

WOMEN AND GIRLS

know your
RIGHTS!



A publication by





WOMEN AND GIRLS KNOW YOUR RIGHTS!

A Summary of the Legal & Policy Framework on the Rights of Women and Girls in Kenya

A publication by :

The Rule of Law Program for Anglophone Sub-Saharan Africa of the Konrad Adenauer Foundation

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INTRODUCTION

Dear Readers,

The Rule of Law Program for Anglophone Sub-Saharan Africa of Konrad Adenauer Foundation based in Nairobi has been actively promoting the rule of law, democracy and human rights throughout the region since 2006. The protection of the rights of women and girls has thereby always been a major concern of our work.

In Sub-Saharan Africa, as in many other parts of the world, women have to struggle with discrimination and marginalization in the public as well as in the private sphere, quite bizarrely only due to their gender; even more bizarrely as this gender constitutes about half of the human population, especially in Africa bearing a major part of the responsibilities and burdens in core spheres as family, agriculture and rural life, just to mention some few examples.

It is meanwhile well understood that by gender discrimination societies deprive themselves significantly of a great part of their potential in intelligence and innovation as well as valuable insight and experience from a female point of view. There cannot be sustainable development and there cannot be stable, healthy and resilient societies without equal participation and representation of women on all levels and in all spheres of society. But still, the gender power gap persists, in Sub-Saharan Africa and worldwide.

We as KAS Rule of Law Program are convinced that the first step towards achieving gender equality is through creating awareness and informing women and girls about their rights. Only through information and involvement of those affected by gender inequality will they be put in the position to stand up for their rights and to demand action for necessary change.

In this booklet, we have compiled the most important articles of the Constitution of Kenya as well as excerpts from relevant legislation and state policies with regard to areas in which women and girls are likely to face discrimination. In addition, this booklet contains a list of institutions where women and girls can seek help if they feel that their rights have been violated.

We hope that women and girls across the Republic of Kenya will have an opportunity to read this publication and to know about their rights. We also hope that each and every one of our readers can thus contribute to the realization of gender equality and equal opportunities for women and girls in the long run. If this booklet is a success it might serve as a model for many more countries in the region.

My special thanks go to FIDA Kenya, devoted defender of women's and girls' rights throughout the country, who have supported this publication through their valuable input, as well as to Idza Luhumyo, young female jurist and writer from Kenya, for her excellent work.

May this booklet contribute to the empowerment of women and girls, in Kenya and on the continent.

With my best regards,



Dr. Stefanie Rothenberger

Director of the Rule of Law Program
for Anglophone Sub-Saharan Africa of the
Konrad Adenauer Foundation

FOREWORD

Dear Readers,

The Federation of Women Lawyers (FIDA-Kenya) is a non-governmental, non-partisan, non-profit making membership organization established in 1985, whose vision is a society that upholds and respects the rights of women. FIDA-Kenya's mission is to promote women's individual and collective power to claim their rights in all spheres of life.

Women in Kenya have for many decades experienced systemic and institutionalized discrimination. This has been perpetuated at all levels of society by individuals and the society. The legal and policy framework has for a long time been punitive on women as it was informed by gender stereotypes and marginalization of women.

The Constitution of Kenya 2010 was the game changer by embracing what has come to be referenced as one of the most progressive bill of women rights globally. FIDA-Kenya alongside other key players worked tirelessly to ensure that the gains of women are secured and guaranteed resulting in the guarantees and freedoms in the Constitution as is.

Access to justice and the rule of law are crucial tenets that guarantee women's quality of life is one that is free from all forms of discrimination. It is therefore pertinent that the prevailing progressive legal and policy frameworks in place in Kenya are disseminated to women and girls expeditiously and in a form they can easily interact with such as this vital publication. This will inform their daily lives and decision making positively by equipping them on their rights and guarantees that protect and shield them from discrimination.

FIDA-Kenya lauds the Konrad Adenauer Foundation for this timely publication and is proud to be associated with the book. We remain grateful for the partnership between our two institutions that is founded on common ideals of ensuring that women and girls in Kenya live in a society free from all forms of discrimination and that the rule of law prevails in all spheres of their lives.

We further hope that the women and girls who get to read this book will realize the immense potential they hold and may they realize their dreams and aspirations devoid of any discrimination hurdles as a result of empowerment through the reading. We also hope that the men and boys who read the publication will realize the power of a society free from all forms of discrimination against women and girls and embrace the role of gender champions in Kenya.

With my best regards,



Anne W. Ireri
Executive Director, FIDA-Kenya

Anne



1

**WOMEN IN
POLITICS**

Introduction

The struggle for female political representation in Kenya is still ongoing. The full participation of women in the political sphere has long been disrupted by both systemic and cultural challenges.

Furthermore, there are discriminatory norms - as well as gender stereotypes - that continue to limit how women can participate fully in the political realm.

The entrenchment of these discriminatory norms, practices, and structural challenges - at all levels - has led to an environment of gender inequality that, in turn, prevents the extent to which there can be real transformation in so far as gender relations in the political sphere are concerned.



Some Notes, Examples, & Figures



Women accounted for just 9.2% of the 1,835 elected individuals in the 2017 elections, which was a marginal increase from 7.7% in the 2013 elections.¹



Women vying for political seats are often subjected to harassment, verbal abuse, and threats of physical violence. In the course of her campaigns in 2013, female politician Alice Wahome said that she had been subjected to ridicule, violence, and hostility simply because she had stepped out of the confines of respectable womanhood.²



9.2%

Women accounted of the
1,835 elected individuals in
the 2017 elections



The political arena, as a rule, is very hostile towards women.³ As in the example of Alice Wahome, the first hurdle for a female political aspirant is to convince people that, even though she is a woman, she has a right to seek leadership. In the case of Sophia Abdi Noor, her family has been the butt of jokes since her first foray into politics in 2007. She says: "People abused my husband. They told him, "Now wear the skirt, and let Sophia wear the trousers."⁴



People abused my husband. They told him, "Now wear the skirt, and let Sophia wear the trousers."

Sophia Abdi Noor

The Legal/Policy Landscape

Law/Instrument	Provision
Universal Declaration of Human Rights (UDHR); International Covenant on Civil and Political Rights (ICCPR); Convention on the Political Rights of Women; UN Convention on the Elimination of all Forms of Discrimination against Women (CEDAW); and the African Charter on Human and People's Rights (ACHPR).	These international legal instruments stipulate equal enjoyment of political rights without discrimination based on gender or other designated categories.
Constitution of Kenya, 2010.	<p>Article 27(8) empowers the state to take legislative measures to implement the two-third gender principle which stipulates that no more than two-thirds of elective or appointive bodies shall be of the same gender.</p> <p>Article 81 (b) provides that not more than two-thirds of the members of elective public bodies shall be of the same gender.</p> <p>Article 91 provides that every political party shall respect the rights of all parties to participate in the political process.</p> <p>Article 100 empowers Parliament to enact legislation to promote the representation of women in Parliament.</p>

The Political Parties Act, 2011

Section 7 requires parties to have diversity and gender balance (among other requirements), as well as governing bodies whose leadership meet the gender representation principle.

