

# The Kenya Women's Manifesto

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# Preface

The struggle by women to break from deliberate and sustained patriarchal systems and mechanisms of oppression, and the movement to expand space for women in all spheres of life is well documented. The Friedrich Ebert Foundation (FES) is committed to promoting the equitable participation of women in politics and government. Comprising over 50 percent of the world's population, women continue to be under-represented as voters, political leaders and as elected officials. Support for increased participation of women in political and civic leadership is an essential element in the design and implementation of all our programs.

In collaboration with the League of Kenya Women Voters (LKWV) in 2005, FES embarked on a project line aimed at producing a Women's Manifesto to address anomalies not only in public policy, but also in political party constitutions that place hurdles in the way of women seeking political office.

It is our honest belief that this document will not only help enhance the participation of Kenyan women in political and public life, but also aid in bringing down barriers that continue to hamper the role of women in all fields of endeavour.

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# Acknowledgements

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This Manifesto owes its appearance to all of us women of Kenya, who at different points in our lives have shared our frustrations and pain, our humanity and optimism, our time and insights, sometimes very helplessly as we continue to be ignored as equal and important citizens of this country.

We do appreciate and acknowledge the women leaders, civil society organizations, who have immensely contributed their time, deep thoughts, knowledge and ideas in forging a way forward during the process of developing this tool to provide space for women empowerment in Kenya. The convenors and members of the Manifesto sector committees deserve special commendations for their commitment, many contributions, and support through this one-year process.

We are greatly indebted to Friedrich Ebert Foundation (FES), for financial support toward the development and launch of this Manifesto. Our gratitude goes particularly to Maria Okong'o of FES who put in an immense amount of quality time in this process.

We thank our two consultants, Prof Jacqueline Adhiambo Oduol and Mr. Barasa Nyukuri for their expert opinion and inputs.

Again, without naming names, we at the League thank all those who contributed in their own special way to make sure this objective is realised. Thank you.

## **Irene Oloo**

Executive Director

League of Kenya Women Voters (LKWV)

# Table of contents

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<b>Foreword</b>	<b>6</b>
<b>Abbreviations/ Acronyms</b>	<b>8</b>
<b>A Call for Action</b>	<b>9</b>
<b>Women’s Affirmation</b>	<b>10</b>
<b>1. Introduction</b>	<b>11</b>
<b>2. Women in Political Participation and Decision Making</b>	<b>13</b>
<b>3. Women, Work and Economic Empowerment</b>	<b>16</b>
<b>4. Women and Health</b>	<b>21</b>
<b>5. Women and HIV/AIDS</b>	<b>23</b>
<b>6. Women and Social Development, Water, Energy and Shelter</b>	<b>25</b>
Women, Water & Energy	25
Women and Shelter	26
<b>7. Women and the Fight against Corruption</b>	<b>28</b>
<b>8. Women, Human Rights and Access to Justice</b>	<b>30</b>
The Legal Status of Women	31
Gender Based Violence	33
<b>9. Women in Conflict Situations</b>	<b>36</b>
The Case of Pastoralists	36
The Case of Refugees	37
The Case of Evictees	37
<b>10. Women and Discriminatory Cultural Practices</b>	<b>39</b>
The Case of Widow Inheritance	40
The Case of Female Genital Circumcision (FGC)	40
<b>11. Institutional Mechanisms for Promoting Women’s Rights</b>	<b>42</b>
The Gender Department	42
Gender Divisions	43
National Commission on Gender and Development	43
Observations on the National Machinery	43
<b>12. Women and Access to Media and Information Technology</b>	<b>46</b>

# Foreword

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A Manifesto is a political document. It is a tool for lobbying and advocacy that Civil society, non state-actors can use to monitor and call for accountability from the government. Therefore, then, a Manifesto becomes a tool for seeking political action. It is a blue print for an active and vibrant women's movement. It sets the women's agenda in all social, economic, cultural and political life.

The Manifesto is a direct result of concern about the historical injustice and insufficient attention given to critical issues affecting women. It is also a result of concern about the under-representation of women in politics, policy and decision-making levels and public life in general.

The aim of this Manifesto is therefore to address pertinent issues, raise questions and concerns for women while providing a platform of a common set of demands for the achievement of gender equality and equity and sustainable national development. It also aims at providing a broad but comprehensive framework for negotiations with government in regard to policy and legislation.

This Manifesto is comprehensive but not conclusive, it leaves room for exploratory work, while addressing issues of human rights, gender based violence, HIV/AIDS, women participation, economic empowerment among others are tackled in the Manifesto.

The purpose of this Manifesto is to specifically stipulate women's demands, which when met, will encourage and ensure women's advancement, involvement, and participation in leadership and good governance in Kenya.

Initiated by The League of Kenya Women Voters through support from the Friedrich Ebert Stiftung (FES), the process of developing and promoting the Manifesto was enriched by the input of various women leaders who put aside their political affiliations and came together to analyse, share, critique and finally validating the contents on the Manifesto. The Manifesto also builds upon the experiences of other developing countries in Africa that have embarked on similar processes. These include Ghana, Botswana and South Africa.

The Manifesto therefore urges all Kenyans to identify with its demands.

Only then will the organs with the responsibility of ensuring that women are equal to men in legal, social and economic rights take this Manifesto seriously. All of us, women and men, boys and girls must therefore claim a sense of ownership of the Manifesto and fight to have its demands implemented. This can be done through varied innovative strategies and best practices, given the many differences that characterise the reality of life in Kenya today

The strength of this Manifesto lies in the fact that in developing it, there was a need to ensure that:

- It is owned by the women irrespective of their social status in life, their gender, colour, and irrespective of their race and tribe.
- Women's human rights are recognised, respected and promoted at all levels regardless of socio-economic status and political affiliation
- It is non-partisan, BUT takes positions on broad national issues, policies and the political process as a whole.

We hope therefore that you will find this Manifesto valuable in your work and personal life.

**Irene Oloo**

Executive Director

League of Kenya Women Voters (LKVV)

# Abbreviations/ Acronyms

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<b>AIDS</b>	Acquired Immune Deficiency Syndrome
<b>ASAL</b>	Arid and Semi-Arid Lands
<b>BPfA</b>	Beijing Platform for Action
<b>CBOs</b>	Community Based Organisations
<b>CEDAW</b>	Convention on the Elimination of All Forms of Discrimination Against Women
<b>CPR</b>	Contraceptive Prevalence Rate
<b>ECK</b>	Electoral Commission of Kenya
<b>ERSWEC</b>	Economic Recovery Strategy for Wealth and Employment Creation
<b>FGM</b>	Female Genital Mutilation
<b>FSP</b>	Fiscal Strategy Paper
<b>GDP</b>	Gross Domestic Product
<b>GJLOS</b>	Governance, Justice, Law and Order Sector Reform Programme
<b>HBC</b>	Home Based Care
<b>HIV</b>	Human Immunodeficiency Virus
<b>ICESCR</b>	International Covenant on Economic, Social and Cultural Rights
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>ICPD</b>	International Conference on Population and Development
<b>ICT</b>	Information and Communication Technology
<b>IEC</b>	Information, Education and Communication
<b>KACC</b>	Kenya Anti Corruption Commission
<b>KDHS</b>	Kenya Demographic and Health Survey
<b>KENSUP</b>	Kenya Slum Upgrading Programme
<b>KHDR</b>	Kenya Human Development Report
<b>MDGs</b>	Millennium Development Goals
<b>MGSC&amp;SS</b>	Ministry of Gender, Sports, Culture and Social Services
<b>NACC</b>	National AIDS Control Council
<b>NCGD</b>	National Commission on Gender and Development
<b>NCWK</b>	National Council of Churches of Kenya
<b>NGOs</b>	Non- Governmental Organisations
<b>NRHS</b>	National Reproductive Health Services
<b>PRSP</b>	Poverty Reduction Strategy Paper
<b>PTAs</b>	Parents Teachers Association
<b>SAPs</b>	Structural Adjustment Programmes
<b>STDs</b>	Sexually Transmitted Diseases
<b>SNA</b>	System of National Accounts
<b>TB</b>	Tuberculosis
<b>TBA</b>	Traditional Birth Attendant
<b>TIVET</b>	Technical, Industrial, Vocational and Entrepreneurship Training
<b>UNHCR</b>	United Nations High Commission for Refugees
<b>WCBO</b>	Women's Community Based Organisation

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# A Call To Action

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The Women’s Manifesto is addressed to the Executive, the Judiciary, Policy Makers, Political Parties and Politicians, Parliament and the Civil Society. Their positive reaction to the demands contained in the Manifesto will ensure the equal participation of women and men in the country’s development processes. The Manifesto recognises that equality between women and men and girls and boys, is a human rights issue and, therefore, a condition for social justice. It demonstrates the urgent need to remind the country of, and hold government accountable for its commitments to the Beijing Platform for Action, the Convention on the Elimination of All Forms of Discrimination against Women, the Millennium Development Goals and all other international instruments that have mutually supporting indicators to help advance gender equality.

