal value, equal remuneration and benefits of men and women under the Regulations of wages and Conditions of Employment Act Cap 229 the minister for labour sets out the minimum wages in respect to various employees regard less of their sex in all sectors of employment. This provision is fulfilling Section 82 of Kenyan's constitution that prohibits any form of discrimination this also expressed in the draft constitution Article 66 (2) that provided for every worker having a right to fair remuneration. Other legislations that provide for equal remuneration for work of equal value include; the Public Service Remuneration Orders and Schemes of Service, Industrial Voluntary Negotiated

collective agreements between employers and Trade unions and Wages Regulation Orders that are reviewed from time to time by wages council.

Job evaluation and annual appraisals form the basis of fixing remuneration and promotion of employees. This is done through expert job evaluation exercises and Collective Bargaining Agreements and schemes of service for private sector workers, while in the public sector through scheme of services that apply to both men and women equally. However the challenge of poverty levels in the country make it difficult for the government to track underpayments by private sectors as the women fending for their children are willing to take any amounts to sustain their family and would not risk losing their jobs in reporting their employers for underpaying them this especially in agricultural sectors.

Currently pending in Parliament is Employment Bill which under section 2 (4) provides for equal remuneration for both men and women for work of equal value. The Employment Act Cap 226 and the Regulations of wages and Conditions of Employment Act Cap 229 minimum wages apply to both private and public sectors.

Equal employment opportunities and safety at work

The principles of non discrimination apply however for reasons of security and safety Section 28 of the Employment Act, Cap 226 restricts women and young persons from working between the hours of 6.30 p.m. and 6.30 a.m. in an industrial undertaking. The Minister for Labour however has powers under Section 29 of the same Act to suspend the operation of section 28 by a Gazette Notice in so far as it affects women and male young persons in case of a serious emergence, when the public demands. Section 30 of the Employment Act restricts employment of women on underground work in a mine except in the following circumstances:

- (a) woman holding a position of management who does not perform manual work;
- (b) woman engaged in health or welfare services;
- (c) a woman who in the course of her studies spends a period of training in the underground parts of a mine; or
- (d) a woman who may for any other reason have to enter the underground parts of a mine for the purpose of non-manual occupation.

Social security and retirement benefits

Section 6 of the Employment Act, Cap 226 spells out the statutory deductions equally applicable to all employees except those exempted by the Act. Section 14 (1) of the Regulation of wages and conditions of employment Act while defining remuneration the it sets out lawful deductions which include deductions made for purposes of contribution to any provident fund or superannuation scheme in this case money forwarded to the National Social Security Fund established by an Act of Parliament Cap 258. This is an essentially compulsory saving scheme into which the employer pays statutory contribution of 10 per cent of an employees wage subject to a maximum regulated by the Act of which ½ is recovered from the employees wages. There is also the Pensions Act Cap 189 that provides for employees to receive pension and other benefits upon retirement and the National Health Insurance Fund where just like in NSSF both the employer and employee equally contribute and the funds used to assist offset medical bills with selected hospitals they have contracted.

Impact of pregnancy, maternity leave or marital status on women's employment

The principles of maternity leave are laid out under the ILO Convention No. 183. This convention was adopted by ILO member countries in June 2003 which revised the maternity protection convention No. 103 of 1952 and maternity protection recommendation, 1952 (No. 95). Kenya unfortunately has not ratified this convention and is challenged in areas of maternity leave where women are only entitled to two months leave (60 working days) as compared to the recommended 14 weeks by the convention. Women have to forfeit their annual leave upon going on maternity leave and the employers not obliged to meet the medical costs incurred thereon. Kenya equally lacks provisions on favourable working conditions to enable women combine family obligation with work responsibilities and participation in public life example nursing hours and facilities for nursing.

However the Regulations of wages and Condition of employment Act under Section 13 provides that a female employee who takes maternity leave shall not incur any loss of privileges during such period. The Employment Bill under Section 29 (8) provides no female employee shall forfeit her annual leave entitlement on taking maternity leave. Also currently in Parliament for debate is the Parliamentary Maternity/Paternity Leave Rules, 2006 which lobbies for serving members of Kenya national Assembly to have a 12 weeks maternity leave and two weeks paternity leave with full remuneration and prohibits any kind of discrimination by virtue of pregnancy of a female member of parliament. Though there is no law providing for paternity leave in Kenya this year the government sent a circular granting 5 days paternity leave to all public servants.