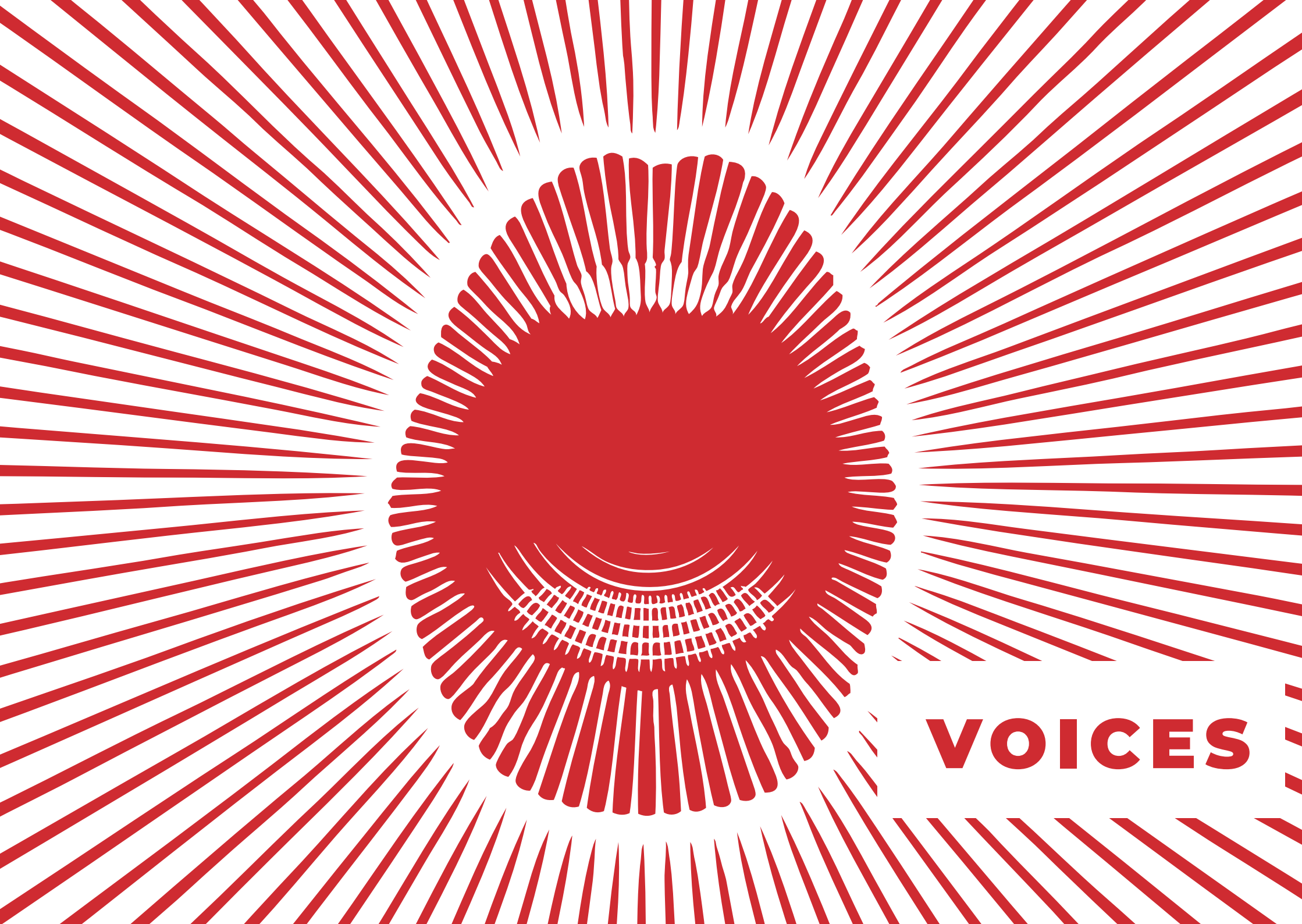
Sessional Paper No. 2 of 2019: National Policy on Gender and Development

In consultation with the Attorney General, the Ministry of Public Service, Youth and Gender implements policies, makes legislative proposals to the legislature and provides leadership in shaping the gender agenda. Some of the policies of the Ministry include:

- A revision of the National Policy on Gender and Development to align with the Constitution in realizing the participation of women, persons with disabilities, youth, and ethnic and other minorities.
- The development of The National Equality Policy to facilitate the implementation of the constitutional equality principles in all sectors.

The Elections Act, 2011

This Act provides for voter registration procedures, designates a process for the representation of minority groups in parliament through mixed-member party lists, and requires the Independent Electoral Board Commission (IEBC) to determine from party lists the numbers required to comply with the two-thirds gender rule in allocating special seats in county assemblies.



VOICES

Bina Maseno

A female political enthusiast promoting young people's active participation in political, civic and social processes. She also amplifies young women's voices in democratic processes.

"I think we have to find ways of encouraging more young women to be more interested in political conversations. For me, I use fashion and make-up to encourage young women to use what they have to have a voice in society."⁵

Samantha Maina

Samantha ran for the position of MCA Kileleshwa Ward during the 2017 elections. Though she did not win, she credits the experience for giving her real insight into what it means to be a young woman aspiring for a leadership post in a political landscape that is deeply patriarchal, inextricable from political patronage, and often exclusivist.