We women of Kenya by;

- Seeing ourselves as people with a shared vision, despite the many factors that mark us as different;
- Committing ourselves to the aims of the Manifesto and making ourselves the ambassadors for its dissemination;
- Ensuring that the institutions we work for are aware of its existence;
- Building coalitions and networks to achieve the goal of promoting, monitoring and assessing the progress made in implementing the Manifesto; the history of the women’s movement in Kenya is full of examples to show that this is an attainable goal;
- Serving as role models to ensure we are ethically credible in our advocacy work for the Manifesto. This means those of us who have in the past enforced practices that endanger women’s lives must stop doing so;
- Finding positive ways of dealing with the differences that separate us to help eliminate the perception that ‘women are their own worst enemies’;

Declare that: the women of Kenya must overcome their differences and promote unity of purpose in diversity. They must therefore use the Manifesto as a beacon to guide them to a just and equitable Kenya. So let us together get on with the task before us. “TOGETHER ON THE MOVE,” in pursuit of justice, we shall overcome.

We the women of Kenya, despite our different cultural backgrounds, educational levels, occupations, religions, ages, abilities and challenges, and;

# Women's Affirmation

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**AWARE** that the condition of the lives of women is often constrained by poverty and that their work is often unpaid,

UNHAPPY that women's wages when paid are low and often uncertain,

SHOCKED by the number of Kenyan people living below the poverty line, the majority being women,

CONCERNED that socio-cultural attitudes conspire with institutional and policy practice to reinforce the unequal status between women and men,

ALARMED by the increasing incidents of gender based violence,

DISTURBED by the impact of internal conflicts on women,

DETERMINED to have equal access to productive resources and to economic opportunities,

DISSATISFIED that woman's multiple roles place unacceptable burdens on their shoulders,

AGGRIEVED by the nature of our political culture that makes it extremely difficult for women to participate in political and decision-making processes,

DISTRESSED that women remain under-represented in Parliament and in Local Authorities, and account for less than 10% of the seats in the National Assembly,

DISMAYED by the inability of our health system to halt the steady increase in cases of maternal mortality,

DEDICATE ourselves to the search for a just and gender equitable society and

HEREBY ADOPT this Women's Manifesto as an affirmation of our commitment to efforts aimed at achieving gender equality and as a set of minimum demands for action on gender equality and equity concerns in Kenya.

WE, THEREFORE, call upon the Government and all its institutions, political parties, NGOs and CBOs to adopt and work towards implementing the demands of this Manifesto.

# 1. Introduction

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Improvement of the status of women is one of the Kenya Government's primary goals. It has shown its commitment to realising this goal through the Vienna Declaration on Human Rights, the Convention on the Elimination of All Forms of Discrimination Against Women and the Beijing Platform for Action, international human rights instruments that recognise the strong links between rapid population growth, high fertility, ill-timed pregnancies, weak health systems and poverty, among other factors. Therefore, it is agreed that gender equality and women's empowerment must be integrated into national development strategies aimed at achieving development targets, including the Millennium Development Goals (MDGs).

Promotion of gender equality and empowerment of women depend partly on the willingness of women and men to discard biased cultural practices and attitudes that discriminate against women. And the Government must be ready to formulate and enforce gender responsive policies and legislation. For, while there are laws against discrimination on grounds of gender, "the treatment meted out to women and girls is in practice determined, not by what the Constitution or the written laws say, but by the traditions and attitudes of [Kenyan] communities." (Kenya Human Development Report 1999: 28)

At the national level, the Government has tried to address women's concerns by creating the National Commission on Gender and Development (2004) and a gender department within the Ministry of Gender, Sports and Culture (2002). It has also stated that it recognises the need to put in place a suitable legal and policy foundation to address gender-based violation of human rights. This can be achieved by hastening the passing of Bills intended to improve the status of women, such as the Affirmative Action Bill, the Sexual Offences Bill, the Political Parties Bill, the Criminal Law Amendment Bill 2000, and the Domestic Violence (Family Protection) Bill 2001.

The demands in the Manifesto aim at helping to achieve gender equity, equality and women's empowerment. These are a prerequisite to improving the quality of life of women and men and boys and girls. More significantly, the demands allow women to express their concerns and prepare themselves for an active role in the public arena. They draw attention to the power of women as voters, which can be used to influence, not only the

direction of politics, but also the agenda of political parties. The demands aim at ensuring political parties are accountable to the large number of women voters and that they will no longer use the women's vote simply to propel men to leadership positions. The Manifesto also holds political parties accountable for how they treat women's concerns.

In a nutshell, the Women's Manifesto is a political document and a public declaration of key demands that must be met for Kenya to fully realise its vision for gender equity, equality and women's effective participation in governance and development.

Given the nature of the gender specific problems women face in fighting for political leadership, solutions must be found to support women-specific needs and concerns in order to open up the space for them to participate in public affairs.

## 2. Women in Political Participation and Decision Making

### Do statistics and figures matter?

If you think otherwise, please look at this comparison statistics for 2003 and 2005 on sector disparities in respect of women representation (*Source: Department of Gender, ECK and DPM's complimentary statistics June 2005*)

Rank	2003				2005			
	Women	Men	Total	%	Women	Men	Total	%
<b>National Assembly</b>	18	204	222	8.1	18	204	222	8.1
Ambassadors/High Commissioners	7	27	34	20.6	11	29	40	27.5
Permanent Secretaries	3	21	24	12.5	6	25	31	19.4
Provincial commissioners	0	8	8	0	0	8	8	0
District Commissioners	3	68	71	4.2	2	69	71	2.8
Deputy Secretary	19	75	94	20.2	21	77	98	21.4
<b>Councillors</b>	377	2460	2837	13.3	377	2460	2837	13.3
District Officers	68	355	423	16.1	88	358	446	19.7
Chief Justice	0	1	1	0	0	1	1	0
Judges of Appeal	1	12	13	7.7	0	14	14	0
High Court Judges	0	0	0	0	12	47	59	20.3
Commissioners of Assize	1	2	3	33.3	2	3	5	40
Chief Magistrates	6	814	820	0.73	6	9	15	40
Senior Principal Magistrates	9	13	22	40.9	11	15	26	42.3
Senior Resident Magistrates	32	55	87	36.8	38	63	101	37.6
Resident Magistrates	53	71	124	42.7	64	82	146	43.8
District Magistrates	85	121	206	41.3	92	126	218	42.2
Chief Kadhi /Kadhis	0	17	17	0	0	17	17	0
<b>Total</b>	<b>682</b>	<b>4324</b>	<b>5006</b>	<b>36.4</b>	<b>224</b>	<b>359</b>	<b>583</b>	<b>38.4</b>

These figures give the impression of a slow but steady improvement in women's level of participation in politics. A closer examination shows, however, that this is not necessarily the case. A similar trend can be seen in women's level of participation in Local Authorities. Here, their level of participation increased from 2.7% in 1992 to 8.1% and 13.3% in 1997 and 2002 respectively. These figures do not show the number of women heading influential committees in Local Authorities.