Most of Private Sectors and parastals have made achievements in applying the principles of the ILO Convention No. 183 by increasing maternity leave to three months, providing two weeks paternity leave for spousal support, at least two hours nursing breaks and/or reduction of working hours for a period of four months after maternity leave and maternity bills catered for in group medical schemes set by employers.

Marital status does not in anyway affect the employment status of both men and women the constitution provision on discrimination apply.

20. How the Economic Recovery Strategy for Wealth and Employment Creation (2003 – 2007) and Government's MDG efforts integration of Gender Perspective and Implementation of the Convention

Education

In appreciating that education is key to economic growth, and that women make 51 per cent of the total population of the country yet disadvantaged in acquiring this right due to various factors, the government committed itself to take measures to increase bursary provisions in ASAL areas specifically targeting girls. There is equally education reforms aimed at improving access to education for girls and reducing gender disparity. The government has further taken measures to promote the education of females through affirmative action at university level by lowering girls entry points, review of curriculum and learning materials to ensure gender sensitivity, encourage re-entry to schools of adolescence mothers and provision of sanitary facilities for girls.

Water

The government has ensured 53 per cent of the rural population supplied with safe and reliable drinking water. This gain greatly improves women's life as they are the majority of household caretakers.

Employment

Statistics for the last 5 years show that participation in employment stands at 87.5 per cent for males and 78 per cent for females. The government efforts to increase investment in educating girls will definitely at a later stage reflect in this statistics same to the number of women in decision making levels.

Table 1. Wage employment by industry and sex, 2003-2005 (Thousands)

| | 2003 | | | 2004 | | | 2005 | | |
|--|---------------|--------------|---------------|---------------|--------------|---------------|---------------|--------------|---------------|
| | MALE | FEMALE | TOTAL | MALE | FEMALE | TOTAL | MALE | FEMALE | TOTAL |
| Agriculture | 237.5 | 78.5 | 316.0 | 241.0 | 79.6 | 320.6 | 246.1 | 81.4 | 327.5 |
| Mining and Quarrying | 4.2 | 1.2 | 5.4 | 4.3 | 1.2 | 5.5 | 4.5 | 1.2 | 5.7 |
| Manufacturing | 199.6 | 141.1 | 241.7 | 199.8 | 42.2 | 242.0 | 204.3 | 43.2 | 247.5 |
| Electricity and Water | 17.3 | 3.8 | 21.1 | 17.1 | 3.8 | 20.9 | 16.7 | 3.6 | 20.3 |
| Building Construction | 71.7 | 4.9 | 76.6 | 72.4 | 4.9 | 77.3 | 73.2 | 5.0 | 78.2 |
| Trade, restaurant, hotel | 119.1 | 43.6 | 162.7 | 123.0 | 45.0 | 168.0 | 128.8 | 47.1 | 175.7 |
| Transport and Communication | 69.3 | 17 | 86.9 | 80.4 | 20.4 | 100.8 | 93.5 | 23.8 | 117.3 |
| Finance, insurance, real estate business service | 61.7 | 21.6 | 83.3 | 62.0 | 21.7 | 83.7 | 63.5 | 22.2 | 85.7 |
| Community, social and personal services | - | - | - | | | | | | |
| Public administration | 94.2 | 55.6 | 149.8 | 93.2 | 55.0 | 148.2 | 90.1 | 53.3 | 143.4 |
| Education services | 185.1 | 141.0 | 326.1 | 189.7 | 144.6 | 334.3 | 191.7 | 146.3 | 338.0 |
| Domestic services | 58.8 | 39.0 | 97.8 | 59.1 | 39.1 | 98.2 | 60.2 | 39.8 | 100.0 |
| Other services | 98.1 | 62.1 | 160.2 | 100.5 | 63.7 | 164.2 | 103.0 | 65.4 | 168.4 |
| Total | 1216.6 | 511.0 | 1727.6 | 1242.5 | 521.2 | 1763.7 | 1275.4 | 532.3 | 1807.7 |
| Of which Regular | 995.8 | 394.7 | 1390.5 | 995.8 | 394.7 | 1390.5 | 1020.6 | 404.6 | 1425.2 |
| Casual | 220.8 | 116.3 | 337.1 | 246.7 | 126.5 | 373.2 | 254.8 | 127.7 | 382.5 |