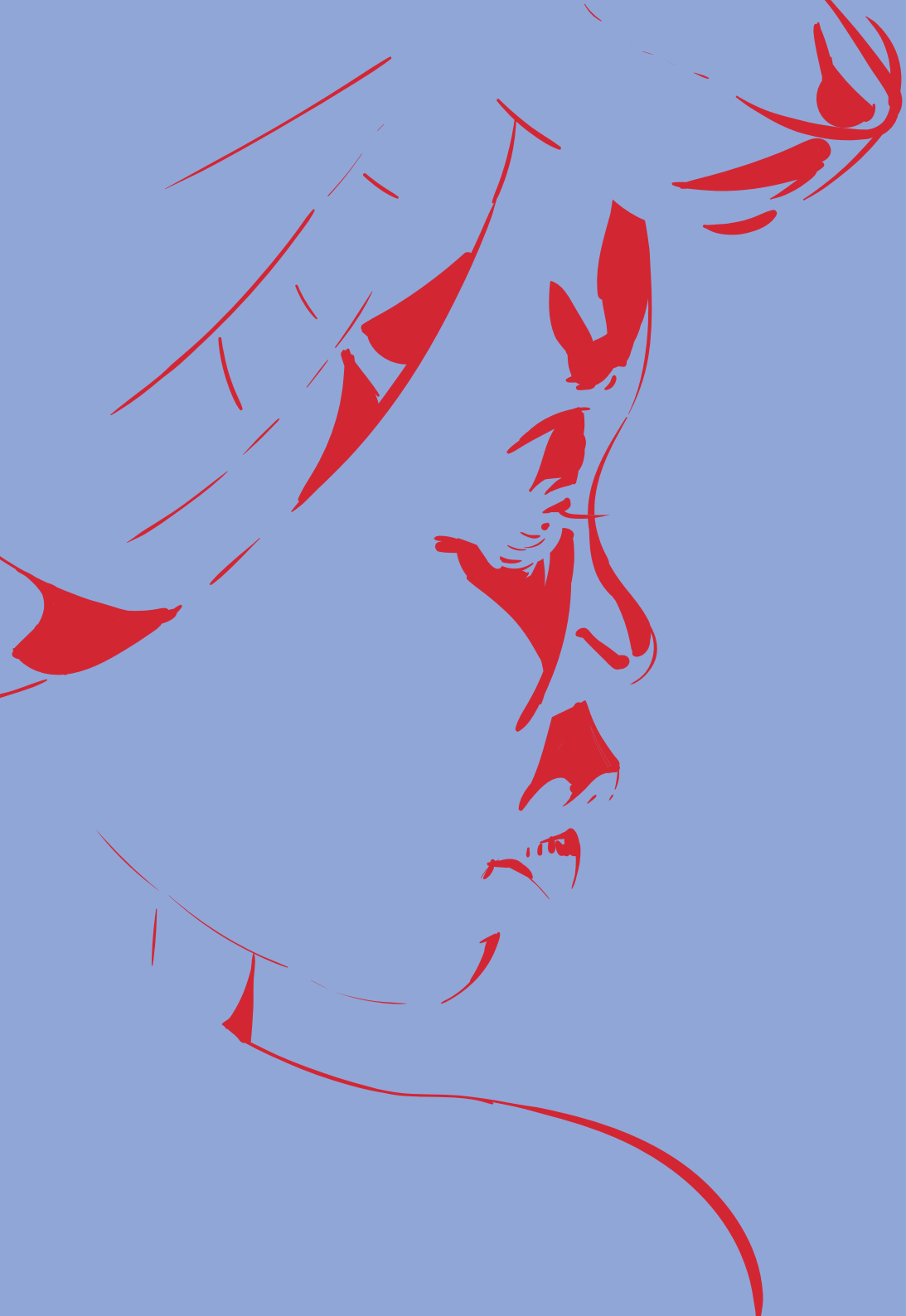
"Yes, I lost my bid to be the next MCA for Kileleshwa, but I gained experience that cannot be taught and that is because I refused to be boxed into stereotypes such as "try it in another five years," "get married first then run," "start a family then run," "be more 'mature' then run," "align yourself with XYZ then run."⁶

Martha Karua

Martha is a Kenyan politician, an Advocate of the High Court of Kenya, and a long-standing Member of Parliament for Gichugu Constituency. Sometimes referred to as Kenya's Margaret Thatcher, she has previously run for president and served as Minister of Justice. The fact that she is a woman - and a divorced one at that - made her bid for presidency extremely difficult.

"If we are to raise a generation free from patriarchy then we must begin to re-socialize the entire community to promote gender equality and mutual respect for both men and women. We must realize that violence against women and girls begins at home through the language used and then escalates to physical violence. This is why we must begin changing the society right from the roots."⁷





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**WOMEN &
SEXUAL AND
REPRODUCTIVE
HEALTH**

Introduction

Despite a substantial improvement in the health status of the Kenyan population, there are still numerous challenges with respect to the sexual and reproductive health rights of girls and women. The key areas which affect girls and women with respect to sexual health and reproductive rights include unintended pregnancies, unsafe abortions, irregular access to contraceptives, and female genital mutilation.

Unintended pregnancies and unsafe abortions are quite rife in Kenya. This accrues from the fact that access to family planning and other reproductive services in Kenya is on the decline. According to a 2019 study conducted by Performance Monitoring for Action, unintended pregnancies have increased by 44%, while the use of contraceptives among women has reduced from 62% to 56%.⁸

This situation is further exacerbated by the fact that, in Kenya, the abortion law is ambiguous. This lack of clarity has resulted in multiple interpretations of the law, further placing girls and women at risk of harm.

Even though data from the United Nations Populations Fund points to a significant decrease in Female Genital Mutilation in Kenya, the practice remains a challenge⁹. This is in spite of the fact that the Kenyan government has put in place a multi-disciplinary National Plan of Action for the Elimination of Female Genital Mutilation.¹⁰



Some Notes, Examples, & Figures



Girls who are between the age of 15 and 19 make up 60% of those who are experiencing unintended pregnancies. This arguably points to a female teenage crisis in Kenya.¹¹



According to the United Nations Population Fund, 21% of women and girls, aged between 15 and 49 have undergone some form of FGM.¹²



Access to contraceptives and other forms of birth control remains a challenge. Only 11% of sexually active teenagers typically use birth control or other contraceptives.¹³



Therefore, the issue of unintended pregnancies and the often-ensuing maternal depression which results from loss of pregnancies can be associated with uneven and irregular access to contraceptives and other forms of birth control.¹⁴



Research conducted by the Center for Reproductive Rights demonstrates that women are often reluctant to seek help from qualified healthcare providers because of shame as well as fear of possible legal consequences.¹⁵

The Legal/Policy Landscape

Law/Instrument

Provision

Constitution of Kenya, 2010

Article 26 provides that abortion is not permitted except in the case where, in the opinion of a trained health professional, there is need for emergency treatment, or the life or health of the mother is in danger, or if permitted by any other written law.

Penal Code CAP 63, Laws of Kenya

Section 158 provides that any person who administers to a woman - whether pregnant or not - any poison or toxic thing with the intent of procuring a miscarriage will be guilty of a felony and will be liable to imprisonment for fourteen years.

Section 159 provides that any woman who is pregnant and administers to herself or allows another person to give her any poison, toxic thing, or subject her to violent activity with the intent of procuring a miscarriage will be guilty of a felony and liable to imprisonment for seven years.

Section 160 provides that any person who supplies or procures any item for another person in the knowledge that said item is meant to be used to procure the miscarriage of a woman will be guilty of a felony and is liable to imprisonment for three years.