### **The Reasons**

A number of factors block women's level of participation in politics:

- Men dominate the political stage and set the rules of the political game and women lack confidence in vying for political leadership;
- Political life is organised according to male norms and values, which set the standards through which political achievement is judged. These often emphasise aggression and long hours spent outside the family set-up;
- Short changing of women during political party nominations;
- The nature of the electoral system, which may not be favourable to women candidates. Action is needed to correct flaws in the electoral law;
- Inability to utilise women's voting power and numerical strength;
- Ignorance and illiteracy;
- Lack of material and financial resources;
- Inability of the ECK to protect women against electoral violence;
- Lack of capacity to accommodate women's leadership;
- Lack of sustained Government support for women's political empowerment through affirmative action.

### **Why gender equality in politics?**

- Women are human beings with human rights and unique needs affected by politics;
- Politics is about numbers and women have the numerical strength; in terms of population 52% and voters 60%;
- For the sake of political justice which demands equal representation and participation of all citizens regardless of gender in governance;
- Gender parity in politics leads to better policy-making and therefore good governance;
- Women have human talents just like men in leadership and hence should be given equal opportunities;
- Women bring a difference in politics because of their special interests and hence the need to promote unity in diversity;
- Local Authorities and Parliament are key decision-making organisations

in the country.

**THEREFORE WE DEMAND,**

- That all political parties implement affirmative action in all party structures to increase the number of women from the grassroots, (sub-location) to national level, up to 30% by the next general election and 50% by 2012.
- That affirmative action be included in the criteria for registration of political parties;
- That all political parties ensure that women participate in leadership on an equal basis with men in all political, social, economic and cultural matters;
- That all political parties must build internal democracy with 50% representation by women in top party leadership by the next general election;
- That all state organs and political parties must bind themselves to take action to create change in our political culture to make it more transparent, answerable and sensitive to the needs and concerns of women;
- That all political parties must mainstream gender in their constitutions and manifestos before the next general elections;
- That political parties must indicate how their parties will meet the demands put forward by women;
- That political parties must include gender issues in their political agenda;
- That the Government must take practical measures to put into practice the recommendations adopted at both the Fifth African Regional Conference on Women (Dakar, Senegal in 1994) and the Beijing Fourth World Conference on Women;
- That decision making bodies (military, police, judiciary, the civil service commission and other decision making bodies) must set concrete targets and specific timeframes for increasing the proportion of women in leadership and decision-making positions by 2012;
- That Parliament must pass a Gender Equality Act and a Political Parties Bill specifying the required 50 % representation by gender in party structures and decision-making bodies;
- That as long as parties have had elections they must present their party lists after elections to reveal that affirmative action has been implemented before the lists are forwarded to ECK;
- That Parliament facilitates electoral reforms to create a level playing field for women's effective participation in elective politics and

# 3. Women, Work and Economic Empowerment

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governance in general.

## **Education**

Despite education being key to economic, social, and even political development, Kenya's current education system puts women at a great disadvantage. Hundreds of girls are still missing the Free Primary Education because of social and cultural factors like early and forced marriages, early pregnancies, multiple workloads, poverty, and traditional gender attitudes.

In the same breath, while enrolment in public Technical, Industrial, Vocational and Entrepreneurship Training institutions increased to 79,000 in 2003, the percentage of female enrolment in these institutions stood at 44% of the total. In the polytechnics, 39.4% of the available positions went to female students (2003/2004 academic year), while in the public universities during the same period female students took up 30.8% of the 52,000, available positions.

## **Did you know?**

- That girls make up only 48% of the total enrolment; and that 45,539 more boys than girls enrol for free primary education;
- That by the end of primary education, almost 40% of girls enrolled in Standard One would have dropped out of school, with early marriage contributing to the drop-out by 22.7%;
- That females make up only 32% of the student population at public universities.

## **THEREFORE WE DEMAND,**

- That the Children's Act of 2001 be implemented in its entirety to secure an appropriate policy framework for girls to secure their access, retention, performance and transition to high levels of learning;
- That the Government must address issues of poverty, early marriages, and sanitary facilities in schools - which contribute to school dropout for girls;
- That specific programs must be introduced in marginalised areas to



- address regional disparities in education;
- That gender specific policies, such as having bursaries for girls, must be put in place to address challenges facing girls in enrolling and staying in primary schools, such as lack of uniforms and sanitary towels;
- That the Government must expand tertiary institutions and increase enrolment of girls, with special emphasis on their performance in science, technical and professional courses.

## **Economic Empowerment**

### **The Situation**

Women have been active in wage labour, subsistence farming and informal sector. However, legal and customary barriers to ownership of and access to land, use of natural resources, access to capital and credit, compounded with lack of opportunities, resources, training and skills, access to and use of technology, as well as wage differentials, all stand in the way of women's economic progress. That is why most jobs created in the manufacturing sector, which is a major wage payer, are for male workers. For example, in 2003, 199,600 male workers were employed in the manufacturing sector compared to 42,100 women.

### **Did you know?**

- That over 40% of the poor households are headed by women, who form 80% of the rural population;
- That men own 95% of the land in Kenya while women own 5%;
- That 53% of Kenyan males and 54% females in rural areas live below the poverty line, (live on less than a dollar or Sh75 a day) according to the Kenya Welfare Monitoring Survey III;
- That 49% of Kenyan males and 63% females in urban areas live below the poverty line;
- That the number of people living below the poverty line rose from 44.7% in 1992 to 52% in 1997. It increased to 56% in 2002. Significantly, most of the affected people live in rural areas, with the categories of people at risk being pregnant women and breast-feeding mothers, in fact 1.1 million of them.

### **THEREFORE WE DEMAND,**

- That the Government must promote and guarantee women's economic rights and independence;
- That the Government must enact and enforce legislation to ensure equal

payment for equal work for women and men. It must review, enact, and enforce the Employment Act to ensure compliance by the private sector;

- That, to enable women own land for income generation, the Government must review property ownership laws and remove constraints of customary law systems;
- That the Government must ensure that budgetary allocations and expenditure take into consideration the unequal impact of poverty on the two genders. It must facilitate, at all levels, more open and transparent and gender balanced budget processes;
- That the Government must make provisions for budgetary and human resources for focal points across all ministries;
- That the Government, jointly with development partners, must support women groups through capacity building and skills development for appropriate technology.

## **Women and Labour**

- In the formal labour market, women make up only 29.6% of the total labour force (2003);
- Only 20% of women, roughly 6% of the number in the formal labour market, earn more than Sh25,000 per month;
- About 58% of women employed in the modern sector are in the service industry, where men occupy the senior positions;
- Despite legal provisions, women (including girls) continue to be discriminated against in the ownership of assets and in gaining access to economic services. It is estimated that less than 5% of Kenyan women own land, largely due to customary land tenure and traditional inheritance practices.

### **Did you know?**

- That women's labour rights and freedoms have been grossly abused through poor terms and conditions of service
- That women's labour is not adequately captured or recognised in the country's national accounts?
- That the percentage of women who work for free or are paid in kind is higher than that of men. Up to 13.1% of women are paid in kind, compared with only 5.8% of men?
- There is low representation and participation of women in trade unions at all levels, starting with shop floor, branch and national levels, contrary to the provisions in the Universal Declaration of Human Rights of 1948 and the International Labour Organisation standards?
- There is lack of clear gender policies in all trade unions?

- That the experience of sexual harassment has prevented women from realising their full potential. One out of 12 women are forced out of employment after being sexually harassed?
- Women are not part of Collective Bargaining Agreement teams (CBAs)?
- That since inception of trade unionism Kenya has had only one woman holding the post of deputy secretary-general?

Women also continue to suffer economically because of the impact of globalisation. This has forced Kenya to remove controls that previously shielded local industries and businesses from foreign competition.

The Economic Recovery Strategy for Wealth and Employment Creation that tries to match specific goals to the MDG target has been formulated. It tries to address some of these imbalances. For example, the goal of investing in human capital must address problems linked to education, gender inequality, child mortality, maternal health, HIV, TB and malaria, as well as health systems. But the Government admits that enforcing this strategy has been difficult due to factors like poor management of resources.

The Government must, as a matter of urgency, address the major problem of the unequal nature of Kenyan society. (Kenya is ranked among the 30 most unequal societies in the world, where 10% of the population receives 1.8% of the total national income, while the top 10% control nearly 30% of the nation's wealth. Inequalities between men and women are also pronounced).

