



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

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

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**Responses to the list of issues and questions with regard to
the consideration of the seventh periodic report**

Kenya* **

* This document was submitted late due to delayed inputs from other sources.

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Replies to the issues raised in the list of issues (CEDAW/C/KEN/Q/7)

General

Consultation and participation of Government ministries and non-governmental organizations

1. In total there were three main consultative meetings which involved government ministries and NGOs. The first consultative meeting was a three-day workshop on the Convention on the Elimination of All Forms of Discrimination against Women report writing. At the end of the meeting the participants were divided into different thematic areas. NGOs and ministries participated according to their areas of expertise and work such as health, education, agriculture and rights. Interim meetings were held according to thematic areas, each theme met at least three times with both NGOs and line ministries represented at thematic area meetings. This followed with a second major meeting held to examine the draft report and make further input and a final one-day meeting to validate the final report. Ministries as well as umbrella NGOs have nationwide structures up to the grassroots and their representation in the drafting of the report ensured national reach. All the Government line ministries were represented at the workshops by gender focal persons from the ministries. The Ministry of Gender in particular had representation of provincial gender and social development directors from all the eight regions in the country. There was also representation from the Attorney General's Chambers and from the Kenya Law Reform Commission.

Submission of the report to Parliament

2. The report was not formally submitted to parliament. The Minister for Gender was however well versed with the report and was able to debate some of its contents in the Cabinet meetings, Kenya Women's Parliamentary Association (KEWOPA) and also with the relevant parliamentary Committees. The new Constitution provides an avenue for submitting reports to international bodies to the parliament as it domesticates all international instruments that have been ratified by the government. This creates an avenue for developing legislation to table such reports before parliament. Under article 2 (5) and (6) of the new Constitution, 'The general rules of international law shall form part of the law of Kenya' (art. 2 (5)), and 'Any treaty or convention ratified by Kenya shall form part of the law of Kenya under this Constitution' (art.2 (6)). Article 21 (4) states that "The State shall enact and implement legislation to fulfil its international obligations in respect of human rights and fundamental freedoms".

Definition of discrimination

Initiatives for the revision of existing legislation or enacting new legislation, so as to reflect article 27 of the New Constitution

3. The new Constitution is explanatory in the manner in which its implementation will be effected. Article 27 (6) (7) (8) requires that the parliament legislate to ensure that right to equality and non-discrimination is fully realized. It further requires that the State take other measures including affirmative action programmes and policies designed to redress any disadvantage suffered by individuals or groups because of past discrimination. It also requires that the State take legislative and other measures to implement the principle that not more than two-thirds of the members of elective or appointive bodies shall be of the same gender.

4. Section 7 of Schedule 6 on transitional and consequential provisions provides that all law in force immediately before the effective date continues in force and 'shall be construed with the alterations, adaptations, qualifications and exceptions necessary to bring it into conformity with this Constitution.

5. Under the new Constitution all implementing laws are required to be in place within the specified timelines prescribed in schedule 5 which gives a period of time of between two months and five years for implementation and enactment of new laws. Where no specific timeline is given for the enactment of any particular legislation, the 5th Schedule provides that 'any other legislation required by the Constitution to be enacted within five years'.

6. Article 261 (4) requires that the Attorney-General, in consultation with the Commission for the Implementation of the Constitution, prepare the relevant Bills for tabling before Parliament, as soon as reasonably practicable, to enable Parliament to enact the legislation within the period specified.

7. Article 261 (5) further states that if Parliament fails to enact any particular legislation within the specified time, any person may petition the High Court to make an order on the matter. Finally article 261 (7) provides that if Parliament fails to enact legislation in accordance with an order of the Court, the Chief Justice shall advise the President to dissolve Parliament and the President shall dissolve Parliament.

8. The parliament has already formed the Constitutional Implementation Oversight Committee, which is responsible for overseeing the implementation of the Constitution. The Legislation for Implementation of the Constitution is in place and formation of the Commission which will monitor, facilitate and oversee the development of legislation and administrative procedures required to implement the new Constitution is underway. Steps are being taken to ensure that right at inception principles of gender equity and equality are adhered to with regards to composition of the implementing organs.

Full incorporation of the Convention into the domestic legal system

9. Under the old dispensation, national laws were required to domesticate the provisions of the Convention. However as stated above, the requirement for domestication of international instruments ratified by Kenya has been radically altered by the new Constitution. Article 2(5) of the new Constitution makes the general rules of international law applicable in Kenya. Under article 2 (6) of the new Constitution, any treaty or convention ratified by Kenya shall form part of the law of Kenya. This is in line with the Committee's recommendation contained in its last concluding observations (CEDAW/C/KEN/CO/6, para. 12). Further under article 21 (4), the State is obligated to enact and implement legislation to fulfil its international obligations in respect of human rights and fundamental freedoms.

Discriminatory laws, provisions (compatibility, repeal)

10. Article 82 (4) (b) and (c) of the previous Constitution provided that the Constitution's guarantee of non-discrimination does not apply with respect to personal laws, in particular in the areas of marriage, divorce, adoption, burial and succession. This is no longer a part of Kenyan law. The whole of the previous Constitution was repealed when the new Constitution was promulgated. Article 264 of the new Constitution provides that by virtue of coming into force of the new Constitution, the whole of the Constitution which was in force and all its provisions including article 82 (4) (b) and (c) was repealed. The new Constitution guarantees non-discrimination with respect to all laws including personal

laws, and including the areas of marriage, divorce, adoption, burial and succession. Article 27 of the new Constitution states that:

“Every person is equal before the law and has the right to equal protection and equal benefit of the law and that The State shall not discriminate directly or indirectly against any person on any ground, including race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth”.

11. This is in line with recommendation of the Committee in its previous concluding observations (CEDAW/C/KEN/CO/6, para. 12).

The delay in the passage of certain Bills to eliminate sex-discriminatory provisions and close legislative gaps

12. The old Constitution presented problems for the enactment and implementation of progressive statutes such as the Marriage Bill and Matrimonial Property Act as it gave no legislative support to women who sought to have equal rights in matters concerning custody of children, divorce, or division of property. Both Bills failed to go through parliament for several reasons including, objection to equality within marriage. The new Constitution gives an opportunity for enactment of progressive laws that can close the legislative gap and lay a strong framework for women’s equality.

The Marriage Bill of 2007

13. The Marriage Bill proposes to consolidate all the Marriages Laws into one comprehensive law. There are currently seven Acts of Parliament relating to Marriage. The Marriage Bill when enacted will make all marriages equal and streamline the rights and obligations of married parties at the time of marriage, during marriage and upon termination of marriage. The enactment of the marriage law would also serve to eradicate confusion and complications brought by the multiplicity of laws and create greater access to justice in matters concerning marriage.