Penal Code CAP 63, Laws of Kenya

Section 214 provides that a child can only be deemed capable of being killed if it has completely proceeded in a living state from the body of its mother. Even so, section 240 offers a caveat to the aforementioned provisions. It provides that a person will not be held criminally responsible if, in good faith and with reasonable care, he/she performs a surgical operation upon any person for their benefit, or upon an unborn child for the preservation of the mother's life.

Medical Practitioners and Dentists Board's Code of Professional Conduct and Discipline

Doctors who perform an unlawful abortion face an additional professional penalty of suspension or erasure from the Register of Doctors as mandated by the Medical Practitioners and Dentists Board (Medical Board), which is the statutory body created to regulate medical and dental practice in Kenya.

The National Adolescent Sexual and Reproductive Health Policy

The goal of this policy is to enhance the Sexual and Reproductive Health status of adolescents in Kenya. It also aims to contribute towards the realization of adolescents' full potential in national development.

Ministry of Health, National Guidelines
on the Medical Management of Rape/
Sexual Violence

According to these guidelines,
when a girl or woman has been the
victim of rape, then there can be a
discussion of termination of pregnancy,
subject to psychiatric evaluation and
recommendation.

Post Abortion Care (PAC): A Pocket
Guide for Healthcare Providers
(Ministry of Health, February 2019)

This guide equips healthcare providers
with the necessary knowledge and
skills to provide timely quality PAC
services to reduce both morbidity and
mortality associated with abortion
complications.

Prohibition of Female Genital Mutilation
Act, No. 32 of 2011

This Act contains provisions which
prohibit the practice of FGM, safeguard
against the violation of a person's
mental or physical integrity through
FGM.

Section 19 provides that a person who
causes the death of another as a result
of subjecting them to FGM shall be
liable to life imprisonment.

Sessional Paper No. 3 of 2019
(National Policy For The Eradication Of
Female Genital Mutilation)

This policy paper is a revision of the
National Policy on the Abandonment of
Female Genital Mutilation, approved by
the Cabinet in June 2010.
It contains provisions intended to
accelerate the eradication of FGM.






VOICES

Ann-Beatrice Kihara


Ann-Beatrice is a senior Lecturer at the University of Nairobi, College of Health Sciences, Department of Obstetrics and Gynaecology as well as a Specialist Obstetrician-Gynecologist at Kenyatta National Hospital Nairobi, Kenya.



“Across our continent, we are struggling with a range of women’s health challenges. Amongst the girl child, school dropout rates are high; she also suffers from a lack of menstrual hygiene practices and puberty rite of passage that include early marriages, teenage pregnancies (associated with pregnancy and childbirth complications), unplanned pregnancies and actively harmful practices like gender-based violence and female genital mutilation/cutting (FGM). Sexually transmitted infections, including HIV, can have long-term consequences, including cervical cancer.”¹⁶

Tony Mwebia


Tony is the founder and executive director of ‘Men End FGM.’ He is also an award-winning gender equality advocate mainly focusing on ending FGM through grassroots’ campaigns and writing, as well as advocating for Sexual and Reproductive Health and Rights. He has over 10 years of experience working with NGOs and Government agencies in Kenya.



“Men believe that girls who have undergone female genital mutilation will attract more dowry in terms of cows. We need to change the mindset that girls who have undergone female genital mutilation are more attractive, beautiful, well mannered, faithful and respectful.”¹⁷

Jedidah Maina

Jedidah is a gender and women’s rights activist. Her focus is on sexual and reproductive rights for all individuals. She has over ten years of experience as an activist, program manager, and organizer.



“It’s still very challenging for women to access safe abortion in Kenya. Even though our current constitution was passed in 2010 and has more allowances, women still aren’t able to access the services. There is the issue of stigma. Most women do not speak about sex, as it is highly shrouded in silence. So, there is a lot of misinformation. Most of the information girls have about what is safe is wrong.”¹⁸



3

**WOMEN
AS SINGLE
PARENTS**

Introduction

Due to the dynamics of socialization, as well as the gender norms that exist in Kenyan society, it is women who are considered to be the first caretakers of children.

In Kenya - just like in most countries across the world - it is the mother who is most likely to retain custody over a child in cases where partnerships, marriages, or other forms of relationships come to an end.

It is important to note the variations of single motherhood. While some may be out of choice, others are usually the result of unintended pregnancies. Single motherhood may ensue after consensual sex with a man who is either single or married.

It may also ensue when a woman becomes pregnant as a result of sexual abuse. In this case, one may or may not know the identity of the man. Single motherhood can also ensue as a result of divorce or widowhood.



Some Notes, Examples, & Figures



As per a survey conducted by the Kenya Demographic Health Survey in 2014, the national teenage pregnancy rate was 18%.¹⁹



Furthermore, 15% of all adolescent women were said to have given birth.²⁰

The Legal/Policy Landscape

Law/Instrument

Provision

Constitution of Kenya, 2010

Article 53 (1)(e) provides that every child has the right to parental care and protection. It also provides that this right includes equal responsibility of the mother and father to provide for the child, whether they are married to each other or not.

The Children Act, CAP 141, Laws of Kenya

Section 4(2) provides that, in all actions concerning children, all individuals, institutions, and entities shall have the best interests of the child as a primary consideration.

Section 6(1) provides that a child shall have a right to live with and to be cared for by his parents.

Section 24(3) provides that, where a child's father and mother were not married to each other at the time of the child's birth, the mother shall have parental responsibility at the first instance and the father shall subsequently acquire responsibility for the child.

Section 25 provides that, in the case that a child's mother and father were not married at the time of the child's birth, then the court may - on the application of the father - order that the father shall have parental responsibility for the child.

Section 25 also provides that the father and mother may enter into a parental responsibility agreement to enable the father to parental responsibility for the child.

Section 25 further provides that, in the case that a child's father and mother were not married to each other at the time of the child's birth but have subsequently lived together for at least 12 months, the father shall have acquired parental responsibility over the child in spite of the fact that there may not be a parental responsibility agreement between the mother and father of the child.

Section 25 also provides that where the father has acknowledged paternity of the child or has maintained the child, he shall have acquired parental responsibility for the child, in spite of the fact that there may not be an existing parental responsibility agreement between the mother and father of the child.

Section 90(e) provides that, in the case that a mother and father of a child were not married to each other at the time of birth of the child and have not subsequently married but the father of the child has acquired parental responsibility for the child, it shall be the joint responsibility of the mother and father of the child to maintain that child.