Source: Central Bureau of Statistics

21. Update on women's poverty level

Table 2. Absolute poverty level by rural and urban, 1997 and 2005/2006 (percentage)

| <i>Area</i> | <i>1997</i> | | | <i>2005/06</i> | | |
|-------------|-------------|--------|-------|----------------|--------|-------|
| | Male | Female | Total | Male | Female | Total |
| Rural | 52.5 | 54.1 | 52.9 | 48.8 | 50.0 | 49.1 |
| Urban | 45.9 | 63.0 | 49.2 | 30.0 | 46.2 | 33.7 |
| Total | | | 52.3 | | | 45.9 |

Table 3. Poverty distribution by provinces, 2005/06

| <i>Area</i> | <i>Absolute poverty</i> | <i>Food poverty</i> | <i>Hard-core poverty</i> |
|-------------|-------------------------|---------------------|--------------------------|
| Nairobi | 21.3 | 29.5 | 4.2 |
| Central | 30.4 | 31.4 | 11.4 |
| Coast | 69.7 | 63.5 | 35.4 |
| Eastern | 50.9 | 45.2 | 22.5 |
| N/Eastern | 73.9 | 66.0 | 46.5 |
| Nyanza | 47.6 | 46.0 | 21.1 |
| Rift Valley | 49.0 | 49.5 | 20.6 |
| Western | 52.2 | 51.1 | 23.2 |
| Rural | 49.1 | 47.2 | 21.9 |
| Urban | 33.7 | 40.5 | 8.3 |

22. Update on the National Land Policy

The Final Draft National Land Policy was launched on 25th September 2006 and released for dissemination and public debate. In partnership with the Kenya Land Alliance the government embarked on disseminating the contents of the draft policy through workshops, seminars, the Ministry of lands and Housing website, newspaper features in the countries main newspapers, sent copies to various organizations, parastals and all line ministries. The National Land Policy Formulation Process public debates will end with a National Stakeholders' Symposium and adoption of the draft policy to be held on the 26th and 27th April 2007.

Land issues remain sensitive and culturally complex. Already different sentiments have been raised in response to the contents of the policy especially on the gender issues replicating the response during the referendum as discussed under no.3 above. Land is central category of property in Kenya and is the principal source of livelihood and material wealth and invariably carries cultural significance for many Kenyans. Land policy reforms are unlikely to succeed in the absence of a sound constitutional framework. The cabinet already approved the policy paper and after the stated national symposium, the policy will be tabled before parliament which process is hoped to be complete in the soonest time possible.

Impact of the policy in enhancing women's rights to hold land and property

The policy has been formulated to address the critical issues of land administration, access to land, land use planning, restitution of historical injustices, environmental degradation, conflicts, unplanned proliferation of informal urban settlements outdated legal framework, institutional framework and information management. It also addresses constitutional issues such as compulsory

acquisition and development control as well as tenure, the gross disparities and trans-generational discrimination in succession, transfer of land and the exclusion of women in land decision making process and other developments. It recognizes the need for security of tenure for all Kenyans (all Socio-economic groups' women, pastoral communities, informal settlement residents and other marginalized groups).

The policy has provisions ensuring that private land is held alienable and transmissible without discrimination on grounds of sex, ethnicity or geographical origin, Non-discrimination in ownership of and access to land under all tenure systems and that alienation of private rights to land takes in account all other legitimate rights held or claimed by other persons over the affected land, such as the rights of spouses and children.

The policy seeks to repeal the principle of absolute sanctity of first registration under the Registered Land Act to regulate the powers of primary rights holder to dispose of land in order to ensure that such disposal takes into account all other legitimate rights held or claimed by other persons over the affected land including family rights. In particular, the law to impose an obligation on the primary rights holder to obtain the written and informed consent of all secondary rights holders before disposing of the land and also secure the rights of spouses to matrimonial property through enactment of laws on co-ownership of matrimonial property and a mechanism to curb selling and mortgaging of family land without the involvement of the spouses. These provision specifically covering women and their children in instances where the land they live on and depend on is registered in one persons name usually the husband or father respectively.

As much as the Kenya Law of Succession Act is meant to harmonize inheritance laws, in practice the transmission of land rights is largely done within customary laws which discriminates against women and children. (There is conflict between constitutional and international provisions, CEDAW). The policy provides for repeal of existing laws and outlaw regulations, customs and practices that discriminate against women in relation to land and securing inheritance rights of unmarried daughters. The policy provides carrying out of sensitization and education campaigns to abandon cultural practices that bar women from inheriting family land, sensitizing Kenyans on provisions of the succession Act and expedient application of the Act.