14. The Bill provides for registration of all marriages including registration of customary law marriages which are currently not registered. The Bill also seeks to accord equal status to all marriages and further to ensure equality in rights and responsibilities between spouses. The Bill recognizes marriages by cohabitation and allows for their registration after a period of two years.

The Matrimonial Property Bill of 2007

15. The Matrimonial Property Bill addresses the need for legislation to define and harmonize property rights within marriage and at the dissolution of marriage. The Bill when enacted will be the first substantive piece of legislation in the country that will address the current gap in the marital properties regime. The Bill defines what constitutes matrimonial property thus clarifying a previously contentious issue of what exactly constitutes matrimonial property. The Bill further clarifies the position regarding properties that are acquired prior to marriage, during the marriage and the obligations and liabilities with regard to these properties. In the event of dissolution of the marriage, the Bill sets out method of division of the property. With regards to matrimonial property the bill provides for equal division upon dissolution of marriage.

16. The Bill provides that parties to a marriage have the same right to acquire, hold and dispose of property, and also to acquire property separately. The Bill reinforces the equal status of women and men within the context of marriage and outlines the rights and liabilities of both parties to a marriage with regard to property ownership. The Bill recognizes non monetary contribution thus giving significance to women’s unpaid work

within the family. If enacted the Bill contribute to helping women accessing family assets and ease the burden of proving contribution.

The Equal Opportunity Bill of 2007

17. Article 27 (3) of the new Constitution provides that women and men have the right to equal treatment, including opportunities, in political, economic cultural and social spheres. As mentioned above parliament is obligated to enact legislation to ensure the full realization and enjoyment of this right.

Access to justice

National Legal Aid and Awareness Programme (NALEAP); successes and challenges in relation to women's access to justice

18. Article 21(4) of the new Constitution of Kenya requires the State to enact and implement legislation to fulfil its international obligations, respect of human rights and fundamental freedoms. From the lessons learned the pilot stage which is still ongoing, of the National Legal Aid and Awareness Programme (NALEAP), the Government, through the Ministry of Justice, National Cohesion and Constitutional Affairs is in the process of developing a national legal aid and awareness policy. The Policy is intended to establish the principles which will serve as a guide to the Government in establishing the provision of legal aid and awareness services to the poor, the marginalized and the vulnerable in society. The Policy lays down the national framework within which a legal aid and legal awareness scheme is to be formulated, legislated, implemented, monitored, evaluated and funded. The policy is currently going various discussions including discussion of legal aid needs of women. It is the intention of the National Legal Aid and Awareness Programme that the policy is fully engendered. The policy specifies the roles and responsibilities of Government institutions, the Law Society of Kenya, university based legal aid clinics and non-governmental organizations and other key stakeholders. It is grounded on the basis that the poor, the marginalized and vulnerable are entitled to legal representation and education in order to enjoy the rights and freedoms as enshrined in the new Constitution and all other Laws of Kenya.

National machinery for the advancement of women

National machinery strengthening and the National Commission on Gender and Development

19. The new Constitution makes provision for the formation of Kenya National Human Rights and Equality Commission (art. 59 (1) of the new Constitution). One of the functions of this Commission is to promote gender equality and equity generally and to coordinate and facilitate gender mainstreaming in national development (art. 59 (2)) of the new Constitution). The Kenya National Human Rights and Equality Commission is also to ensure compliance with obligations under treaties and conventions relating to human rights of which the Convention is one (art. 59 (2) (g)). The Constitution also requires Parliament to enact legislation to give full effect to this commission, and creates a constitutional obligation for Parliament to allocate adequate funds to enable the commission to perform its functions (art. 249 (1) of the new Constitution).

20. As the body charged with overseeing human rights as well as issues of gender justice, the Kenya National Human Rights and Equality Commission will have the authority and capacity to deal with issues of gender equality and equity. Equality Commission will as well ensure the implementation of gender mainstreaming programmes. This Commission

is to be established within one year of the commencement of the constitution 5 Schedule of the Constitution.

The Ministry of Gender, Children and Social Development, namely its Department of Gender

21. The Ministry is currently on course in implementing its strategic plan which guides its prioritized work of mainstreaming gender into all development processes, engendering the national budget and promoting the generation of sex disaggregated data for planning purposes as well as enhancing collaboration and partnership with stakeholders. The Ministry has prioritized and is in liaison with the Public Commission of Kenya recruiting highly professional staff to strengthen its capacity for Gender Mainstreaming up to the community level. By virtue of the work of the Ministry, gender mainstreaming now exists in all ministries including State parastatals with Gender Focal points working under the guidance of the ministry to formulate gender-mainstreaming strategies, workplace and gender-based violence prevention policies.

Impact of the mandate and activities of the Committee on Equal Opportunity of the National Assembly in relation to addressing discrimination on the grounds of sex and gender

22. The Committee on Equal Opportunity is established under Standing Order No. 192. It consists of nine Members of Parliament – two women and seven men. The tenth parliament has the largest number of female members than any other parliament before it. Female parliamentarians have been at the fore forefront of demanding that women are included in the business of the house. The Committee on Equal Opportunity has already raised the issue that women are still grossly under represented. As a consequence the new formed House business committee has five women. Further the Chairperson of the Committee on Delegated Legislation is female. Parliament has also been more active in scrutinizing persons appointed to parliamentary governmental institutions. For example in the establishment of the Truth Justice and Reconciliation Commission and National Cohesion and Integration Commission at least 30 per cent of the members of each of the Commissions have been women. Further in its role of vetting appointments to public office, the Committee rejected the nomination of a proposed chairperson of a Commission on allegations of gender violence. One of the major impacts of the Committee has been fostering the desire to have leaders who respect and promote the rights of women.

Stereotypes, cultural practices

Systematic approach to address, modify or eliminate harmful traditional practices and gender stereotypes

Payment of a bride price

23. The Marriage Bill clarifies the misconceptions that have often accompanied the payment of dowry. The Marriage Bill provides that one does not have to pay dowry to get married and that therefore marriage is a complete contract irrespective of the status of dowry. It does not however outlaw dowry and those able and willing, still have the space to continue with the practice. However and unlike today when people file cases to recover dowry, the Marriage Bill clearly states that dowry will not be recoverable. However it does not provide for the elimination of the payment of bride price.

Wife inheritance or levirate, and ritual “cleansing” of widows

24. The new Constitution provides for the voiding of any customary that is inconsistent with it. Article 2 (4) provides that any law, including customary law, which is inconsistent

with this Constitution, is void to the extent of the inconsistency, and any act or omission in contravention of this Constitution is invalid. The prevalence of the practice of wife inheritance is slowly getting reduced with varying degrees among different communities. Campaigns on fight against HIV and campaigns regarding women's rights to inherit property have targeted these practices for modification. The practice of wife inheritance where there is use of force or coercion however contravenes the principles of human dignity, and equality in the new Constitution.