The Government must specifically tackle problems caused by women's relatively lower skills levels that are in turn a result of inequalities in education and training. Otherwise, employment openings for many women will continue to come from small-scale agriculture and the informal sector.

**THEREFORE WE DEMAND,**

- That the Government must undertake a fundamental review of economic policies to promote the well being of disadvantaged groups; especially women;
- That the Government must put in place an appropriate legal scheme for the working poor, and both self-employed and wage employed in the informal sector;
- That the Government must implement the recommendations of the Beijing Platform For Action on the need to value unpaid work in its System of National Accounts;
- Sustained efforts must be made by the State and non-state actors to

retain girls in schools and at other levels of education, and to promote their participation in more technical subjects that equip them better for the market place of opportunities;

- That employers must give incentives to women in the form of professional and vocational training as a way of upgrading their skills in response to the changing demands of the labour market;
- That banks must come up with gender sensitive lending policies to enable women to benefit from loans, so that women are not confined to micro credit societies;
- That the Executive, the Legislature, the judiciary and the ministries of Agriculture, Labour and Human Resource Development, Environment and Natural Resources, and Health, as well as the Provincial

## 4. Women and Health

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Administration, must work together to create a safe and healthy environment for workers in the informal sector. Such workers include casual workers without fixed employment as well as paid and unpaid workers in family owned farms and businesses.

Kenya's public health facilities cannot cope with the demands of Kenyans, thanks to an ineffective and inefficient health service delivery system. The Government's attempt to provide free healthcare for all cannot succeed under the current situation whereby the health budget has consistently been allocated only 8% of Government expenditure since 1980. Of this allocation, 67% goes to curative health, 13% to rural health and 6% to preventive health. The limited resources translate into understaffed hospitals and inadequate medical supplies. Staffing has been further complicated by the flight of doctors and nurses to private hospitals and other countries in search of better salaries.

### **Did you know?**

- That the proportion of pregnant women assisted to give birth by skilled health personnel declined from 51% in 1989 to 45% in 1993? It dropped further to 42% in 2003;
- That, only 15% of health facilities are able to provide basic obstetric care, while only none (9) % are able to provide comprehensive essential obstetric care during emergencies;
- That only 52% of women make the necessary four or more antenatal visits (against the recommended 12);
- That contraceptive prevalence rate currently stands at 32%;
- That only 63% of the total demand for contraceptives is currently available for family planning purposes in the country.

### **The Reasons**

An inadequate health system is more detrimental to women than men. Pregnancy complications threaten the lives of thousands of Kenyan women, especially where specialised health care is not available.

This problem is compounded by the fact that most women lack the right to make decisions on their reproductive health, including if and when to get pregnant.

The following gender related issues also threaten women's lives:

- Cultural practices that fail to support reduced workload during pregnancy;
- Differential access to family resources that would make it possible for women to use suitable transport services to hospitals during pregnancy;
- Lack of empowerment that prevents them from making decisions about the importance of maternity care;
- Increased stress levels from multiple roles. This in turn interferes with their career development and access to productive skills that could improve their health status.

**THEREFORE WE DEMAND,**

- That the Government must create a national policy framework for easy access to and utilisation of reproductive health services;
- That the Government must promote safe motherhood through antenatal, intra-natal and post-natal care programmes that include training and equipping of Traditional Birth Attendants (TBAs);
- That the Government must take steps to protect the reproductive rights of women as stated in the Beijing Platform for Action and as endorsed at the Cairo International Conference on Population and Development.

**Relevant measures include**

- Recognising and promoting the right of women to attain the highest standards of sexual and reproductive health;
- Promoting women's ability to make decisions about their reproductive health without interference;
- Providing access to safe, effective and affordable methods of family planning;
- That women and girls are guaranteed access to free sanitary towels and female condoms to enjoy their reproductive health rights;
- That the Government must address the health needs of adolescents, since the majority of the maternal mortality cases are in this category;
- That the government institutes a sound policy framework and budget for the implementation of Millennium Development Goals 3 and 5;
- That the Government pays increased attention to the use of Information,

# 5. Women and HIV/AIDS

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Education and Communication (IEC/ICT) materials as a way of changing attitudes on cultural practices that endanger the lives of women.

## **The Situation**

The current national prevalence rate of HIV/AIDS is 6%. Statistics indicate that HIV/AIDS accounts for up to 700 deaths daily. Sessional Paper No. 4 of 1997 on AIDS in Kenya was the country's first framework for dealing with the pandemic. Following the declaration in 1999 that HIV/AIDS is a national disaster, a strategic plan was developed to guide and co-ordinate a national response to the pandemic. The plan noted the gender dimensions of the epidemic. The current 5-year strategic plan for the National Aids Control Council (NACC) should be given the necessary support, especially in the implementation of Home-Based Care (HBC) and Orphans and Vulnerable children (OVC) components.

## **Did you know?**

- Women face a triple gender related threat from the pandemic: firstly as infected persons; secondly as health care providers; and lastly as potential long-term dispossessed survivors?
- Many married women are unknowingly infected by their husbands?
- The female anatomy is predisposed to infection, up to four times more than the men, for each sexual engagement. Recent data (Kenya Demographic and Health Survey 2003) shows that women are more likely to be HIV positive than men (9% versus 5%). Among women, the proportion found to be HIV positive rises quickly with increase in age from 4% among the 15 to 24 age group, to 12% among the 25 to 29 age groups?
- In line with their traditional roles, women always assume the role of household caregivers for AIDS patients. This task, coupled with anxieties about their physical and economic survival following the loss of a husband, leads to severe stress disorders in women.

Illiteracy, lack of skills, dependency on men for economic support and women's lower socio-economic status in society reduce their capacity to voice their concerns on matters of sexuality.

**THEREFORE WE DEMAND,**

- That people deliberately infecting others with HIV must face criminal charges;
- That any infections resulting from rape and defilement should attract a maximum criminal penalty;
- That the Government puts in place an appropriate intervention package



# 6 . Women and Social Development: Water and Energy, Shelter, and the Fight Against Corruption

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to link medical facilities to community and home-based care services for people living with HIV and AIDS. The package should include counselling and emotional support to reduce psychological trauma.

The social aspects of development are varied and include access to safe drinking water, environmentally friendly energy sources as well as decent housing. The ability to control corruption is also an important feature of social development as it provides the right climate for investment in a country. Up to the 1980s, key indicators of the social aspects of development in Kenya were largely satisfactory, but the situation has in recent years worsened due to:

- The reduction of government expenditure on basic social services;
- Low economic growth;
- The impact of SAPs that forced the government to cut back on social expenditure, particularly between 1990-2000;
- The erosion of public ethics which led to public sector inefficiencies, corruption and other forms of malpractices in the public domain;

One way of looking at the social dimensions of development in Kenya is to assess inequalities arising from access to safe drinking water, satisfactory living conditions and environmentally friendly energy sources. Indeed, all the major economic reforms in the public sector, especially those related to SAPs have had a negative impact on sustainable livelihoods of women and children in the society. We demand that the government puts in place safety measures to cushion women and children on the negative aspects of these reforms.

## The Facts

### Women, Water & Energy

Water and energy are among the fundamental requirements of women in

any society. Unfortunately, these basic assets are not guaranteed for women in Kenya. Indeed, the majority of women have limited access to safe drinking water and low-cost fuel. It is estimated that 89% of Kenya's urban population can access safe drinking water, while 49% of the rural population has access to portable water from various sources such as boreholes and rivers. It is the case however that access to safe drinking water varies from region to region. These statistics overlook the condition of women who often have to cover long distances during dry spells to look for water. Water collection is thus a task that not only increases women's workload, but also shifts their priorities for family care, especially during the dry season.

Challenges of energy utilization such as the lack of electric power supply in rural areas, the inadequate and unreliable power supply especially in market centres and the high cost of petroleum products such as kerosene therefore have specific relevance for women. Yet women are not actively involved in decision making, and plans for developing and acquiring energy efficient stoves, and modernization of power systems.