VOICES

Simon Mbevi

Simon Mbevi is the founder and director of Transform Nations. In line with his passion for ministry to men, good leadership and prayer, in 2010, Mr. Mbevi started Transform Nations to equip leaders who would spearhead societal change in the country. He is a trainer, a motivational speaker, an author, a lawyer, a relationships counselor and a coach.

“Man Enough attempts to teach participants to move beyond traditional gender roles. What we will be teaching them is that both of us are providers,” says Mbevi. “You do your part, they do theirs. We work together as partners.”²¹

Susan Nyabena

Susan Nyabena is a gender and social development activist. Her passion is embedded in youth and children’s issues with a particular interest in advocacy for gender equality, women empowerment, sexual reproductive and health rights. Susan is on a mission to place gender equality at the centre of economic, political and social changes. She is the founder of Gender Ink.

“Today, the equality scene has evolved and diversified. Equality can hardly be established as one particular thing because its definition shifts depending on what suits the voices of the powerful at the time. In my opinion, gender equality is achieved when equal opportunities are available to women and men including social, economic, and political resources.”²³

Angelina Nandwa

Angelina is the founder/director of the Single Mothers Association of Kenya based at Ziwani Estate, Nairobi.

“We train groups in different parts of the country and do a lot of networking. Initially, we had a primary and secondary school, but with the inception of free primary education, most parents took their children to public schools and we closed our doors.”²²





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**WOMEN AND
FAMILIES**

Introduction

In order to understand the legal intersection between women and families, one needs an appreciation of the fact that, in Kenyan society, societal attitudes, as well as gender norms, tend to direct how people live. Thus, according to the logic of the private-public dichotomy, the home - and the family - is understood to be the territory of the woman. Even so, it is within families that the entrenchment of gender inequality typically occurs.



Some Notes, Examples, & Figures



The Ministry of Health reports that Kenyan households are predominantly headed by men in both rural and urban areas.²⁴



According to Dr. Joyce Mutinda – the Chairperson of the National Gender and Equality Commission – Kenya has always recorded high rates of violence against women and girls.²⁵



A study by the National Gender and Equality Commission in 2017 on the economic burden of Gender-Based Violence revealed that Kenya incurred Kenya Shillings 46 Billion, (equivalent to 1.1% of its Gross Domestic Product) in the management and response of GBV.²⁶

The Legal/Policy Landscape

Law/Instrument

Provision

Constitution of Kenya, 2010

Article 27 states that women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres. Article 60 provides that one of the principles of land ownership in Kenya shall be the elimination of gender discrimination in law, customs and practices related to land and property in land.

Protection Against Domestic Violence,
Act No. 2 of 2015

This Act aims to protect spouses, children, and dependent persons in cases of domestic violence.

Section 8 empowers a person – including a child - who is in a domestic relationship with an abusive person to apply for a protection order.

Section 32 provides that where a victim of domestic violence suffers personal injuries, damage to property, or financial loss, a court of law may award compensation in respect of the injuries, damage, or loss.

Sections 250 to 253 provide that assault against a person shall be a misdemeanor that attracts a sentence of one year. In the case that the assault occasions actual bodily harm, the sentence shall be five years, with or without corporal punishment.

Section 23 provides that parental responsibility speaks to all the duties, rights, powers, responsibilities and authority which by law a parent of a child has in relation to the child and the child's property in a manner consistent with the evolving capacities of the child.

Section 3 provides that parties to a marriage have equal rights and obligations at the time of the marriage, during the marriage, and at the dissolution of the marriage.

Section 77(1) provides that a court may order a person to pay maintenance to a spouse or a former spouse:

- If the person has refused or neglected to provide for the spouse or former spouse as required by this Act;
- If the person has deserted the other spouse or former spouse, for as long as the desertion continues;
- During the course of any matrimonial proceedings;

- When granting or after granting a decree of separation or divorce; or
- If, after making a decree of presumption of death, the spouse or former is found to be alive.

Section 7 provides that the ownership of matrimonial property will vest in the spouses according to the contribution of either spouse towards its acquisition. Section 7 also provides that matrimonial property shall be divided between the spouses if they divorce or their marriage is otherwise dissolved. Section 9 provides that, where one spouse acquires property before or during the marriage and the property acquired during the marriage does not become matrimonial property, but the other spouse contributes towards the improvement of the property, the spouse who contributes acquires a beneficial interest in the property equal to the contribution made.

The Succession Act provides daughters and sons with the same rights to inherit land and non-land assets.



VOICES

Judy Thongori

Judy Thongori is a Kenyan family lawyer and women's rights activist. She has been extensively involved in family law and has successively obtained precedent-setting decisions in many family matters. She has worked closely with the Judiciary on Family Matters and was part of the Committee on the establishment of the Family Division in 2002. She successfully sued the Kenyan government for the Parliament's failure to deliver 30% representation for women.



"Kenya lacks an automatic domestication clause, which provides ways for ratifying and implementing international covenants and charters. Thus, international agreements such as the Convention on the Elimination of all forms of discrimination against women and the Beijing Platform for Action remained undomesticated."²⁷

Atsango Chesoni


Atsango is a consultant on governance and human rights, focusing on equality rights, constitutionalism, policy, and legal reform. She undertakes work at both a national and regional level, including gender analysis of policies and legislation, advising parliamentarians and other policymakers about gender gaps, advocating for gender-responsive and women-friendly policies, and other legislative interventions.



"In many parts of Africa there continues to be proscription of, and overt state violence against women's rights organisations and also organisations working in certain areas of women's rights, for example, lesbian rights. As we challenge inequality and discrimination in the world outside, we also need to challenge it in our own organising. We must continue to promote training and leadership opportunities for diverse women, acknowledge and interrogate prejudice within the women's movement and advocating and encourage dialogue around intersectionality."²⁸

Rachel Mwikali

Rachel is the leader of the Coalition for Grassroots Human Rights Defenders, a social movement for grassroots activists and human rights defenders in Kenya. She also coordinates a Pan-African Grassroots Women Liberation Movement, which works to unite grassroots African women.



"This movement was formed to stand for social justice and women's rights in 2016 bearing in mind some people in this area have faced violence of a different nature," she says, adding that "I got into an early relationship and faced violence which motivated me to fight for women especially those in the grassroots".²⁹



6

**WOMEN AND
EDUCATION**

Introduction

The issue of female empowerment when it comes to education is one which has been recurring for years. However, even though there have been great strides made in recent years, there are still some lingering cultural attitudes which pose challenges when it comes to the question of education in Kenya.



Some Notes, Examples, & Figures



According to the Ministry of Education records, of the 85% of learners who progress from primary to secondary school, 30% typically proceed to higher education.³⁰ However, out of this percentage, girls account for only one third of the total enrolments.