25. The Marriage Bill is currently undergoing revision to bring it in line with the new Constitution. The Bill makes provision that no law or custom shall operate so as to restrict the freedom of a widow to reside wherever she pleases or to marry a man of her choice.

26. Women's rights are also strongly enshrined in the new Constitution. The principle of equality between men and women is entrenched in the bill of rights the effect of this is that it:

- Abolishes discrimination with regard to marriage, divorce, burial, inheritance and personal law with a view to rectifying cultural concessions that previously disadvantaged women particularly within the context of marriage.

- Eliminates customary and religious laws that violate women's rights and are in conflict with the rights and duties protected under international laws that Kenya has ratified.

- Guarantees married women's right to a marriage certificate.

- Outlaws retrogressive practices and socio-cultural practices that impede women's right to participate, access and control resources within marriage and upon its termination.

27. These steps provided for in the Constitution are in line with previous concluding observations (CEDAW/C/KEN/CO/6, para. 22) in which, the Committee recommended to the State party to put in place a comprehensive strategy, including legislation, to modify or eliminate cultural practices and stereotypes that discriminate against women.

The provision of the Marriage Bill of 2007 on polygamy

28. The Marriage Bill does not prohibit polygamy in all circumstances. The Bill provides that, those married under Monogamous marriages cannot contract polygamous Marriages. Further a man who has chosen polygamy cannot convert to monogamous marriages unless at the time of conversion he had only had one wife. Currently polygamous marriages are recognized under customary law and Mohammedan law. In circumstances where the Bill recognizes polygamous marriages it provides for their registration. However, under the Bill those married under monogamous marriages cannot contract polygamous Marriages. The Bill provides that when one applies to the Registrar of Marriages to marry, one must indicate in writing whether the marriage is intended to be polygamous or monogamous. The Marriage Bill is currently under review to align it with the new Constitution which provides for equality between men and women in marriage.

Violence against women

Progress made towards passing laws to guarantee that women and girls who are victims of violence have access to immediate means of redress and protection; that perpetrators are effectively prosecuted and punished; and that any impediments women face in gaining access to justice are removed so as to make legal aid available to all victims of violence, including in rural or remote areas; Family Protection Bill of 2007; criminalization of marital rape.

29. There has been some progress made in implementing the Sexual Offences Act. The act prohibits the use of evidence of character and previous sexual history of the victim as a sex offence (S. 34) and thus protects women from re victimization.

Progress towards guaranteeing that women and girls who are victims of violence have access to immediate means of redress and protection

30. There are three gender recovery centres that have been established to deal comprehensively with the survivors of sexual violence and government plans to scale these up. About 300 service providers from 40 districts have been trained, and are currently providing rape services for the survivors. The officers within the Ministry of Health have been trained on gender based research methodologies and are collecting information that will be used to improve service delivery. Most of these activities are sustained through collaboration with development partners like UNFPA, UNICEF and UNIFEM and USAID.

Laws to guarantee that women and girls who are victims of violence have access to immediate means of redress and protection

31. The key legislative instruments to guarantee that women and girls who are victims of violence have access to immediate means of redress and protection and that perpetrators are effectively prosecuted and punished are the Sexual Offences Act, The Children's Act and the Penal Code.

32. Some of the steps taken towards the implementation of the Sexual Offences Act include the Sexual Offences Regulations, 2008 that makes detailed rules for setting up of a register of sexual offenders maintained by the High Court. This is meant to keep track of sexual offenders and preventing them from finding their way to schools or other institutions. The Sexual Offenders (Dangerous Offenders DNA Data Bank) was enacted by Parliament in 2008 to provide for the establishment of a DNA Data Bank for ease of identification of offenders.

33. With regards to legal recourse for victims, the main providers are courts, in the remote rural areas many cases also adjudicated by chiefs who have been advised to report cases of sexual violence to the police for prosecutions and punishment of perpetrators. A Policy on implementation of the Sexual Offences Act has been drafted and awaiting validation. Further, every day the media has been highlighting successful prosecutions and convictions under the Sexual Offences Act.

34. The Family Protection Bill 2008 is yet to be adopted. The Bill provides for protection from violence within the family. The Bill gives a wide definition of violence which includes several forms of violence and psychological violence. It provides for quick, simple and inexpensive access to court; it empowers the court to make protective orders for victims of domestic violence and provides for programmes focused at stopping violence. In its current form the Bill does not explicitly provide for criminalization of marital rape. The Sexual Offences Act, 2006, too does not address the issue of marital rape.

The Witness Protection Act, No. 16 of 2006 and its application to victims of sexual abuses and other forms of violence against women and victims of trafficking in human beings

35. The Witness Protection Act, No. 16 of 2006 came in force in the last quarter of 2008. The Act empowers the courts to make protective orders in respect of witnesses who are likely to be endangered by giving evidence. The protection under this Act covers change of a witness identity and counselling services including protection from self-incrimination. This includes women victims of sexual violence. Modalities of setting up the witness protection unit are underway. The Regulations establishing the witness protection unit is required to take gender sensitive measures to facilitate testimony of sexual violence survivors. In practice however protection of witnesses has proved be a challenge and so far it has not been used to protect women survivors of sexual violence of victims of trafficking in human beings.

Measures to eradicate the practice of female genital mutilation

36. The Government has banned Female Genital Mutilation for all women and outlawed it with regard to girls below the age of 18 although some communities are still practicing FGM. Through the Ministry of Gender, Children and Social Development the Government is implementing the National Plan of Action (NPA) for the Abandonment of Female Genital Mutilation (2008-2012). A National Committee set up under the Ministry of Gender, Children and Social Development has been very active in providing policy direction, reviewing strategies and developing new initiatives for implementing the National Action Plan. A National Policy for the Abandonment of Female Genital Mutilation was also approved by Cabinet on 29 June 2010.

Awareness-building

37. The Ministry of Health has developed a manual which concentrates on dealing with complications arising out of FGM. The 'Ministry of Health Reference Manual on Management of complications, pregnancy, childbirth and the postpartum period in the presence of FGM targets health personnel, health professional as well as community social workers and traditional birth attendants. The manual is already being used at the University medical School. The Ministry of Health together with the Population Council of Kenya regularly provide trainings for health workers in North Eastern Kenya where the practice is prevalent. The Ministry of Gender is also working with curriculum developers to ensure that FGM content is incorporated into the syllabus of training institutions, colleges as well as school curricula. The process is at an advanced stage and consultative meetings on the modalities have been held with senior officials of the institutions. Under the joint government/UNFPA/UNICEF joint programme on FGM, effort towards the abandonment of the practice have been taken at another level with Kenya Women Parliamentary Association galvanizing other parliamentarians from areas with high prevalence to take the campaign to their communities.