#### **THEREFORE WE DEMAND,**

- The facilitation and construction of small, medium and big dams by governmental and non-state actors;
- Rehabilitation and sinking of new boreholes and wells to reduce women's workload;
- Sensitisation on the importance of roof catchments and rock catchments for water collection;
- The activation of all institutions that came into existence through the Water Act of 2002;
- Greater attention to the on going water sector reform programmes to help achieve a decentralised institutional framework to handle service provision;
- Promotion of wider use of solar and wind energy;
- Development of energy efficient stoves;
- Better management of forest schemes to improve yields;
- Expansion and upgrading of the energy infrastructure;
- The review of the National Housing Policy to encourage housing construction;
- The promotion and replication of women's knowledge on resource utilization;
- Greater visibility of women in the fight against corruption.

## **Women and Shelter**

Living conditions are not only linked to specific types of housing, but also to whether a given house has access to amenities such as energy. Often, the type of fuel used in the house reflects the standard of living enjoyed by the occupants of that house. Thus, as an example, if a household uses electricity for cooking, the household members, especially women will devote less time collecting firewood for cooking. The time gained can then be used to tackle other productive activities. There is clear evidence that in Kenya, the rural poor depend largely on collected firewood, while the urban poor tend to use charcoal and paraffin. More fundamentally, for a country to achieve all the eight MDGs, her citizens must be able to access clean, suitable and sustainable energy. Kenya is far from reaching this stage.

The country is also far from reaching the goal of providing suitable housing for the urban poor. A significant proportion of these are women, more than a quarter of whom head households (in fact 37% of the households in Kenya according to the latest statistics). Suitable housing is a social benefit that leads to improved health and productivity. This is evident in Goal 7, Target 11 of the MDGs. The country intends to address the problem of informal settlements by: providing minimum services to such settlements; undertaking physical upgrading; recognising as legitimate the role of low income settlers and other stakeholders in urban development; formulating a comprehensive national slum upgrading programme under the Kenya Slum Upgrading Programme (KENSUP).

## **The Reasons**

In the last 30 years, there has been inadequate funding for the rehabilitation, upgrading and expansion of water supply facilities in the country, most of which were constructed over 20 years ago to cater for relatively small populations. Other factors are related to environmental degradation, inadequate housing, poverty, lack of community involvement and participation, weak monitoring and evaluation systems, under investment in water storage capacity and rapid population increase. Others include:

- Failure to adopt energy conservation measures;
- High cost of building materials;
- Financial constraints to the provision of suitable shelter for Kenyans;

- Squatter problem and mushrooming of slums;
- Conflict between the government and local residents who often refuse to relocate to other areas to create room for upgrading projects;
- Lack of incentives to encourage investments in housing projects for the poor;
- Lack of public awareness on their legal rights;
- Bureaucracy and corruption.

## 7. Women and the Fight Against Corruption

The monster called corruption has continued to destroy all sectors of society - be it social, cultural, political, economic and religious. In this context, corruption refers to the abuse of the rule of law principle, acting contrary to legitimate expectations. It involves unfair means of accessing and controlling services, resources and opportunities. The common type of corruption, the human rights and basic needs of women and the rest of society have been abused. It is the major cause and effect of poverty and inequality, insecurity, unemployment, nepotism, poor leadership and governance. It has also resulted in sycophancy, political patronage, inaccessibility to basic needs like food, shelter, water, clothing, land, education, information and security by women and other citizens in the country. It is a historical fact and current reality to state that women, children, and youth are the victims of grand corruption perpetuated by the elites in this country.

Women's ability to respond to market incentives as workers and as entrepreneurs on an equal basis with men continues to be hindered by corruption in the handling of public resources, which also creates room for malpractice in the administration of justice. In Kenya, women contribute to the economy through the informal sector as self-employed workers in the small and micro-enterprise sector and in agriculture. Unfortunately, the benefits generated through investments, trade and liberation have not trickled down to women despite efforts to reduce corrupt practices in all levels of economic policy and administrative decision-making processes.

Recent investigations by Transparency International show that the country occupies position 129 out of 146 in the corruption perception index for 2004, despite having done the following to try and fight this problem.

- Signing the AU Convention on the Prevention and Combating of Corruption (December 2003);
- Ratifying the UN Convention against Corruption;
- Passing the Public Officer Ethics Act in May 2003;
- Putting in place the Kenya Anti Corruption Commission;
- Launching a National Anti Corruption Steering Committee to run awareness campaigns.

### **Did you know?**

- That the wealth declaration forms signed by public servants remain inaccessible for public scrutiny?
- That there is lack of political will and commitment to deal firmly with the problem?
- That there is a misplaced notion that the fight against corruption is largely donor-driven?
- That women have rarely been mentioned by the media in the country's major financial scandals such as Goldenberg, Anglo Leasing, and the Ndung'u Land Report?

### **THEREFORE WE DEMAND,**

- That the government demonstrates commitment and political goodwill to fight corruption in all sectors of society;
- That the Anti-corruption and Economic Crimes Act of 2003 be disseminated to all citizens;
- That the Public Officers and Ethics Act of 2003 be followed to the letter;
- That all wealth declaration forms be available for public scrutiny;
- That all those mentioned in the Goldenberg, Ndung'u Land Report, Anglo Leasing and other scandals be prosecuted in court;
- That property acquired through corrupt means be recovered

## 8 . Women, Human Rights and Access to Justice

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from looters regardless of their political, socio-economic and ethical backgrounds;

- That women are represented effectively in all the anti-corruption initiatives of the government;
- That those adversely mentioned and prosecuted for engaging in corruption be barred from holding or contesting for any public leadership position.

### **The Situation**

Chapter Five of the Constitution of Kenya lists the fundamental rights and freedoms of the individual. Among these are the right to life, liberty, security of person and property. Other rights include the right to a fair trial, protection of freedoms of conscience, expression, assembly, association and protection from discrimination on grounds of race, etc.

The country is also a signatory to a number of treaties intended to protect basic human rights. The major one is the Universal Declaration of Human Rights. It was adopted in 1948 and indicates the standards of human dignity for all nations to aspire to. Others are the International Covenant on Civil and Political Rights (ICCPR), 1972 and the International Covenant on Economic, Social and Cultural Rights (ICESCR), 1972. ICCPR guarantees that all individuals shall enjoy civil and political rights, without discrimination on the basis of sex or any other grounds. ICESCR, by way of comparison, looks at women's economic status and draws attention to issues of working conditions, social protection, standard of living, physical and mental health, education and the enjoyment of the benefits of cultural freedom and scientific progress. More significantly, the Covenant emphasises the right to work, the right to an adequate standard of living and workers rights.

Kenya is also a signatory to CEDAW the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) of 1979, which is the only human rights convention that is gender specific, and the Convention on the Rights of the Child [CRC (1989)]. The former is a useful instrument for achieving equality between women and men,

due to its concern for women's equal access to, and equal opportunities in political and public life, as well as in the areas of education and employment. Other legal obligations for the country arise from its ratification of the African Charter on Human and Peoples' Rights (1981). These treaties indicate that the rights women enjoy are essentially human rights in nature since they concern issues of justice, equity and the well being of half of the country's population. This is evident in CEDAW, given its specific obligations.

Governmental obligations as indicated in the Convention cover the following levels:

- a) Formal recognition that all human rights and fundamental freedoms apply to women as they do to men.
- b) Prohibition of discrimination in the enjoyment of those formally guaranteed rights and creation of equal opportunities for women to exercise all rights and freedoms.
- c) Identification and elimination of gender-specific obstacles to the equal enjoyment of rights and freedoms.

The challenge Kenya faces in relation to her ratification of CEDAW in 1984 is the mismatch between trying to remove gender discrimination through legal reforms and existence of de facto discrimination. This is reflected in the country's unequal political representation of women and the prevailing influence of traditional practices that place women and girls in subordinate positions.

## **The Facts**

### **The Legal Status of Women**

Issues of gender equity and equality are closely linked to the legal status of women. The existing legal instruments give the impression that in Kenya women and men are equal before the law. This is not necessarily the case however. For one, some of our laws and principles legitimise the subordination of women to men. Secondly, the structure of our laws and how they are administered have the potential of putting women in subordinate positions to men. Thirdly, the country's socio-economic factors prevent certain basic human rights from becoming a reality in the form of substantive rights. That is why a Task Force was mandated in 1993 to review

laws that discriminate against women.