Monitoring of the policy implementation

It is envisaged that there will be an interim administrative mechanism to operationalize this policy pending the establishment of the National Land Commission, District land boards and Community land boards for the implementation of the policy. Effective implementation shall be monitored by the District land Boards given the responsibility of monitoring and evaluating land reform programmes at district levels and the Ministry of Lands and Housing which shall monitor evaluation of sector performance.

Plight of female agricultural sector employees

The Land National Policy does not specifically cater for the plight of female agricultural employees. However the same has be addressed in the sessional paper No. 2 of 2006 on Gender and Development seeking for implementation of agricultural programmes that would address the difference of men and women in agricultural sector and focus on equality and equity of outcomes rather than just equal treatment.

23. Access to credit by women

Access to credit facilities by women in Kenya is basically on the same terms with men. However, women are faced with greater challenges than men due to the fact that not many of them hold titles to land which is the major collateral to bank loans. The number of women holding title deeds in the country stands at 5 per cent. The Government is addressing this challenge through the various initiatives as outlined below:

- Kenya has several credit facilities through which women can access credit at low interest rates. These include: the Agricultural Finance Corporation, the Kenya Women Finance Trust, the Kenya Farmers Association, and the Kenya Rural Enterprise Programme
- Women can now access credit from non-banking institutions without collateral
- The Government of Kenya has also established a Ministerial Grants Committee under the Ministry of Gender, Sports, Culture and Social Services, which is intended to give grants to rural men/women groups. The Government has continuously encouraged women to form self-help and welfare groups in order to enable them to access the various available services.
- The Co-operative Societies Act, has been amended in order to facilitate women to form cooperative societies and thus access credit

Challenges

- Limited access to financial services and markets.
- Inadequate access to skills and technology.
- Poor infrastructure.
- Inadequate business know-how and linkages with large enterprises.
- Limited access to information.
- Insecurity of land tenure.

Health

24. Recent data on maternal and infant mortality rates and achievement of goals targeted to reduce mortality rate.

Table 3. Mortality rates in Kenya

| Indicators | Year | | | | | | | | | | ERS Target 2006/08 | MDG Targets 2015 | NHSSP II Target 2010 |
|--|------|------|------|------|------|------|------|------|-------------------|-----|--------------------------|------------------------|-------------------------------|
| | 1960 | 1979 | 1991 | 1992 | 1993 | 1998 | 2003 | 2004 | 2005 ^a | | | | |
| Infant mortality rate per 1000 live births | 119 | 104 | 52 | 51 | 62 | 71 | 78 | 77 | 77 | - | - | 25 | |
| Under-five mortality rate | 202 | 157 | 75 | 74 | 93 | 105 | 114 | 115 | 115 | 100 | 33 | 33 | |

| | | | | | | | | | | | | |
|--|-----|-----|-----|---------|---------|-----|-----|---|---|-----|-----|-----|
| Crude death rate | 17 | 14 | 11 | 10 | 10 | 12 | 11 | - | - | | | |
| Maternal mortality rate per 100,000 births | 206 | 204 | 225 | 150-300 | 365-498 | 590 | 414 | - | - | 560 | 147 | 147 |

Source: CBS, KDHS, Kenya Population and Housing Census – Analytical Reports 1979, 1999.

^a Provisional

In Kenya's 2003 – 2007 Economic Recovery Strategy a target of 560 was set for the year 2006/08 which target has been surpassed as latest data show the country achieved 414 per 100,000 births in 2003 an indication that the set goals are being met however the improvement does not cause the government to relax on its efforts to further reduce the rate.

25. Comprehensive plan to combat HIV/AIDS

HIV/AIDS Prevention and Control Act

Parliament recently passed the HIV/AIDS Act whose objective is to provide measures for the prevention, management and control of HIV and AIDS to provide for the protection and promotion of public health and for the appropriate treatment, counseling, support and care of persons infected or at risk of HIV and AIDS infection and for any other connected purposes. The Act provides that government shall promote public awareness about the causes modes of transmission, consequences means of prevention and control of HIV/AIDS through comprehensive nationwide educational and information campaign conducted by the government through various ministries, Departments, authorities and other agencies. The ministry of education shall also incorporate HIV and AIDS in the education curriculum in all learning institutions; both formal and informal learning systems.