Legislation in order to eradicate the practice of female genital mutilation

38. The new Constitution also protects children and youth from harmful cultural practices of which FGM is one (arts. 53 (1) (d) and 55(d)). The new Constitution further accords everyone the right to dignity and the right to have that dignity respected (art. 28). The right to freedom and security of person is also protected by the new Constitution which prohibits treatment of persons in a cruel inhuman or degrading manner-(art. 29).

39. The Prohibition of Female Genital Mutilation Bill, 2010 has been drafted through the initiative of the Ministry of Gender. The Bill seeks to prohibit female genital mutilation, to safeguard against violation of mental or physical integrity through female genital mutilation. The Bill provides that a "person who performs female genital mutilation on

another person commits an offence and shall be liable, on conviction, to imprisonment for a term of not less than three years but not more than seven years, or to a fine of not less than one hundred thousand shillings but not more than five hundred thousand shillings, or both. Offence proscribed by the Bill includes aiding and abetting female genital mutilation, procuring a person to perform genital female mutilation in another country, use of premises to perform female genital mutilation, possession of tools or equipment and failure to report commission of offence.

40. These initiatives are in line with the recommendation of the Committee in its previous concluding observations (CEDAW/C/KEN/CO/6, para. 24) on laws to outlaw the practice for women over the age of 18 years.

Trafficking, exploitation of prostitution

Delay in the passing of the Anti-Trafficking Bill; prevention measures; effective prosecution and punishment of traffickers and protection and support for victims

Addressing the root causes of trafficking to eliminate the vulnerability of girls and women to exploitation and traffickers

41. The trafficking in Persons Bill is now Law after it was approved by Parliament and assented by the President. In the meantime the provisions of the Sexual Offences Act, the Children's Act and the Penal Code that deal with trafficking in persons are operational. The Government is addressing the root causes of trafficking to eliminate the vulnerability of girls and women to exploitation in various ways, for instance through initiatives to equip girls with marketable skills and funds for start-up of small businesses.

42. Efforts for the rehabilitation and social integration of women and girls who are victims of exploitation and trafficking have mainly been carried out by civil society with facilitation from the Ministry of Gender and Social Development.

Measures aimed at combating sex tourism

43. The Government has established tourism police within the police department these officers are equipped with skills to deal with issues of sex tourism as well as skills to protect children and youth who are the most vulnerable to the vice. Hotels and Hotel Owners Associations as well as communities living in prone areas have been supplied with adequate information to recognize and report instances of sex tourism that affect minors.

Review of laws on prostitution and support for women who wish to leave prostitution

44. There has been no new development in this area with regard to legislation. With regard to support for women who wish to leave prostitution; the government collaborates closely with organizations who undertake rehabilitation and skill acquisition to women and girls who wish to leave prostitution. Through the Youth Development fund and Women's Enterprise Fund, a number of women wishing to leave prostitution have been trained and advance funds to start businesses. In addition some Members of Parliament have used Constituency Development Fund to support women who wish to leave prostitution to start small business, the recognition and provision of financial support as well as support for organizations that work with women who wish to leave prostitution is in line with Committee's recommendation in the last concluding observations (CEDAW/C/KEN/CO/6, para. 30). The annual grants provided by the Government for self-help group through the Ministry of Gender have been used to support former prostitutes in setting up income generating activities.

Political participation and participation in public life

Measures taken, to increase the number of women in elected and appointed offices

45. Section 27 (6) of the new Constitution requires the Government to take legislative and other measures, including affirmative action programmes and policies designed to redress any disadvantage suffered by individuals or groups because of past discrimination.

Political seats

46. Article 27 (8) obligates the State to take legislative and other measures to implement the principle that not more than two-thirds of the members of elective or appointive bodies shall be of the same gender.

Electoral systems and process

47. Article 81 of the Constitution requires that the electoral system comply with the principle that not more than two-thirds of the members of elective public bodies shall be of the same gender.

County assembly gender balance and diversity

48. Article 197 (1) of the new Constitution requires that not more than two-thirds of the members of any county assembly or county executive committee shall be of the same gender. Article 197 (2) obligates Parliament to enact legislation to that this principle is followed.

Commission and independent bodies

49. To ensure gender balance in Commissions and Independent bodies, article 250 (11) requires that the chairperson and vice-chairperson of a commission shall not be of the same gender. This article is operational and has been followed in the establishment of the Judicial Service Commission, and the Parliamentary Committee on the Implementation of the Constitution.

Requirements for political parties

50. Article 91 of the Constitution requires that political parties respect and promote human rights and fundamental freedoms, and gender equality and equity the Constitution put a three year deadline for enactment on legislation county assembly gender balance and diversity.

Capacity-building for women leaders

51. Initiatives or strategies, including awareness-raising activities, targeted training and mentoring programmes for women candidates, women who hold a public office and women in diplomacy are mainly undertaken by civil society organizations like the Kenya Women Caucus for Leadership, Education Centre for Women in Democracy and Federation of Women Lawyers in collaboration of the Ministry of Gender, Children and Social Development and the Gender Commission. Under this collaboration women have been encouraged to take part in elective politics and apply for high-level jobs. This has led to increased numbers of elected women leaders as well as increased numbers of women holding high-level jobs. In addition the Ministry of Gender, Children and Social Development undertake training of women at different levels to enable them to participate more effectively in economic and national development.

Affirmative Action Bill - 2000

52. Affirmative action is now provided for by the new Constitution which has a clause that requires the Government to implement affirmative action programmes. The

Constitution establishes the Kenya Human Rights and Equality Commission which is charged with strengthening, implementation of these clauses as well as monitoring of the special measures, to increase the number of women in elected and appointed offices.

53. The Ministry of Gender Children and Social Development has published its first Bi-annual Report on Implementation of 30 per cent Affirmative Action on Employment and Recruitment of Women in the Civil Service'. The report is an analysis of data collected from 36 ministries by 31 of December 2009. The report looks at the overall numbers of men and women employed in government Ministries, State Corporations and local authorities including the positions they occupy in these organizations. The report further analyses the role of women in decision-making structures in Government such as parliament, judiciary, local authorities, education and provincial administration.' The report also makes recommendations to ensure that the 30 per cent employment and recruitment goals is met.

54. Affirmative Action is now entrenched in the new Constitution, which clearly states that the Membership of the National Assembly shall consist of forty-seven women elected by registered voters of counties. The Senate shall have sixteen women who shall be nominated by political parties as well as two youth members being one woman and one man. It further states that parliament shall enact legislation to promote the representation in parliament of women, persons with disabilities, youth, ethnic and other minorities and marginalized communities.