The main areas of legal concern for the Task Force included laws relating to marriage, divorce, burial, adoption, succession, inheritance and custody. Most of these laws block women's advancement due to the structure of Kenya's system of justice. In many cases, this structure is far too expensive for many people, because separate courts have control over separate but connected issues.

At a more specific level, it has been noted that:

- Section 82 of the current Constitution of Kenya (1998 edition) affects women more than men as it omits "sex" as a basis of discrimination;
- A Kenyan woman married to a foreigner does not pass on her citizenship to her husband, though this applies in the case of a Kenyan man married to a foreign woman;
- Customary law allows a man to marry as many wives as he wishes, while Islamic law allows a man to marry four wives at any time. Surprisingly, the offence of bigamy does not apply to polygamous men under these two systems;
- Customary laws have been known to change, based on the subjective interpretations of self-appointed experts;
- Capacity to contract a marriage is spelt out clearly in statutory law. Under the Marriages Act, the man and woman must have attained the age of 18 years. This requirement is dispensed with however in the case of Customary law and Islamic law that allow puberty to be the basis of capacity to contract a marriage. This has encouraged child marriages;
- Even where women's legal rights exist, ignorance of such rights ensures some women cannot benefit from them;
- The ability of laws to grant women equal opportunities with men lies ultimately on society's willingness to enforce these laws. That is why the Law of Succession Act has not been able to change the lives of women in rural areas, since in many communities they are still denied the right to inherit land. The picture becomes even more complicated when we start thinking of the rights of married and unmarried daughters in these circumstances.

Women also find it difficult to access legal services and to participate in judicial processes because of:

- Traditional imbalances in gender relations;



- Women’s multiple roles and responsibilities in society;
- Negative cultural attitudes towards the girl child;
- The gender based roots of poverty and the fact that typically, women suffer most from gender-specific crimes such as rape and domestic violence.

One other area of concern is the impact of the country’s land tenure system on women. The statutory laws that govern access to and ownership of land include the Land Control Act, the Land Acquisition Act and the Land Adjudication Act among others. None of these laws prevent women from owning land. However, since Kenyan communities are patriarchal in nature, men own 95% of land in Kenya. Worse still, inheritance of such land favours the male lineage. This makes it extremely difficult for wives or daughters to inherit land. Under customary law, women tend to have user rights to land that is achieved through marriage, and not owner rights. In many communities therefore, women are free to grow crops and even make permanent improvements to land, but not to own it.

It is a sad reality that women own only 5% of the total land in Kenya, despite their numerical strength being 52% of the total population. This notwithstanding the fact that land is a key factor of production in a country where agriculture is a mainstay of its economy.

## **Gender-Based Violence**

Gender based violence continues to be a serious problem in the country. The United Nations Declaration on the Elimination of Violence Against Women defines violence against women as “any act of gender -based violence that results in, or is likely to result in, physical, sexual or mental harm or suffering to women...whether occurring in public or private life.” Newspaper coverage indicates that cases of rape, sexual assault and defilement are increasing at alarming proportions, with the victims varying from babies to grandmothers. Recent surveys (that were done by Population Communication Africa, in association with the National Council of Women of Kenya) show that:

- Domestic violence is the most common form of violence in the country and men are the main perpetrators;
- Young girls at puberty suffer most from physical and sexual assault;

- Many adolescent girls and young adult women suffer due to early marriage;
- 37% of Kenyan women victims indicate they continue to suffer from ongoing physical abuse.

In 1997, the number of reported cases of rape stood at 1050. This figure rose to 2308 in 2003. Cases of assault and battery also moved upwards from 10,268 in 1997 to 13,401 cases in 2003.

## **The Reasons Behind These Problems**

Different reasons are often given as causes of gender based violence. It has been stated for instance that it reflects the sexual, economic and social inequality that exists in today's society. This may well be the case in patriarchal societies where domestic violence is viewed by some as a way of disciplining women. Thus, men beat their wives to maintain discipline in the home. In this distorted vision of power, where the violence is confined to the privacy of the home, women often remain quiet, again for cultural reasons. Divorce and separation in this situation could be a solution to such women, but only if customary law does not govern their marriages, since most customary laws make it virtually impossible to dissolve a marriage. Many women are also not comfortable for socio-cultural reasons with being divorced or separated from their partners for the sake of their children. They may also be reluctant to do so for the economic reason of wishing to maintain a certain standard of living.

## **The Response**

To deal with these numerous challenges, the Ministry of Justice and Constitutional Affairs has made gender an important element in its current strategic plan as part of its Governance, Justice, Law and Order Sector reform programme (GJLOS). The plan intends to make the formal justice system more accessible to women, apart from strengthening the informal or traditional justice system.

In 2003, the Public Officers Safety Act was given parliamentary approval. Its purpose is to control the conduct of public officers by providing very clear guidelines on what constitutes sexual harassment in the public sector.

The Family Court is also currently a fully established Division of the High Court. Its main responsibilities involve dealing with family disputes on matters concerning marriage, divorce, burial, adoption, succession and inheritance.

To ensure that the law is an effective instrument for gender justice in these circumstances,

**WE THEREFORE DEMAND,**

- That the government ensures the enactment of constitutional provisions that guarantee the rights of women to own property equally with men;
- That customary law must not be the sole basis for determining property ownership to protect the interests of women;
- That all political parties must support constitutional amendments to delete provisions that violate the Bills of Rights in respect of gender, including the envisaged sexual offences law;
- That a clear legal position that gives girls and boys equal succession and inheritance rights be put in place through legislation;
- That the government adopts and implements the National Action Plan on ways of dealing with cases of violence against women;
- That the government enacts a suitable family protection bill and propose amendments to the Penal Code to make spousal violence a criminal offence;
- That the government reforms police stations and court facilities to make them gender sensitive and responsive to victims of violence
- That the government trains and enhances the role and response of the police when dealing with cases of domestic violence;
- That the government creates special mechanisms for supporting victims of gender based violence, before, during and after judicial processes. The means must include legal assistance as well as interim and long terms medical, psychological and material support;
- That all political parties upon taking power shall equip the police, the courts and prisons with facilities to enable the said institutions efficiently and effectively deal with cases of gender violence;
- That all police stations shall have gender desks with trained personnel to handle gender based violence;
- That the government outlaws gender discrimination in a systematic and holistic manner that is not negated by loopholes in the areas of family law, marriage, divorce, succession and inheritance and customary law;
- That the government must provide more appropriate functional mechanisms for enforcing gender based rights at the local and national levels;
- That the government implements the recommendations of the Task Force for the Review of Laws Relating to Women;
- That the government establishes a mechanism for monitoring and evaluating instances of de facto discrimination in law;
- That the government takes appropriate steps to mainstream gender

## 9 . Women in Conflict Situations

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into civil laws;

- That the government and the civil society develop innovative means to ensure that the rural and urban poor are aware of their rights and the available means for achieving these rights;
- That the police, courts and prisons must deal with cases of gender violence decisively and speedily;
- That the family courts be localised and provided with adequate human and financial resources for their effective functioning.

### **The Situation**

Conflict refers to any situation with two groups in opposition because of having incompatible goals. Such situations arise because of political, ethnic, economic, social or even religious differences that are a fact of life. In Kenya, internal conflicts are largely influenced by socio economic concerns, especially in areas with competition for power and limited resources such as land, pasture and water points. Some of the conflicts are however due to political factors, especially during periods leading up to major elections and by-elections, as was the case in 1992 and 1997. They target communities perceived to be ‘alien’ to an area and those perceived to be supporting political parties other than theirs.

It is important to remember however that women and men experience conflict differently. Due to gender inequalities and to biological differences, women are the most vulnerable to different kinds of threats in conflict situations. These include social dislocation, abduction, sexual violation, intimidation and added responsibilities. Unfortunately, their input is hardly ever considered in resolving conflicts. That is why the UN is keen on seeing more women playing a role in peace building and in reconstruction to create a just society.