Further to address the challenge of HIV/AIDS in the long term, the government is committed to lead a multi-sectoral national response to HIV/AIDS and has mandated National Aids Control Council as the national co-ordinating authority to provide the required leadership and develop;

- One agreed HIV/AIDS action framework that provides the basis for co-ordinating the work for all partners
- One national AIDS coordinating authority with a broad-based multi-sectoral mandate
- One agreed upon country level monitoring and evaluation system

The Kenya National HIV/AIDS Strategic Plan for 2005/6 – 2009/10 provides the action framework for the National Response to HIV/AIDS and the context within which all stakeholders develop their specific strategies, plans and budgets to make responses. The successful implementation of the plan is expected to reduce HIV prevalence to less than 5.5 per cent during the plan period and to improve the quality of life for those infected and affected by HIV/AIDS. To ensure long-term sustainability of the HIV/AIDS programmes, the government had linked the Plan to the Economic Recovery Strategy for Wealth and Employment Creation (2003-2007) and the government budget cycle.

Voluntary Counselling Testing

There are Key Achievements in Voluntary Counselling and Testing that include:

- There has been a rapid scale-up of both the number of established VCT sites and number of people tested. There were 400 sites by end of 2004 and 200,000 people had been tested
- A VCT curriculum has been developed.
- A national VCT strategic plan – 2003 – 2007 has been developed
- VCT Guidelines have been developed and distributed
- A quality assurance system is in place A national VCT coordinating body is in place
- Over 1000 VCT counselors have been trained
- Strong partnerships have been developed with a wide range of stakeholders

HIV/AIDS Units

There are established HIV/AIDS units in every line ministries which mark every Friday as a AIDS awareness campaign day with a target of ensuring all condoms dispensers are filled.

Anti-Retroviral Treatment

Through the Ministry of Health the government has all District and Provincial Hospitals providing Free Anti-Retroviral Treatment. Over 320 sites in the countries have this program running. The government has also subsidized the cost of Anti-Retrovirals to other health facilities in the grass root. There equally specific programmes set out for people living with HIV/AIDS trained on living healthy which programmes register a high number of women.

Table 5. Prevention targets in place

| <i>Target Area</i> | <i>Targets for 2010</i> | <i>Baseline</i> |
|-------------------------------|---|--------------------------------------|
| Prevalence | Prevalence for young men in age range 15-24 less than 1 per cent (a reduction of 20 per cent on KDHS 2003) | 1.2 per cent (KDHS 2003) |
| | Prevalence for young women in age range 15-24 less than 4.5 per cent (a reduction of 25 per cent on KDHS 2003) | 5.8 per cent (KDHS 2003) |
| Counseling and Testing | At least 1 Voluntary Counselling and Testing site fully operational in every administrative division (approximately 700 sites nationally) | 404 sites nationally (NASCOPI 2004) |
| | At least 2 million Kenyans tested for HIV annually (comprising 500,000 VCT and 1.5 million clinical testing including pregnant women) | 200,000 (VCT Strategy, NASCOPI 2003) |
| | At least 25 per cent of people in age range 15-49 have ever been tested and received result | 13 per cent (KDHS 2003) |
| Condom promotion | 160 million condoms to be distributed annually | To be finalized |
| STIs | At least 90 per cent of patients diagnosed, are offered HIV testing and 90 per cent are offered appropriate symptomatic treatment | To be finalized |
| PMCT | At least 50 per cent of infected pregnant women will receive an appropriate and complete Anti-Retroviral regime | 10 per cent |
| | Less than 23 per cent of infants born to HIV+ mothers will be HIV+ | 33 per cent |

Specific measures to enhance women's capacity to protect themselves against infection. PMTCT Programmes

The Government has established programs on the Prevention of New Infections, Prevention of mother to child transmission (PMTCT program) whose output includes establishment of functional program for reduction of HIV through vertical transmission, Women empowerment to negotiate safer sex with their partners and Research on factors influencing MTCT.

The key achievements of the programme are as follows:

- The strategic plan, 2003-2007, has been developed
- A Health workers training manual has been developed
- Technical working Groups on Policy, training, logistic and M&E have been established
- Clinical guidelines have been developed and distributed
- 400 sites have been established at provincial, district and health center level
- Four thousand health workers have been trained on Prevention of mother to child transmission
- Established partnerships with key stakeholders

Continuum of Care and Support (OIs, ART, HBC)

This support is aimed at improving the quality of life; the program output include clinical management and nursing care strengthened and available at all levels, guidelines and measures to prevent the spread of opportunistic and HIV infection developed and strengthen institution capacity for the provision of continuum of care and support. The key achievements are:

- More than 1000 health care workers trained on ART
- Over 28,000 Kenyans have access to ART –End 2004
- Guidelines for ART, OI and HBC have been developed.
- Strategic and operational plans developed for ART.