55. In the Judicial Service Commission, the regulation for appointment of the Commissioners expressly states that one High Court Judge and one Magistrate, one a woman, one a man will be elected to represent the judiciary, and two advocates, one a man and the other a man will be appointed to represent the Law Society of Kenya as well as one woman and one man to represent the public. This provision has already been adhered to in the Judicial Service Commission. Further affirmative action for gender balance and diversity has been provided for in the Constitution. Under the devolved government, no more than two thirds of any county assembly or executive committee shall be of the same gender. Additionally, in the Commissions to be established it is clearly stated that the chairperson and the vice-chairperson shall not be of the same gender. These initiatives taken at the highest level are in line with the Committee's concluding observations (CEDAW/C/KEN/CO/6, para. 28), for the strengthening, implementation and the monitoring of the effectiveness of measures to increase the number of women in elected and appointed offices.

Education

Impact of measures for the education of girls and women on achieving de facto equality of girls and women with boys and men in the field of education

56. Government policies have been developed to ensure girl child education is improved through several ministries which include that of Education; Local Government; Gender, Children and Social Development; Higher Education; and Northern Kenya Development through the achievement of Millennium Goals 2 and 3. Goal 2 aims at ensuring the country is on track towards full achievement of Universal Primary Education (UPE) while Goal 3 aims at promoting participation in education and other state affairs by all citizens by

ensuring that there is gender equality at all levels of education and empowering of women.¹

57. Initiatives undertaken by the Government and the Civil Societies have had good measure of success. There has been increased enrolment of girls in both primary and secondary school as can be seen in table 1. The Gross Enrolment for primary school has increased from 88.2 per cent in 2002 to 110 per cent in 2009. The Net enrollment has increased from 77.3 per cent in 2002 to 92.9 per cent in 2009. The enrolment of girls in primary and secondary has been increasing steadily since 2002 due to concerted deliberate effort. The girl to boy ratio in primary school enrolment was 0.958 in 2008, which is marked improvement in gender parity in schools since 2002.² The literacy level of the adult population was 61.5 per cent comprising of 64.2 per cent and 58.9 per cent for male and females respectively 2006 Kenya National Adult Literacy Survey (KNBS).

Girls' dropout of school, non-discrimination of schoolgirls during pregnancy and data on the re-entry rate for such girls

Data on the re-entry rate

58. Currently there is no data that is readily available on re-entry rate. However free primary school education and subsidized secondary school education has attracted many girls and women back to school.

Non-discrimination of schoolgirls during pregnancy

59. Similarly there is no information available regarding the issue of non-discrimination of girls during pregnancy. However there have been some reports about girls enrolling in different school after delivery and this is permitted and usually facilitated by the Ministry of Education.

60. Delay in implementing the policy of free secondary education: the secondary school education is free for day students and it is subsidized for students that use boarding facilities.

Women's access to higher education; sex-segregated curricula and measures to ensure women's access to scientific and technical fields of study

Access for women to higher education

61. The Government is currently implementing the Gender in education policy, which provides guidelines for mainstreaming issues, related to both girls in programmatic interventions. This is expected to improve the Gender Parity Index (GPI) in secondary school attendance, which currently stands at 0.75³. It is also intended to improve the gap in attendance between males and female aged 16-20 (secondary school) i.e. in 2008, 73 per cent of males in this age group attended school as compared to 57 per cent of females.

62. Among the 21-24 age range (university) twice as many males attended university than females i.e. 27 per cent male as compared to 11 per cent for females.⁴ In an attempt to improve university attendance by females and as part of the affirmative action programme,

¹ Millennium Development Goals Status Report for Kenya 2009, Ministry of State for Planning, National Development and Vision 2030, June 2010.

² Ibid.

³ Kenya Demographic and Health Survey 2008-2009.

⁴ Ibid.

the Government has put the university cut-off point for females, one point lower than that of males.⁵

Impact of the Teachers Services Commission's new measures in April 2010 regarding cases of sexual abuse of students

63. The impact of Teachers Services Commission's new measures in April 2010 regarding cases of sexual abuse of girls is yet to be measured, as the programme is still new. However there are several reports of disciplinary action being taken against teachers accused of sexual abuse. In cases where offences are established the same are tried according to the sexual offences Act if offences fall within the provisions of the Act.

Employment, data collection and analysis

Situation of women in the field of employment; disaggregated data, in the formal and informal sectors; trends; measures and impact on realizing equal work opportunities, including in new fields of employment and entrepreneurship.

Situation of women in the field of employment:

64. According to the Kenya Demographic and Health Survey 2008-2009, younger women especially those aged between 15-19 and 20-24, are less likely to be employed than women in other age groups possibly due to their being in school or in training rather than in their job market. As women get older their likelihood of employment increases from 40 per cent among women aged 15-19 to 78 per cent among women aged 40-44. 2 out of three married women aged 15-49 are likely to be employed as compared to 99 per cent of married men.

65. Of those employed 61 per cent of women and 75 per cent of men aged between 15 and 49 are paid in cash for their work. More than one-quarter (26 per cent) of women are not paid for their work compared with 14 per cent of men.

Public sector employment statistics

66. Total workforce of women in Local Government women employees are 33.7 per cent of the workforce, women form 10.2 per cent of top management including heads of departments. Majority of women employees (97.7 per cent) in local authorities are low-level staff working as sweepers in offices, markets and revenue collectors in bus-parks and markets.

Representation

67. Women representation in civic elections increased from 8.1% in 1998 to 15.8% in 2008. The Kenya Demographic and Health Survey 2008-2009 also reveals women representation is lowest in the diplomatic postings. Representation of women in Kenyan missions abroad (Ambassadors) is at 14.0 per cent.

Women in the private sector

68. Women constitute 39.7 per cent of the private sector. However, unlike the public sector, the study reveals that 37.2 per cent of women are found at the executive levels (CEO, Deputies, Senior Finance, Marketing, Corporate Affairs Managers etc) while 34.3 per cent of women work at the lower level cadres.

Women in civil society

⁵ Millennium Development Goals, Status Report for Kenya -2009, June 2010, Ministry of Planning and National Development and Vision 2030.

69. Women representation in the civil society revealed that CSOs that focus on women issues and women rights for example Federation of Women Lawyers -Kenya have more than 90 per cent overall women representation. Women are represented at all organization levels – the executive, the management, as well as in the ordinary levels. Such organizations have also a robust gender equality policy. On the other hand, CSOs that focus on general human rights issues, for example the Kenya Human Rights Commission, have more than 60 per cent women at the executive level. This organization treats staff equally in terms of recruitments, promotions as well as on wages.