In Kenya, programs targeted at enrolment such as Free Primary Education (FPE) have been working but less focus has been given to closing the gap between the test scores of boys and girls.



Although Kenya has progressive laws and policies which support the education of women, higher education - in particular - still excludes many women, particularly those from marginalized communities.

30%
-
35%

Clear gender disparity range
in Kenya STEM participation



Women struggle to succeed in science, technology, engineering, and mathematics (STEM) related courses. Female university students also struggle to get into postgraduate courses.³¹



In Kenya STEM participation shows a clear gender disparity ranging from 30%-35%.³²



In Kenya, the female participation rate at public universities is less than 30% in spite of existing educational gender policies and interventions.³³

The Legal/Policy Landscape

Law/Instrument	Provision
Constitution of Kenya, 2010	<p>Article 53 provides every child the right to free and compulsory basic education.</p> <p>Article 55 empowers the State to take measures, including affirmative action programmes, to ensure that the youth access relevant education and training.</p> <p>Article 56 gives minorities and marginalized groups the right to be provided with special opportunities in the field of education.</p>
The Children Act, CAP 141, Laws of Kenya	Section 5 prohibits discrimination based on origin, sex, religion, creed, custom, language, opinion, conscience, colour, birth, social, political, economic or other status, race, disability, tribe, residence or local connection.
The Basic Education Act No. 14 of 2013	Section 30 provides that the Cabinet Secretary shall implement the right of every child to free and compulsory basic education.

The Second Medium Plan Term of Vision 2030 (2013)

This plan provides that affirmative action will be undertaken to correct cultural and historical gender imbalance, physical segregation and regional disparities in order to promote equity in access to education. It also states that the sector will undertake a national survey on special needs and disabilities, identify and nurture talents, revive the most vulnerable children support grant programme, provide laboratory equipment grants and award bursary and scholarships.

Kenya Vision 2030

The Kenya 2030 Vision has outlined strategies aimed at moving the country towards substantive equality measures to support regions and groups which have been historically disadvantaged on account of region or status. Under the Vision, education centers of excellence are being established in every constituency of the country.

National Gender and Equality Commission Act of 2011

This Act contains various provisions on discrimination against women and girls, including the education sector.



VOICES

Lucy Wandiri Mbirianjau

Lecturer, Department of Educational Foundations, coordinator PGDE and Content Enhancement Programs, Kenyatta University.

“In Kenya STEM participation shows a clear gender disparity ranging from 30%-35%. Fewer women participate and even fewer complete their studies. In addition, their graduation scores are low compared to those of males. This is a situation true of both developed and developing countries.”³⁴

Rose Mutiso

Dr. Rose M. Mutiso is the Co-Founder and CEO of The Mawazo Institute, which supports the next generation of female scholars and thought leaders in East Africa, and promotes public engagement with research.³⁵

“In regards to the state of women in STEM, we need more data so we can figure out where the gaps are. Is it in high school where girls maybe get messages that science is boring or cool for boys? Or is it after that, in university, in family constraints or in the job market where there is a lot of discrimination against women? I think there are challenges across the whole pipeline but broad data would help us to understand where.”³⁶

Qabale Duba

Qabale is the founder of Qabale Duba Foundation (QDF) www.qabale.org, a community-based organization that is empowering pastoralist girls and women in Marsabit County.

“My PAPA (Pads and Panties) project addresses menstrual hygiene and sexual health among adolescent girls in rural schools. Through menstrual hygiene and sexual health awareness sessions, the girls are able to learn more about their bodies and the changes that come with adolescence. The project also promotes girls' education in the sense that the girls who receive enough supply of sanitary towels do not miss classes every month to attend to their biological demands. Therefore, the number of absenteeism and girls dropping out of school in Marsabit has decreased.”³⁷





**WOMEN IN THE
WORKPLACE**

Introduction

In Kenya, the figure of the working woman is commonplace. Women are involved in both formal and informal spaces, making their contribution to the country's economy. Even so, the various hindrances which occur at the workplace often limit the extent to which women can make a living, make their contributions, and also derive meaning and satisfaction from their occupations.



Some Notes, Examples, & Figures



Out of 153 countries, Kenya ranks 109 on the Global Gender Gap Index. This is a drop of 33 positions compared to that reported in 2018.³⁸



According to the World Empowerment Principles (WEP) advocacy, Kenyan women take home a lesser Ksh.68 for every Ksh.100 paid out to a man.³⁹



Only 13.2% of firms have a majority female ownership and only 18.1% of the firms in Kenya have women in top management.⁴⁰



Only 18% of leadership posts are held by women and 45% of the female workforce is engaged in unpaid care work.⁴¹



Only 12% of companies in Kenya have a female CEO.⁴²

The Legal/Policy Landscape

Law/Instrument

Provision

Constitution of Kenya, 2010

Article 27 provides for the right to equality and freedom from discrimination. It states that women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres. Article 41 provides for labour relations. It states that every person has the right to fair labour practices. Additionally, every worker has the right to fair remuneration; reasonable working conditions; to form, join, or participate in the activities and programmes of a trade union; and to go on strike.

Employment Act, 2007

The provisions of this Act define the benefits, duties and obligations of the employer and the worker, which include: the provision of a contract of service; prohibition against forced labour, discrimination in employment, and sexual harassment; payment of wages; leave; termination, and living amenities.

Section 5 provides that no employer shall directly or indirectly discriminate on an employee on the grounds of race,

Employment Act, 2007

colour, sex, language, religion, political or other opinion, nationality, ethnic or social origin, disability, pregnancy, mental status or HIV status.

Section 5 also provides that an employer shall pay his or her employees equal remuneration for work of equal value. This speaks to questions of equal pay.

Section 6 contains provisions which prohibit sexual harassment in the work place. Furthermore, an employer who employs more than 20 employees has to issue a policy on sexual harassment. Section 29 provides that a female employee shall be entitled to three months' maternity leave with full pay.

Sexual Offences Act, 2006

Section 23 provides that a person may be found guilty of sexual harassment if any person, being in a position of authority or holding public office, persistently makes sexual advances which are unwelcome to the recipient.

Labor Relations Act, 2007

This Act provides guidelines for the establishment of trade unions and employer's organizations, as well as their functions.

Labour Institutions Act

This Act establishes the National Labour Board, the Committee of Inquiry, Labour Administration and Inspection, the Wages Council, and Employment Agencies.

Occupation Health and Safety Act

This Act provides for the safety and health of all workers in Kenyan workplaces and establishes the National Council for Occupational Safety and Health.

Workers Injury and Benefits Act

This Act provides various measures related to employee compensation in the workplace.