### **The Facts**

#### **The Case of Conflicts among Pastoralists**

Pastoralists occupy areas of the country with unreliable rainfall patterns, mostly arid and semi arid land (ASAL). In this environment, large

tracks of land are a necessity for survival. It leads however to inter-community conflicts since as pastoralists migrate from their traditional areas in search of pasture for their animals, they interfere with agricultural parcels of land owned by non-pastoralists. These results in conflicts over ownership control, user rights over resources. For pastoralist communities, sustaining a nomadic way of life in the face of dwindling land resources is just one of the problems they face.

In the traditional context of pastoralist communities, there were rules of engagement that controlled cattle raiding and rustling. For instance, it was done to get cattle that could be used to pay bride price. Currently, the practice is largely governed by commercial requirements that have brought in complete ruthlessness in the way raids are conducted. In this scenario, where the use of automatic weapons such as the AK 47 is the norm, women become vulnerable targets during the raids, with a number of them being killed, abducted or raped. They are in most cases an easy prey due to the absence of their men folk who often migrate in search of pasture or migrate to urban areas to look for alternative means of survival. As an example, it is the Turkana women and children who have suffered most from conflicts perpetrated by the heavily armed Toposa and Karamojong raiders in the recent past.

### **The Case of Conflicts Among Refugees**

Conflict also threatens the lives of women in the vast refugee camps of Kakuma and Dadaab in North Eastern Province of Kenya. UNHCR sources show that at one time, the Kakuma Refugee Camp, with an area of only 12 sq. km. had more than 80,000 refugees, while Dadaab had well over 120,000 refugees. The overcrowded nature of the camps proved to be a breeding ground for rape, defilement and other criminal activities. The insecurity was a marked feature outside the camps as well since local communities resented the use of resources to take care of the refugees rather than members of local communities. In fact, they argued that refugees were better off, despite their destruction of the environment through over-exploitation of wood fuel resources.

### **The Case of Evictees**

Away from the arid areas of Northern Kenya, women have also faced

difficulties and sexual abuse in areas where there have been ethnic clashes and forced evictions from water catchment's areas, such as forests. The clashes that took place in the Rift Valley prior to the 1992 general elections and at the Coast, in the run up to the 1997 elections are a case in point. The country has also recently witnessed forced evictions from Mau Forest (2005) where a number of women claimed they had been raped, and young girls defiled and displaced from their homes. Peace and security are a necessary factor in human development.

**THEREFORE WE DEMAND,**

- That the government must prevent conflicts, but where there are conflicts, it must take measures to protect all persons, especially women and children;
- That the government must minimise conflict through adequate, timely and gender sensitive response to internal conflict situations;

# 10. Women and Discriminatory Cultural Practices

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- That the government must address the injustices that trigger internal conflicts without being influenced by short-term political considerations;
- That the government will encourage communities under threat of internal conflicts to use non-violent forms of conflict resolution and promote the inclusion of women in peace building;
- That women be fully represented and involved in all conflict prevention, management and resolution initiatives by the government and development partners.

## **The Situation**

Although there are over 40 ethnic communities in Kenya with a wide range of socio-cultural traditions and practices, women in Kenya have ties that link them through aspects of culture that encroach on their lives, often with negative consequences, simply because they are women. The aspects include:

- Negative socialization and upbringing practices that make them subservient to men;
- Ownership, succession and inheritance practices that favour men;
- Customary and social practices on land and livestock ownership that are male biased. For instance, in many communities, women are allowed to enjoy land use rights as wives and mothers, but they generally lack ownership and to access and utilise land as wives and mothers, but they generally lack ownership and transfer rights;
- The numerous and diverse traditional practices that interfere with women's human rights. Some of these determine the public space within which men and women are supposed to operate. In many cases, the space given to women ensures they remain subordinated and invisible in the public arena. For example, in some communities, women are not allowed to speak in public in the presence of men. In others, they can do so, but only through men;
- Traditional beliefs, taboos and cultural practices that impact negatively on their health;
- Social structures through which men are expected to control

women in social and economic relationships. This imbalanced power structure is the basis of community norms through which male relatives assume authority over widows leading to the practice of wife inheritance and other related rituals;

- Customary gender values that create political, legal, economic and educational inequalities, especially at the tertiary level;
- The incompatibility of customary and statutory laws. As an example, the 1981 Law of Succession Act failed to give women equality in succession matters.

It is instructive to observe that culture is dynamic and any good culture does not oppress or exploit women or men. However, it is only negative traditions under the disguiser of culture that discriminate and oppresses women, youth and children. In any vibrant society, cultural practices and norms change. Because of the influence of education, migrations from rural to urban areas and technological advancement, positive changes have taken place in the country's social norms and behaviour patterns. These natural developments must be strengthened by direct intervention, as there are people who use culture to put the lives of women at risk. Sadly, such people include women who enforce rituals relating to widow inheritance and female genital circumcision.

## The Facts

### **The Case of Widow Inheritance**

Outdated cultural practices partly explain why it has been so hard to deal with the pandemic in parts of the country such as Nyanza Province. This is especially so in cases where widow inheritance is viewed as an inseparable part of funeral rites. Women face different forms of punishment for refusing to undergo the rite. These include ostracism, alienation and ridicule.

It is one thing to celebrate communal values, but quite another when such values are in conflict with the rights of the individual. Consider the following:

- Widow inheritance occurs without any due consideration of the health status of the individuals involved.
- Of even greater concern is the lack of control over the number of widows a man can inherit.

These are deadly combination for the spread of STDs. They provide one reason for the high HIV/AIDS prevalence rate in Nyanza (14%)



as opposed to the national average of 6%.

## **The Case of Female Genital Mutilation**

Many communities in Kenya practice Female Genital Mutilation (FGM) and use it as a rite of passage. Studies show that female genital mutilation, depending on how it is carried out, can have serious health implications for women (KDHS 2003). The different forms of this practice include partial or total removal of the clitoris (clitoridectomy), the removal of the entire clitoris and the cutting of the labia minora (excision). There is also the removal of all external genitalia (infibulation) and the stitching together of the two sides of the vulva, leaving only a very small opening. Sometimes, the debate on female mutilation tackles the issue as a ‘Western’ versus ‘African’ culture contest, thus downplaying the different forms of the practice, its health implications and the patriarchal nature of the forces behind it.

The most recent statistics show that:

- 34% of women and 84% of men in Kenya are circumcised;
- The figure for circumcised women is higher for older women and for women in rural areas;
- The practice is closely related to education and so it is five times more prevalent among uneducated women than it is among those with higher educational qualifications. Thus, while 60.2% of uneducated women reported having been circumcised, the comparable figure for women with higher education is 12.1%;
- There are significant regional differences in the practice. In North Eastern Province for instance, 99% of the women reported having been circumcised as opposed to 5% in Western Province;
- A majority of Muslim women (54%) are circumcised;
- There is no scientifically known biological or health value of FGM despite its age-long practice.

Culture plays a major role in how we look at the world. It stands for a set of practices, belief systems and values that change with time. Thus, it must never be allowed to justify gender-based inequalities.

### **THEREFORE WE DEMAND,**

- That girls who have been forced into early marriages due to cultural practices and who wish to continue with their education should receive full support and be encouraged to re-enrol for schooling;
- That all political parties and the media be at the fore front of sensitisation campaigns aimed at eradicating cultural practices

# 11. Institutional Mechanisms for Promoting Women's Rights

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that discriminate against women;

- That the government and non-state actors should collect evidence in the form of testimonies, case studies and statistics on discriminatory cultural practices that are often defended as elements of 'African culture';
- That the government takes urgent steps to enforce legislation against cultural practices that infringe on the rights of women.

The term 'National Machinery' refers to various types of units or ministries for women's affairs set up by government to advance the status of women. The Beijing Platform for Action (BpFA) defines the Machinery as the central policy-coordinating unit inside government that is responsible for supporting government-wide mainstreaming of a gender equality approach in all policy and programme areas. The concrete measures to deal with insufficient mechanisms to promote women's advancement at the national level include:

- Location at the highest possible level in the government structure, especially the Executive arm;
- Availability of processes that facilitate decentralised planning, implementation and monitoring. This measure encourages the participation of NGOs and CBOs;
- Sufficient budgetary allocation;
- Availability of adequate professional and technical capacity;
- Ability to influence the development of all government policies;
- A gender desk in all government ministries and departments at national and local levels.