Observation of the principle of equal pay for work of equal value; observation of maternity leave and the right to return to the workplace; incidents of termination of employment of pregnant women and the existence of complaints mechanisms and their use by women and their outcomes

Equal pay for work of equal value

70. Within the public services the principle of equal pay for equal work is being observed. However within the private sector where individuals negotiate their salary on an individual basis, monitoring whether the legal requirement of equal pay for work of equal value is being observed has been a challenge. According to the Gender empowerment Measures in Human Development Report UNDP the ratio of female to male earned income in Kenya stands at 0.83.

Cases of sexual harassment at the work place

71. Some government departments and private sector actors have sexual harassment policies in place such as the Electoral Commission of Kenya. There have been reported cases of sexual harassment at the work place. These have been reported human resources departments for administrative action. In the event that the complainant is dissatisfied with the outcome then they report to the women rights organizations e.g. the Federation of Kenya Women Lawyers and the Kenya national Commission on Human Rights. The fact that the law requires every employer with more than 20 employees to have a sexual harassment policy which must define sexual harassment and set out procedures for instituting and investigating complaint has made issue to be taken more seriously than it was previously. The challenge is that many women fear reporting incidences of sexual harassment for fear of losing their jobs.

Maternity leave and the right to return to the workplace

72. The provisions of the Employment Act on maternity leave and the right to return to the workplace are being largely being observed. There have been fewer incidents of discriminatory termination of employment of pregnant women.

Availability and use by women of complaints mechanisms

73. With regards to the complaints mechanisms there exists trade unions, the industrial courts, and central organization of trade unions. Women have equal access to these organizations.

Efforts undertaken to re-examine existing work restrictions in order to bring them in line with article 11, paragraph 3, of the Convention

74. Implementation of the new labour laws is underway. Article 41 of the new Constitution brings existing work restrictions in line with article 11, paragraph 3, of the Convention, as recommended by the Committee in its previous concluding observations (CEDAW/C/KEN/CO/6, para. 36). Article 41 (1) of the new Constitution makes provision for entitlement of everyone to fair labour practices. Article 41 (2) of the new Constitution entitles everyone to fair remuneration and reasonable working conditions. Further Article

162 (2) requires the Kenya Parliament to establish a court with the status of the high court to hear employment and labour disputes. This has to done within one year of enactment of the Constitution.

Health

Maternal and infant mortality; knowledge of and access to affordable contraceptive methods; sex education with special attention to the prevention of early pregnancy and the control of sexually transmitted infections; safe abortion; Reproductive Health and Rights Bill and measures undertaken, and their impact and addressing teenage pregnancies

Measures taken against infant and maternal mortality

75. The Government of Kenya launched the Campaign for the accelerated reduction of maternal mortality in Africa (CARMA) (Nov. 2010). The Campaign is an initiative of the African Union Member States. The campaign is aimed at building on successful efforts and best practices to reduce maternal, infant and child mortality, improve data collection and monitoring of the same, as well as encourage partnership between the Government, civil society and local communities to reduce maternal child and infant mortality.

76. To reduce the high rate of infant and maternal mortality that is contributing to the high under-five mortality, the Government has embarked on the following:

- (a) Promotion of exclusive breast-feeding in the general population with a potential;
- (b) Introduction of timely complementary feeding of infants that has a potential of 8 per cent
- (c) Introduction and enhancement of baby friendly hospital initiatives;
- (d) Initialization of breastfeeding within 1hr after birth;
- (e) Initiation of skin-to-skin contact of babies and mother, also referred to as kangaroo method;
- (f) Promotion of appropriate feeding methods of infants in the nursery for pre-term and low birth weight babies;
- (g) Improvement of management of preterm and low birth weight babies in the facility nurseries by qualified personnel (trained nursery personnel, monitoring of incubator temperatures, introduction of incubators near the maternities to avoid death from lack of oxygen and adverse temperatures);
- (h) Enactment of favourable laws such as the maternity protection act 2007 that allows the mother more time (> five months to breast feed and two weeks to the partner to assist immediately after birthing;
- (i) Immunization of mother during pregnancy and the infant against communicable disease has contributed greatly to reduction of infant mortality due to preventable diseases. Care of the mother during pregnancy (focused antenatal care, use of skill birth attendant, malaria control).

Contraceptives

77. There are 4,341 service delivery points for family planning. According to the Kenya Demographic and Health Survey 2008-2009, slightly less than a half of married women (46 per cent) in Kenya are using a method of family planning. Most are using modern

methods (39 per cent) 6 per cent use traditional methods. Injectables are the most commonly used contraception method, followed by the pill and finally sterilization. Contraceptive prevalence peaks among married women in the 30-34 age-group, and is lowest for women aged 15-19.

78. Government facilities provide contraceptives to more than half of the modern method users approximately 57 per cent, 36 per cent of the contraceptives are supplied through private medical sources and 6 per cent of contraceptives are supplied through other private sources e.g. shops.

79. The Reproductive Health Rights Bill is still to be passed. However, Article 43(1) (a) of the new Constitution provides that every person has the right to the highest attainable standard of health, which includes the right to health care services, including reproductive health care.

Safe abortion

80. With regards to abortion the new Constitution stipulates in article 26 (1) Abortion is not permitted unless, in the opinion of a trained health professional, there is need for emergency treatment, or the life or health of the mother is in danger, or if permitted by any other written law.

Measures to address teenage/early pregnancy

81. The issue is being tackled in multi-sectoral form to address the various root causes and find their remedies. Various methods of family planning are available at reasonable rates in all facilities. Also sex education in schools, colleges and youth friendly centres is being conducted countrywide. Further, out reach programmes for out of school youth are being conducted by the public sector as well as the NGOs and CSO. Teenage pregnancies arising from cultural related needs are also being addressed with legislation enacted to curb the vice. The Children's Act, has tackled the issues of early marriages, FGM and child sexual abuse and accompanying penalties of the perpetrators. Finally, pregnant teenagers with various challenges are being assisted in safe shelters with the emergency pill available for victims of sexual abuse.

Impact of the HIV and AIDS Prevention and Control Act, 2006, on women and girls

82. The Act is already being implemented with regard to provision of non-discriminatory health service to persons living with HIV/AIDS. The coming into force of the Act compliments the national policies and strategies that have been in existence prior to the promulgation of the Act. Screening for general employment has reduced, and many major employers including the government have put in place HIV-work related policies from which women have benefited.

The impact of the measures undertaken with respect to prevention of mother-to-child transmission of HIV (PMTCT)

Monitoring and evaluation mechanisms

83. Through Joint Annual Performance Review (JAPR) process, the National Aids Control Counsel (NACC) conducts regular national annual reviews and evaluates the progress in implementing the national strategic plan including whether current practices promote risk behaviors or hamper access to HIV prevention services. National policy regarding HIV promotes HIV-related reproductive and sexual health to young people. HIV education is part of school and college curriculum. In addition preventive health information is available to vulnerable sub populations including women.