Health Act, 2017


Section 70 requires employers to grant all nursing employees break intervals for nursing in addition to the regular times off for meal to breastfeed or express milk. The nursing break includes the time it takes an employee to get to and from the lactation station and is counted as paid working hours - provided that such interval is not more than a total of one hour for every eight-hour working period.



VOICES

Wandia Njoya


Wandia Njoya is a senior lecturer in French and African literature at Daystar University in Kenya.



“But as Tithi Bhattacharya aptly put it, the ‘International Women’s Day of the 99 Percent’ is not concerned about the number of women CEOs, but about dismantling the system ‘that produces the CEOs.’ We must not forget, as she said, that the focus on the few women who have broken the glass ceiling hides the reality that “the majority of the women are in the basement cleaning up the glass.”⁴³

Jerotich Seii


Jerotich Seii is a humanitarian and development consultant with more than 20 years of experience in Sub-Saharan Africa.



“Women and girls in Kenya are involved in a myriad of economic activities and are often the main supporters of their families. Ninety percent of the income and profits that they make goes back to the family, compared to 30 to 40 percent for men. We want to see girls move from just scratching a meager living to owning, operating and expanding their own meaningful businesses or accessing formal employment and moving up the ladder.”⁴⁴

Dr. Njoki Ngumi

Dr. Njoki Ngumi is a writer and feminist thinker who has held positions in private and public health care sectors in Kenya. She is now a member of the Nest, a Kenyan multidisciplinary collective of artists, builders and makers, and the coordinator of learning and development for Africa’s first creative economy catalyst fund, HEVA. She takes special interest in the circumstances and holistic outcomes of youth, women, and minorities.



“A peculiar discussion that surfaced during the conversations was on how many Women Human Rights Defenders are increasingly feeling isolated from their own families, friends, communities-their safety and social networks. The harder it is becoming to advance and protect women’s rights in the face of extreme religious, cultural and regulatory fundamentalisms and given the multifaceted pushback, the bolder their strategies and inventions.” Dr. Njoki Ngumi who works with an art-based organization in Nairobi, Kenya said: “We built a practice of being a family to deal with backlash and threats. This is how we resist.”⁴⁵



**WOMEN
AND MEDIA**

Introduction

Just like in other countries across the world, the representation of women in media is often undergirded by patriarchy. While the freedom of the media in Kenya is guaranteed by the Constitution, there is a need to sensitize journalists and other affiliated individuals and institutions regarding representing and acceptably portraying women.

The media is a powerful force because it shapes how people view their society and themselves. The media also contributes to how people act – at home, in schools, at work, through to the political choices they may make. Often, the portrayal of Kenyan women in journalism does not reflect their contribution to society.



Some Notes, Examples, & Figures



A study by the Media Council of Kenya shows that despite the progress that has been made as far as gender representation in the media is concerned, men still dominate the industry.⁴⁶



Worldwide, women make up about 50% of the general population but only 24% of the persons heard, read about or seen in newspaper, television and radio news.⁴⁷

The Legal/Policy Landscape

Law/Instrument

Provision

Constitution of Kenya, 2010

Article 35 empowers Parliament to establish a distinct body which will set media standards and regulate and monitor compliance with those standards.

Media Council Act, 2013

As per this Act, the stakeholders of media include media enterprises; journalists; media practitioners; foreign journalists accredited by the Media Council of Kenya; and public consumers of media services.

In exercising the right to freedom of expression, all stakeholders are supposed to reflect the interests of all sections of society; be accurate and fair; be accountable and transparent; respect the personal dignity and privacy of others; demonstrate professionalism and respect for the rights of others; and be guided by the national values and principles of governance set out under Article 10 of the Constitution.

Section 27 establishes a Complaints Commission whose role is to enforce media standards set by the Council. The Commission is also responsible for the arbitration of disputes between (a) the Public and the Media (b) the Government and media (c) Within the media (Intramedia)






VOICES

Muthoni Maingi

An award-winning Global Digital Strategist and currently the Head of Digital Campaigns at Oxfam International. Founder of News by Catalyst, a Pan-African comedy web talk show hosted by Muthoni Maingi.




“The Catalyst is driven by a style of reaching the modern, African woman in a hurry. Breaking down the most important news analysis that you need to know to start your day. It’s a product that integrates events in culture, politics, tech, and focuses on being an important part of African women’s daily update calendars.”⁴⁸

Nanjala Nyabola

Nanjala Nyabola is a writer, political analyst, and activist based in Nairobi, Kenya. Nyabola writes extensively about African society and politics, technology, international law, and feminism for academic and non-academic publications.


Nyabola explains how social media had cultivated a movement with the hashtag #MyDressMyChoice to call out a series of attacks on women in November 2014. Following these protests, the Kenyan judiciary started to prosecute those caught molesting women, which as Nyabola suggests, is



“the first time there had been a prosecution for this kind of behavior in recent memory.”⁴⁹

Scheaffer Okore

Scheaffer is an activist in Kenya who has been vocal about social justice, human rights, feminism and gender-based violence.



“While the media is about visibility, women have been punished for being seen and heard. Scheaffer said that those who are visible in the media are perceived as “seeking attention, showing off, hard-headed, pitchy, angry... all these are negative. Scheaffer noted that women’s stories are also just told to act as a commercial break from the usual political stories, even when there is a bigger issue at hand such as domestic violence or femicide. Ms. Okore took note that even in death, news reports painted the victims of violence as deserving of their death because of their life choices. “Femicide cases became about ‘slay queens’ because women often portrayed as things that should defend themselves; they did something to get coverage, even if she was the one who was attacked,” she explained. She added that: “Public harassment of women is seen as entertainment... we have a show that depicts men coming up to women and saying unflattering things while people laugh.”⁵⁰



CONTACT LIST OF HELPFUL INSTITUTIONS

The Judiciary of Kenya

The Judiciary is one of the three State organs established under Chapter 10, Article 159 of the Constitution of Kenya. It establishes the Judiciary as an independent custodian of justice in Kenya. Its primary role is to exercise judicial authority given to it by the people of Kenya. The institution is mandated to deliver justice in line with the Constitution and other laws. It is expected to resolve disputes in a just manner with a view to protecting the rights and liberties of all, thereby facilitating the attainment of the rule of law.

Email: servicedesk@court.go.ke

info@judiciary.go.ke

Telephone: +254 02 222 1221 / 0730 181600/ 1700 / 1800

National Gender and Equality Commission (NGEC)

NGEC is a constitutional commission established pursuant to Section 8 of the National Gender and Equality Commission Act of 2011. Its mandate is to promote gender equality and freedom from all forms of discrimination in Kenya, especially for special interest groups through ensuring compliance with policies, laws and practice.

