

**JOINT NGOs ORAL STATEMENT TO THE CEDAW COMMITTEE - KENYA  
PRESENTED AT THE 68TH CEDAW SESSION, GENEVA (SWITZERLAND)  
OCTOBER 23<sup>RD</sup> TO NOVEMBER 2017**

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Thank you madam Chairperson,

This statement represents the views of thirty (34) Kenya based Non-Governmental Organisations.

We wish to address ourselves to four priority concerns in Kenya:

1. Deficient implementation of laws and policies that give effect to the provisions of CEDAW.
2. Failure of the State to adequately enforce the constitutional provision on affirmative action to enable women's substantive participation in political leadership and public service.
3. Poor accessibility, affordability and quality of reproductive health and rights for women
4. Prevention, response and redress for discrimination and violence against women and girls of all classes, ability and age.

Firstly, whereas Kenya has made progressive steps to enact laws that operationalize provisions of CEDAW, the laws mostly provide formal equality and not substantive equality. There are still instances where women's rights are acknowledged in national laws and policies but not adhered to in practice. For example Kenya has favourable laws on inheritance by women but the socio-cultural practices impede benefits of the law. Increasingly, the country is also being exposed to claw back clauses in family laws that promote discrimination and inequality against women and girls. The judiciary continues to experience difficulties in interpreting the claw back clauses without offending the constitutional provision. It is unfortunate that some judicial officers have passed judgments to favour these clauses, setting poor precedence for women's rights. For example Section 7 of the Matrimonial Property Act, 2014 goes against the constitutional provision for equal distribution of matrimonial property. We would also like to call attention to discriminatory laws and their implementation in relation to failure to distinguish between consensual sex work and human trafficking, and provide adequate protection of rights for women in sex work industry. Additionally, there are rising cases of discrimination on the basis of religion with particular emphasis on existing Islamic practices on marriage, polygamy and divorce, lacking codified muslim family laws and existing impediments to women's appointment to the Kadhis's courts which denies muslim women access to justice. **We request the committee to recommend repeal of any claw back clauses and deliberately plan for full implementation of the family laws. We also desire to see women appointed to Kadhi's courts without discrimination on whatever basis.**

Secondly, according to the 2009 national population census, women constitute 51.4% of the population and 47% of the registered voters in Kenya. This numerical strength is however not reflected in representation of women in public life generally and political leadership in particular. The Constitution of Kenya provides for temporary measures to increase representation of women in political leadership and public service. Despite sustained lobbying efforts by CSOs for the implementation of the affirmative action clauses, the state has failed to enact legislation that gives effect to the requirement that *not more than two-thirds of the members of elective and appointive public bodies shall be of the same gender*. The proposed bills failed three times in parliament and gender balance has therefore not been achieved. The 2017 elections has seen women constitute, 21.7% of National Assembly members and 27.5% of the Senate. Further, placement in key decision-making positions in the Public Service remains tilted in favour of men. **We urge the committee to employ on the Kenyan Government to implement a law to actualize the two thirds gender principle in the 2017 National Assembly and Senate.**

As relates to affirmative action for economic advancement, women continue to experience challenges in accessing economic opportunities. This is because the processes are marred with administration irregularities, standards for access to credit are too high and unfriendly for most women and most women have little or no knowledge or awareness of government funds. **We hope our government will implement deliberate steps on the management of financing opportunities for women and establishment of sustained awareness programmes for women's uptake of these economic advancement opportunities.**

Thirdly, the World Health Organization's Report 2015 states that, out of every 1,000 births, 510 women and girls die during delivery in Kenya. The Kenya National Guidelines for Maternal and Perinatal Death Surveillance and Response indicate that about 16 women die every day due to pregnancy and child birth complications. There have been dismal attempts by the State to improve the status of reproductive healthcare for women through introduction of *free* maternal health care in public hospitals. However, in addition to the policy being underfunded, health care facilities

lacking the necessary equipment, supplies and qualified personnel, the policy remains a presidential directive that can be changed by any other regime. Further, women in Kenya are still exposed to delivering unattended on floors and bathrooms of public hospitals and prolonged labour. Women are also exposed to obstetric fistulae mainly caused by early child marriage, FGM, and lack of immediate maternal service. These challenges lead to paralysis, death of their children and they are ostracized by the society due to the foul smell they exude. There is targeted discrimination against rural women and women with disability who seek reproductive health services. There are reported cases of un-consented to sterilization and testing for HIV/AIDS while seeking maternal care especially for women living with disabilities, with no access to justice for victims. In addition, the Ministry of Health has withdrawn national guidelines on reducing morbidity and mortality from unsafe abortion, this is contrary to the Constitution of Kenya that provides for medical abortion.

The Kenya Service Availability and Readiness Assessment Measure report (2013) provides that nationally, only 1 out of 10 public health facilities provide comprehensive youth friendly services despite the fact that young people constitute over 36% of the population. There is need to increase accessibility of these services in line with National Adolescent and Youth Friendly Services Guidelines. **We request the committee to urge the State to increase its healthcare budget to facilitate accessible, affordable and quality reproductive healthcare services for women across the country.**

Lastly, every year, 45% of women in Kenya have experienced violence with 21% exposed to sexual violence especially in informal settlements. Survivors of violence face numerous barriers to accessing justice, limited capacity of police to receive, record and investigate acts of violence, non-accessibility of free medical care in public health facilities, lack of shelters and psychosocial support for survivors of violence, poor collection of medical reports and evidence to support prosecution of SGBV cases and lack of disability friendly court processes. The state has not provided reparations to any survivors of sexual violence, especially those from 2007 Post election violence and has failed to conclude a court petition seeking to compel them to act on the same. More survivors have been reported after the 2017 elections. **We implore the committee to call on the state to prioritize prevention, response and redress for sexual and gender based violence for women and girls of all classes, ability and age groups.**

#### **List of contributing organizations**

1. Federation of Women Lawyers (FIDA Kenya)
2. International Commission of Jurists (ICJ Kenya)
3. Coalition on Violence against Women (COVAW)
4. National Adolescent and Youth Organization (NAYA)
5. Advocacy for Women in Peace and Security (AWAPSA)
6. MUSAWAH – Equality for Muslim Family
7. Congregation of Our Lady of Charity of the Good Shepherd
8. Wangu Kanja Foundation
9. Franciscans International
10. Plan International
11. Kenya Human Rights Commission (KHRC)
12. African Women’s Development and Communication Network (FEMNET)
13. Coalition on Violence Against Women (COVAW)
14. The East African Centre for Human Rights (EACHRights)

15. Terre Des Hommes Netherlands (TdH-NL)
16. The Cradle – The Children’s Foundation
17. Women Empowerment Link (WEL)
18. Health Systems Advocacy Partnership (HSAP) Kenya
19. SOS Children’s Villages Kenya
20. Women Educational Researchers of Kenya (WERK)
21. The Girl Child Network (GCN)
22. Organization of Africa Youth (OAY)
23. United Disabled Persons of Kenya (UDPK)
24. Women Challenged to Challenge
25. Deutsche Stiftung Weltbevoelkerung Kenya (DSW)
26. Right Here Right Now Platform
27. Gay and Lesbian Coalition of Kenya
28. Center for the Study of Adolescence
29. Dream Achievers Youth Organization
30. African Gender and Media Initiative
31. Kenya Sex Workers Alliance (KESWA)
32. Bar Hostess Empowerment and Support Programme (BHESP)
33. Youth Accountability Strategy (YAS)
34. Kenya Network Advocating for Rights of Women and Gils with Disability