The impact of the measures undertaken, to address the identified deterioration of the situation for women with respect to prevention of mother-to-child transmission of HIV (PMTCT)

84. According to the HIV Prevention Response and Modes of Transmission Analysis; March 2009, 16.6 per cent of the prevention expenditure was spent on prevention of mother-to-child transmission of HIV (PMTCT). The Kenya National Aids Strategic Plan (KNASP) target of introducing PMTCT services in 80 per cent facilities offering antenatal care has been met. There has been an increase the awareness of MTCT. In 2008, 87 per cent of men and women were recorded as being aware of MTCT as compared to only 72 per cent of women and 68 per cent on men in 2003.

85. Awareness of treatment for maternal transmission has increased even more significantly. The proportion of women and men who know that the risk of MTCT can be reduced by the mother taking certain drugs during pregnancy has doubled since 2003, from 33 per cent women in 2003 to 69 per cent in 2008-2009. Numbers of mothers receiving HIV counselling during antenatal care has also increased from 61 per cent to 73 per cent. Consequently more pregnant women are receiving PMTCT drug treatment reducing the mother to child transmission of the HIV/AIDS virus and increasing the life span of pregnant women living with HIV/AIDS.

Assistance in the provision of anti-retroviral drugs:

86. The country has a national policy for free (to users) HIV – prevention services, ART and HIV-related care and support interventions. VCT, ARVs and TB medications are given free of charge in government facilities. There are numerous campaigns in media and within medical facilities encouraging women and men to go for voluntary counselling testing. Voluntary counselling and testing facilities are spread through out the country with some geographical disparities. Sixty per cent of counselling and testing centres are in the urban and peri-urban centres, while 40 per cent of the testing centres are in the rural areas. The Government is promoting mobile testing centres for remote rural areas to deal with the gap. In addition, home-based testing and door-to-door testing and public event testing have been introduced (HIV Prevention Response and Modes of Transmission Analysis; March 2009). Providing HIV services however, remains by and large donor sustained.

Property, land ownership, rural women**The situation of rural women in all areas covered by the Convention**

87. The situation of rural women in all areas covered by the Convention is expected to improve with the implementation of the Constitution. The new Constitution provides for the devolution of government to facilitate inter-alia the decentralization of State organs, to promote social and economic development and the provision of proximate, easily accessible services throughout Kenya. Under article 175 the county governments shall have reliable sources of revenue to enable them to govern and deliver services effectively; and no more than two-thirds of the members of representative bodies in each county government shall be of the same gender. This will allow women greater access to leadership positions from where women will articulate and influence the prioritization of matters of concern to them.

88. The devolved governments will be responsible for inter alia, agriculture, including crop and animal husbandry, county health services, county trade development and regulation, including pre-primary education, village polytechnics, home craft centres and childcare facilities and the implementation of specific national government policies on natural resources and environmental conservation.

89. Currently, 20 per cent of all Local Authority Transfer Funds (LATF) is spent on core poverty programmes which are essentially millennium development goals programmes. There has been an increased allocation to Constituency Development Funds (CDF) to all the constituencies in the country to fund rural development projects. Other devolved funds that benefit rural women and men include; the Constituency Aids Fund, the Constituency Bursary Fund and the Constituency Roads Fund. Research indicates that over 60 per cent of the devolved funds on the average are spend on education, water and health. The composition the local committees disbursing the devolved funds must have at least 30 per cent representation of women. This has had the benefit of women occupying community leadership positions as well as influencing the prioritization of issues that are important to women like provision of water and health services.

90. With regards to economic empowerment and self-employment, women in the rural areas are encouraged to apply for the Women Enterprise and Development Fund which allow women to borrow money to engage in businesses and other activities at very reasonable interest rates without the requirements of cumbersome sureties and other bureaucratic processes. Through the joint efforts of the Ministry of Gender, children and Social Development and local MPs as well as Community based organizations, awareness has been raised regarding the availability of the fund and capacity of rural women have been build to enable them acquire funds, keep business records as well as track profit and loss.

Land ownership

91. With regards to efforts by Kenya to increase this percentage women's ownership of land, the new Constitution provides for the elimination of gender discrimination in law, customs and practices related to land and property in article 60 (f).

92. The National Land Policy addresses gender issues with regards to land. Gender equality and equitable distribution of land are at the heart of the National Land Policy. The land policy entails the harmonization of legislation on land to bring it line with these principles.

93. Among the guiding principles in the policy's formulation are principles of inclusion, participation, and gender sensitivity. These provide a basis for bringing on board provisions of gender equity in land ownership and use. The National Land Policy proposes protection against laws, customs and practices that discriminate against women (para 39 (f)). The policy also proposes recognition and registration of community rights to land and land-based resources that take into account the multiple interests of land users including women. The policy also proposes repealing existing laws and outlawing regulations, customs and practices that discriminate against women in relation to land (para. 22.5). These are in line with article 2(f) of the Convention.

94. The Agriculture Sector Coordinating Unit and the National Agriculture Sector Policy (NASEP) provide support for rural women. The Ministry of Agriculture is one of the Ministries that has engendered its services and ensures that rural women and rural men benefit equally from its services.

95. Through the Ministry of Cooperative Development the Government has made effort to implement the principle of affirmative action within the rural cooperative societies.

Disadvantaged groups of women

The situation of refugees and internally displaced women; violence; mechanisms available for redress and rehabilitation; punishment of perpetrators of violence against refugees and internally displaced women

The situation of refugees and internally displaced women in Kenya

96. The Ministry of Special Programmes is charged with resettlement of as well as provision of services for refugees and internally displaced persons of which women are the majority.

97. The Ministry of Special programmes has established Peace and Reconciliation Committees in all districts, comprised of approximately 30 to several hundred members, to help reconcile communities and maintain peace. Women form an integral part of the peace committees. District Officers have been assigned to affected communities with specific terms of reference to ensure that there is peace and harmony in communities. New police stations have also been set up in volatile areas.

98. The Government recognizes displacement of persons not only post election violence of 2007/2008, but also for the previous period. The Minister has in place programmes to resettle the IDPs within a stipulated time. The Minister of Special Programmes has meanwhile increased security around refugee camps and placed police posts in strategic places near the camps.

99. The Government has continued to collaborate with the international community, especially the Office of the United Nations High Commissioner for Refugees (UNHCR), in these efforts. With regard to refugees and internally displaced persons the Government works closely with Inter-Agency Standing Committee on matters of humanitarian response, resettlement and security.