Address: 1st Floor, Solution Tech Place, 5 Longonot Rd, Upper Hill, Nairobi, Kenya

P.O. Box 27512-00506, Nairobi, Kenya.

Toll Free Number: 0800 720 187

Headquarters Reception: +254 709 375 100

SMS: 20459

FIDA Kenya

FIDA-Kenya is a premier women's rights organization in Kenya that has offered free legal aid to over 3,000,000 women and their children over the course of 35 years. FIDA-Kenya handles litigation on custody and maintenance matters, land and matrimonial property disputes, labor and economic rights, advocacy around Women in political participation, Sexual Reproductive Health Rights, Female Genital Mutilation (FGM), Child and Forced Marriage, Sexual and Gender-Based Violence among others.

The organization also conducts education and advocacy programs that positively impact on structural, institutional, and legal reforms within Kenya to ensure gender sensitivity and responsiveness. In August 2020, FIDA-Kenya launched the Virtual Justice Center - in response to the COVID-19 containment measures - to offer comprehensive legal aid services to its clientele with ongoing or new matters.

Telephone: 0722509760

Email: info@fidakenya.org

Virtual Justice Center Toll-Free Number: 0800720501

FEMNET

FEMNET has strategically positioned itself as a convenor, organizer and facilitator on dialogues around critical issues on women's human rights – always intentional to influence decisions made at national, regional and global fora and ensure African women's voices are amplified and their needs, priorities and aspirations are prioritized in key policy dialogues and outcomes that have direct and indirect impact on their lives.

Website: <https://femnet.org/>
Email: admin@femnet.or.ke
Telephone: +254 20 2712971/

Center for Rights Education and Awareness (CREAW)

CREAW is a national feminist women's right Non-Governmental Organization whose vision is a just society where women and girls enjoy full rights and live in dignity.

Physical Address: Elgeyo Marakwet Close off Elgeyo Marakwet Road, Hse No. 1 (on the Left), Kilimani.
Address: P.O. Box 35470 – 00100, Nairobi, Kenya.
Mobile: 254 720 357664 |
Toll Free Number: 0800 720 186



National Gender and Equality Commission (NGEC)

(NGEC) has an office in Malindi (serves the following counties: Tana River, Kilifi, and Mombasa).

Physical Address: Malindi Complex, Lamu Road
Telephone: +254 20 8000254

FIDA-Kenya (Mombasa)

FIDA-Kenya has an office in Mombasa.

Email: ajmombasa@fidakenya.org
Telephone: +254 724456659
Virtual Justice Center Toll-Free Number: 0800720501

HAKI Africa

HAKI Africa is a national human rights organisation based in Mombasa working to improve livelihoods and enhance the progressive realization of human rights in Kenya.

Email address: info@haki africa.or.ke
Telephone: +254 (0) 20 222 0814

Center for Rights Education and Awareness (CREAW)

CREAW has a satellite office in Kilifi.

Physical Address: Off Malindi Road Mnarani, Kilifi – (Moving the Goal Post Offices)
Mobile: +254 757 29 70 90

Kituo Cha Sheria

Kituo Cha Sheria is the oldest, most experienced legal aid providing and human rights non-governmental organization in Kenya, and perhaps, across the East and Horn of Africa region. It exists to empower the poor and marginalized and to enhance equity and access to justice for all.

Telephone: +254-020-3874191, 3874220, 3876290,

Mobile: 0734 874221, 0727 773991

Email: info@kituochasheria.or.ke

Website: www.kituochasheria.or.ke

NAIROBI REGION

FIDA-Kenya (Nairobi)

FIDA-Kenya's main office is in Nairobi.

Email: info@fidakenya.org

Telephone: +254 72445665

Center for Rights Education and Awareness (CREAW)

CREAW has a satellite office in Kibera.

Address: Kibera Drive, next to KBS Driving School
Kibera, Nairobi

Mobile: +254 719 437 286

Toll-Free Number: 0800 720 186

WESTERN REGION

National Gender and Equality Commission (NGEC)

NGEC) has an office in Kisumu (serves the following counties: Kisumu, Kericho, Nandi, Transzoia, Turkana, Westpokot, Uasin Gishu, Bungoma, Busia, Kakamega, Vihiga, Siaya, Migori, Kisii, Kisumu, Nyamira, and Homabay).

Physical Address: Reinsurance Plaza, Plaza, 3rd Floor
Wing B Oginga Odinga Street, Kisumu

Telephone: +254 7093751007

FIDA-Kenya (Kisumu)

FIDA-Kenya has an office in Kisumu.

Email: info@fidakenya.org

Telephone: + 254 0724 256 658

Virtual Justice Center Toll Free Number: 0800720501

CENTRAL REGION

Center for Rights Education and Awareness (CREAW)

CREAW has a satellite office in Makutano.

CREAW has a satellite office in Makutano.
Makutano – St. Peter's Anglican Church
Compound Opp. Kinoru Stadium

NORTH EASTERN REGION

National Gender and Equality Commission (NGEC)

(NGEC) has an office in Garissa (serves the following counties: Garissa, Mandera, and Wajir).

KRA Route Off Lamu Road,
Province, Garissa Town
Telephone: +254 709375100

Center for Rights Education and Awareness (CREAW) Center for Rights Education and Awareness

CREAW has a satellite office in Isiolo.

Isiolo Offices: My Space Building (Former
KRA Offices) Ground Floor.
Mobile: +254 798 98 56 07

RIFT VALLEY REGION

National Gender and Equality Commission (NGEC)

(NGEC) has an office in Nakuru (serves the following counties: Nakuru, Baringo, Samburu, Narok, Bomet, Elgeyo Marakwet, Kajiado, Embu, Kiambu, Muranga, and Laikipia).

Physical Address: Tamoh Plaza, 1st Floor, Kijabe Street
Telephone: +254 709375100

HealthRight

Since 2005, HealthRight has been working in the isolated communities of Kenya's North Rift Valley responding to three areas of critical need: maternal and neonatal health, malaria, and HIV/AIDS.

Email: info@healthright.org
Telephone: 212-226-9890

EASTERN REGION

National Gender and Equality Commission (NGEC)

(NGEC) has an office in Kitui (serves the following counties: Kitui, Makueni, Embu, Kirinyaga, Meru, Tharaka Nithi, Nyeri and Nyandarua).

Physical Address: Nzambani Park, Off Kitui Referral Hospital
Telephone: +254 20 8000253

Kituo Cha Sheria (Kitui Community Justice Center)

Kituo Cha Sheria has an office in Kitui.

Telephone: +254-020-3874191, 3874220, 3876290,

Mobile: 0734 874221, 0727 773991

Email: info@kituochasheria.or.ke

Website: www.kituochasheria.or.ke



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