Female condoms

NASCOP and UNFPA have developed specific budgets for the purchase of higher numbers of female condoms which usually are more expensive and ensure increased availability.

Income generating activities

National AIDS Control Council has also introduced income generating activities to women to make them less vulnerable to infections by ways of having sexual relations for money and also keeping them active and focused in life.

Refugee women

26. Economic and Social situation of women and Girl Refugees and measures in place to support them

Kenya's Refugee Act was passed in December 2006, establishing a legal framework for the development of an asylum system and management of refugee affairs in Kenya. This document is in its final stages. UNHCR has three offices in Kenya. Dadaab hosts 160,000 refugees and Kakuma has a population of 90,000 refugees. Nairobi office is the country level coordination centre where refugees are screened and later proceed to the camps. Women constitute 46 per cent of the registered refugees in Kenya.

Activities undertaken to support refugee women include:

Registration of all refugee men and women to provide them with the relevant documentation ensuring their individual security, freedom of movement and access to essential services

Women are issued with individual registration documents in their claim for refugee status in Kenya. Whether married or as female heads of households, they enjoy the right to individual identification. UNHCR has established a system where all persons above the age of 18 years have access to individual identification letters. This acts as a legal document which is respected by law enforcement arms in the country. It ensures that women will not be harassed on the basis of lacking the required document. The document acts as the licence to access all services available in UNHCR offices in designated offices. It also allows the refugee woman to travel within Kenya as per the regulations laid down by the government in respect to the encampment policy.

Female refugees are interviewed by female officers and interpreters as much as is possible. This was often challenged in getting qualified female interpreters. Lack of documents exposes women to compromising situations where they become vulnerable to sexual exploitation and abuse.

Recognizing that sexual and gender based violence continues to be a severe impediment to the advancement of women and the enjoyment of their rights, UNHCR has developed an integrated country level strategies to address it

Combating sexual and gender violence has taken a multifaceted approach. Both men and women participate training on gender violence. To deliver justice, regular mobile court sessions are held monthly in the camps during the year. There has been sustained awareness raising on the rights of women in self reliance, education, leadership and in combating harmful traditional practices that affect women. Partnership with agencies and government departments which include the department of refugee affairs and the Kenya police has been instrumental in enforcing the law and supporting refugee women in need.

Individual counseling is also provided to assist them in recovery from torture or other traumatic events. Group-based activities were initiated, with 100 persons benefiting from trainings on HIV and income-generation. Women's groups formed for purposes of training on reproductive health Also provided is a forum for mutual support. There was an increase in involvement of Community leaders and Community Self-management committees in case management. The leaders successfully solve conflicts.

A memorandum of understanding between the High court and UNHCR has been drafted and is awaiting the Attorney Generals office approval to have the courts instituted in the camps. This has greatly resolved the issue of delayed justice for women and other aggrieved parties. The alternative disputes mechanism like the maslaha and traditional courts are closely monitored to ensure that they do not handle criminal cases perpetrated against women and other vulnerable persons. This has its challenges in that some women are intimidated and submit to the traditional system of dispute resolution.

Systems are in place to support women survivors with medical, security, legal ad psycho-social interventions. However, with all the initiatives, there is underreporting of cases as a result of stigma associated with sexual and gender related cases. This is a concern that the organization continues to address with notable improvement.

There is training and other on-going activities to encourage the active participation of women in all management and leadership committees of refugees in urban, rural and camp settings, including return areas. Where it is not already the case, the aim is to accelerate progress towards ensuring that 50 per cent of representatives are women

Inter-agency working groups on community services were established and refugee women have taken an active role in camp management and community based awareness raising activities (with 55 per cent effective representation by women). Regular structured planning meetings have accommodated views from both men and women as a standard requirement through the age, gender and diversity mainstreaming of UNHCR programming. Women represent 45 per cent of incentive workers and account for 50 per cent representation in the community self-management structures.