It is clear from these requirements that the National Machinery has to provide leadership in implementing government policies on women and equality. In this regard, women must also participate in public policy formulation. Thirdly, it must encourage BpFA imple-

mentation through relevant bodies and institutions that include government ministries, while at the same time building its own capacity for effective advocacy, coordination and monitoring.

The institutions that make up the National Machinery in Kenya include the Department of Gender, Gender Divisions, and the National Commission on Gender and Development.

## **The Gender Department**

The Department of Gender was established in 2004 and took over the role of what used to be the Women’s Bureau of the Department of Social Services. The function of the new department is to ensure the inclusion of gender concerns in policy formulation, planning and implementation. To achieve this goal of gender mainstreaming, the Department:

- Formulates and reviews gender responsive policies;
- Domesticates national and international resolutions from conventions on the status of women;
- Develops indicators on how to engender the national budget;
- Promotes efforts aimed at providing gender disaggregated data;
- Coordinates the implementation of the National Policy on Gender and Development;
- Engages in advocacy work on the key role of gender mainstreaming in the development process.

## **Gender Divisions**

These divisions are meant to mainstream gender into all government sectors by:

- Initiating relevant plans and strategies;
- Focusing on the allocation of resources intended to strengthen the gender sensitivity of line ministries;
- Evaluating effectiveness in the implementation of the equality aspects of the National Development Plan and the Millennium Development Goals.

The divisions have taken over the functions of what used to be called Focal Points and Units of Gender Issues in line ministries.

## **National Commission on Gender and Development**

The National Commission was established through an Act of Parlia-

ment in January 2004 and operates as an oversight body mandated to:

- Take part in formulating the national development policy;
- Exercise general supervision over the implementation of the national policy on gender and development;
- Suggest ways of strengthening the institutional mechanisms that promote gender equality and equity in all spheres of life;
- Initiate legal reforms in collaboration with the Attorney General's Office on laws that affect women.

## **Shortcomings in the National Machinery**

The Ministry of Gender, Sports, Culture and Social Services (MGSC&SS) is the ministry to give visibility to Kenya's National Machinery. Its low impact image in comparison to most of the country's other ministries means however that it is unlikely to give the Machinery the influence it needs to advance the status of women in the country. After all, the message being sent out to the public by placing women's a concern under this unwieldy ministry is the view that woman's issues should not be taken seriously. In addition, the actual and perceived impotence of the institutions in the National Machinery, including their marginalized position in government structures means that some development partners are bound to shy away from working with them. This explains their preference for working with NGOs and CBOs.

Although a Director heads the Gender Department, it is grossly understaffed and lacks the equipment it needs to work effectively. From an administrative angle, the Department has little authority over other departments in its parent Ministry.

A further observation concerns the assumption that sectoral ministries have the people with the experience and skills to analyse how from a comparative angle, women and men are affected firstly by national programmes and policies and secondly by their abilities to benefit from these policies and programmes. For this assumption to be true, the national budget must be engendered. That is why most Ministries, in fact 13 of them lack budgetary allocations for gender activities. The exceptions include the Ministries of Agriculture and Livestock Development that have Gender Equity Mobilisation Units.

At a more basic level, the National Machinery needs people with complex political and interpersonal skills to develop clear strategies for policy advocacy and for establishing links with other institutions. These people have to ensure that ministries are willing to engender re-

source allocations to reflect the needs and interests of women in an environment of increasingly diminishing resources. It is also the case that the task of coordinating women's empowerment programmes is a long-term process in which achievements are often slow in coming. In this situation, it is often difficult to demonstrate progress. This is what makes the National Machinery an unattractive location for people seeking a great public visibility. Finally, the task of facilitating government-wide gender mainstreaming is proving to be extremely difficult, because of the slow dissemination of information to ministry staff on government commitments in international instruments such as CEDAW. This problem is likely to continue if Parliament fails to pass Sessional Paper No. 5 on Gender Equality and Development that has a framework for gender mainstreaming in policy formulation, planning and programming in the country. It recognises the fact that:

- Socio-cultural attitudes held by women and men influence their unequal status;
- Development efforts impact differently on women and men who make it necessary to eliminate gender inequalities.

Women acknowledge and welcome this Sessional Paper, but there is still much to do since its success is dependent on the ability of the National Machinery to attract funding from bilateral and multilateral sources.

#### **THEREFORE WE DEMAND,**

- That the government ensures the completion of a comprehensive National Policy on Gender and Development by the end of 2006 through the passage of Sessional Paper No. 5 and implement its provisions by the year 2012;
- That the MGSC&SS must provide the National Machinery with the financial, material and human resources needed to generate gender disaggregated data;
- That the National Machinery must strengthen its linkages with non-state actors to improve its technical capacity;
- That the National Machinery be decentralized to give it visibility at provincial and district levels;
- That in pursuing its mandate, the focus of the National Machinery must shift from the Women in Development (WID) to the Gender and Development (GAD) approach;
- That the government resolve the conflicts between the structure of the National Commission on Gender and Development (NCGD)

# 12. Women and Access to Media and Information Technology

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- and the administrative structure of its parent ministry;
- That the government puts in place effective mechanisms for monitoring, evaluating, quantifying and documenting the performance of the National Machinery;
- That the National Machinery formulates a participatory and proactive framework for partnership with the civil society;
- That the government carries out regularise impact assessment and gender audits with regard to the implementation of all the demands contained in this manifesto.

Access to relevant and appropriate information is key to women's ability to make informed decisions, effective participation and choices, with regard to political, socio-economic and cultural challenges of life. In this regard, the media is the most powerful and important tool for promoting the visibility and access to information by women and the rest of society. It can be used to highlight and disseminate the Women's Manifesto and their agenda in general. The media's role in upholding democracy and ensuring that governments, political parties remain accountable to their citizens, women included, is widely recognized.

The media has a critical role to play in highlighting the imbalances within the society. By serializing the Manifesto, the media will help the women of Kenya and the public in general to comprehend the situation, facts, challenges, and expectations of women. Indeed, this will provide a platform for examining women's struggle for representation and participation in governance and development of the country as decision makers.

## **Did you know?**

- That women have often been portrayed by the media as objects of advertisement, sex and entertainment?
- That women have been generally perceived not as leaders, but as wives and mothers who should therefore not engage in seeking political leadership, yet they are the majority voters?
- That society has set double standards about the moral behaviour

and expectations about men and women, with the latter expected to be more perfect than the former?

- That the language used in the media and in most public information documents is gender insensitive and irresponsive towards the image and character of women? And that thus, they are portrayed as the weaker sex, dependant on men for direction and decisions?
- That there are numerous negative reports about women in instances such as domestic violence, participation in politics, decision-making, and business?

### **THEREFORE WE DEMAND,**

- That the government liberalises the information sector to enable women access relevant and appropriate information;
- That the government should respect, protect and promote the fundamental rights of all citizens, women included, especially the freedom of expression, association, assembly and the press;
- That the media should stop stereotyping women and instead cultivate a positive image about women in public life, including politics. The women should never be commodities in media advertisements;
- That media houses should disaggregate all their programmes in both electronic and print. In this regard, the media in general should take into account women's multiple roles and time constraints when assessing their participation and contribution in public affairs;
- That the government should provide opportunities for women in different sectors to enhance their capacity to handle information and communication technology, especially in rural and marginalised areas;
- That the media should give equal voice and airtime to women in their multiple roles in the society. There is need for gender sensitive and responsive reporting by both print and electronic media about women issues;
- That good journalism dictates that the media practices good governance, gender equality, and justice for all;
- That women in different capacities engage positively with the media to correct the negative image about women's role in politics and public affairs in general;
- That the government enacts, through Parliament, a gender-responsive Freedom of Information legislation to enhance access to information and ultimately benefit women and the marginalised in society;
- That the government raises awareness on women's rights, gender equity and the media through the speeches of officials and discussions;
- That the government puts in place legislation to address concerns such as pornography and the exploitation of children, youth and women raised by new information and

# Notes

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