Education is key to women participation and representation in diverse forums. Through different initiatives, girls' enrolment in schools rose by 20 per cent and has been retained to the end of 2006. There has been a marked improvement on the number of girls who graduated to secondary and college education in 2006 through the affirmative action. Provision of basic materials for girls has gained an annual programming phase.

Women have drummed support for girls in education and sports in the camp schools leading to formation of stronger girls' sports teams. The provision of better sanitation facilities and access to water has improved the security concerns of refugee women in the camps.

Women who applied for repatriation especially to Sudan and other countries were given individual consideration. In 2006, 1,646 women repatriated to Sudan among other 4,234 returnees.

Women have been involved in training and income generating activities to build their capacity to be more productive members of their communities.

Women are also employed as security guards in Kakuma refugee camp. This creates a channel where women can report matters of concern that cannot be otherwise be discussed with men in the refugee social and cultural context.

The Police department has been instrumental in posting female officers in the camps. The presence of female officers enhances confidentiality and ease in reporting sexual and gender violence cases.

Refugee women participate directly in the management and distribution of food and non-food items

The participation of women in management of food and non-food items stood at 30 per cent in 2006. In therapeutic feeding programmes, women had 100 per cent representation where malnourished children and pregnant mothers received support.

Women's participation in food committees has been made compulsory by UNHCR and partner agencies. The challenge that remains unresolved is the end use of food rations which sometime ends up being sold to cater for unmet needs which include local brew for male heads of households.

Refugee women have access to a general distribution of blankets, jerry cans and kitchen sets once every two years, as per the minimum standards. Reduction in demand for firewood through dissemination of energy saving devices i.e., maendeleo stoves has reduced the risk factors for women where gathering of fire wood is reduced giving them time to participate in other community forums.

Refugee women were issued with 250g of soap every two months. This did not meet the minimum standards that dictate that 250g of soap is distributed to refugees on a monthly basis. Lack of food and non-food items easily compromise women to a situation of vulnerability where they fall prey to exploitation and abuse.

All women and girls are provided with sanitary materials as priority by UNHCR. This is seen as central to women's dignity and health

Sanitary materials were distributed to more than 35,000 women and girls of reproductive age. Extra soap distribution to the refugee women ensured the right hygienic standards. In the urban, refugee women's sanitary needs were identified and serviced on case by case basis.

Refugee women receive medical assistance in emergency situations, while their access to public medical facilities, specifically for purposes of reproductive health, safe motherhood and SGBV cases, improved in one densely populated refugee neighbourhood

To improve care of women with obstetric and gynaecological complications and of patients that required surgical intervention, UNHCR facilitated the secondment, by the Ministry of Health, of a gynaecologist and a surgeon to attend to patients referred from the refugee camp hospitals. Pregnant mothers received chemoprophylaxis for malaria during the 3rd trimester while 7,000 existing mosquito nets in the camp were re-treated with insecticide.

VCT centres have been established in all UNHCR centres of operation to ensure that women have access to HIV and AIDS testing. Strict monitoring is observed to ensure the safety of the mother and child. 7,144 medical consultations to urban refugees accounted for 50 per cent female referrals for medical treatment. UNHCR and Gesellschaft für Technische Zusammenarbeit (German Cooperation) also cooperated with the Nairobi City Council to facilitate refugees' access to a public medical facility in Eastleigh, a neighbourhood with a large refugee population giving women better access to medical facilities in their neighbourhood. Special attention was given to reproductive health, safe motherhood and SGBV. As a result, 1000 refugees accessed the public facilities in 2006.

Assistant to Government for refugee women and girls from the United Nations and other donors

No assistant has been received

Marriage and family relations

27. Steps taken by government as concerns legislative provisions against customary laws and practices that discriminate against women in areas of marriage and Divorce and in ensuring women's equality with men in marriage and divorce

As discussed herein above under No. 3, 4, 5 and 6, the government, through the Kenya Law Reform Commission will have a reviewed law on marriage and divorce that will address these discriminations. The law will be ready for tabling in parliament in June, 2007. These efforts together with the revived efforts to give Kenyans a new constitution will ensure women's equality with men in marriage and divorce.

Optional protocol and amendment of article 20, paragraph 1 of the Convention**28. Ratification and accession to the protocol**

The government has raised policy issues as regards certain provisions in the protocol specifically Articles 1 and 2 of the protocol in line with the states sovereignty. However discussions and lobbying from human and women rights organizations are still on urging the government to consider ratification for the sake of advancing women rights.