100. UNHCR and joint implementing partners have launched a project 'Preventing Sexual Exploitation and Abuse' PSEA in Kenya's Refugee camps the programme is supposed to support and strengthen programmatic and operational initiatives to prevent and respond to cases of sexual exploitation in refugee camps. The project is being implemented under the auspices of UNHCR and the Kenya Government.

101. The Kenya Police Force has formed a task force to 32 women officer and civil society organizations to investigate allegation of violence against women in IDP camps and to prosecute perpetrators.

102. A vibrant Gender Based Violence Sub-Cluster under the auspices of the Ministry of Gender is also among other issues addressing issues of women in refugee camps.

Family relations

Efforts by State and civil societies to prevent girls from being forced into marriage

103. The civil society has been very active in carrying out capacity-building on human rights targeting law enforcement officers. The Ministry of Gender has increased vigilance at the community level, which has contributed to prevention of early marriages through the intervention of administration officers including chiefs and children's officers.

Enactment of the Children's Amendment Bill- requirement for men who father children out of wedlock to take responsibility for their children

The Children's Amendment Bill

104. The Children Amendment Bill is yet to be enacted into law. However article 53 of the new Constitution on children outlines the obligations of parents to their children and creates a constitutional obligation for both parents married or not to equally contribute to providing for their children. Section 53 (1) (e) reads: every child has the right to parental care and protection, which includes equal responsibility of the mother and father to

provide for the child, whether they are married to each other or not. This is in line with the recommendation of the Committee in its previous concluding observations (CEDAW/C/KEN/CO/6, para. 44)

Older women, women with disabilities

The situation of older women and women with disabilities in the areas covered by the Convention

Situation of older women

105. Section 57 of the new Constitution obligates the Government to ensure the rights of older persons, and to ensure that older people can fully participate in society. It also obliges the state to ensure that older people live dignity and respect and that they are free from abuse; finally section 57 entitles older people to care and assistance from both their family and the State.

106. The Government is committed to ensuring that the elderly lead meaningful and fulfilling lives while enjoying all rights without discrimination. The Government intends to facilitate the creation of an environment where older women and men are given opportunities to continue utilizing their skills knowledge and experience. A National Policy for Older Persons has been developed. The policy recognizes gender variations in ageing and proposes development of specific programmes including addressing older persons with disabilities. The National Hospital Insurance Fund has also been reviewed to include contributing members beyond 60 years.

107. The Government has established the National Social Protection Strategy 2009 -2012, with two main objectives, one to meet the needs of the poorest and most vulnerable including elderly women, particularly those in the rural areas and in the long term to establish and integrate a social protection system to protect vulnerable women and men from unforeseen events likely to affect their well being. These include intervention in the areas of life cycle, health, employment, livelihood and natural disasters. The Government intends to increase progressively the budgetary allocation for social protection to meet the needs of vulnerable persons. It is too soon to establish the impact of this Strategy. Under the National Social Protection Fund elderly men and women in designated districts have started receiving regular funds and assistance to help them lead meaningful and fulfilling lives as well as to live in dignity.

Situation of women with disabilities

108. The new Constitution obligates the Government to promote the development of Kenyan Sign language, Braille and other communication formats and technologies accessible to persons with disabilities (art. 3). The new Constitution also places State organs under a duty to address the needs of vulnerable groups within society, including women, older members of society and persons with disabilities (art. 21 (3)).

109. Article 54 of the new Constitution which specifically addresses the needs of persons with disabilities including women, entitles persons with disabilities to be treated with dignity and respect and to be addressed and referred to in a manner that is not demeaning. It also accords them the right to educational institutions, reasonable access to all places, public transport and information; access materials and devices to overcome constraints arising from their disability. Finally article 54 obligates the State to ensure the progressive implementation of the principle that at least five per cent of the members of the elective and appointive bodies are persons with disabilities.

110. The new Constitution also provides for the fair representation of persons with disabilities and, requires that their needs are taken in account in all electoral processes (art. 82). The new Constitution also requires persons with disabilities be part of twelve members nominated by parliamentary political parties. Furthermore the Constitution requires that the Senate of the new Government to have two members, one man and one woman, representing persons with disabilities (art. 98 (1) (d)).

111. The National Social Protection Strategy includes responses by the State to protect persons with disabilities from risks, vulnerabilities and deprivation. Measures envisaged by this protection entail; measures to secure education, health-care social welfare, livelihood and access to stable income as well as employment.

Optional Protocol, amendment to article 20, paragraph 1

Progress made towards the accession to the Optional Protocol to the Convention

112. Discussions for ratification of the Optional Protocol to the Convention have been going on. However no decision has been reached with regard to ratification of the same. The issue of acceptance of the amendment to its article 20, paragraph 1, pertaining to the Committee's meeting time has however not been discussed.

Table 1: Primary schools completion rate (%), 2002 to 2008

PROVINCE	2002		2003		2004		2005		2006		2007		2008	
	Boys	Girls												
Coast	54.0	36.6	59.5	40.2	69.2	47.3	73.7	50.0	80.2	53.2	88.0	58.8	87.9	58.4
Central	78.7	80.0	82.5	84.4	91.5	92.1	91.0	89.8	85.8	82.3	87.3	85.1	87.3	85.3
Eastern	65.8	65.2	73.2	71.3	83.5	79.1	85.4	78.5	83.2	75.9	88.3	80.0	88.1	80.2
Nairobi	37.4	40.1	39.3	42.5	43.3	46.6	46.4	50.8	48.5	52.4	53.7	57.2	53.1	56.4
Rift Valley	69.1	64.0	75.1	69.8	84.1	76.6	88.0	79.8	88.1	78.1	93.5	83.2	93.5	83.4
Western	65.3	60.3	72.2	66.9	84.5	75.5	85.9	74.9	85.7	75.0	92.9	81.6	92.8	81.5
Nyanza	73.6	59.3	80.2	63.7	88.0	69.8	89.3	69.7	86.7	68.0	89.9	72.0	89.4	72.1
N. Eastern	28.5	11.3	32.7	14.2	39.0	14.8	39.1	15.4	42.7	15.7	49.9	21.7	50.1	22.5
National	65.5	60.1	71.3	65.2	80.3	72.1	82.4	72.8	81.6	71.1	86.5	75.7	85.1	75.3
Overall		62.8		68.2		76.2		77.6		76.3		81.0		79.5

Source: MOE Statistical Booklet 2003-2007; EMIS 2002 and 2009

Table 2: Secondary schools net enrolment by gender and region; 2000-2008

PROVINCE	2000		2003		2004		2005		2006		2007		2008	
	Boys	Girls												
Coast	7.3	7.8	22.7	18.3	26.7	19.5	20.6	18.3	25.9	20.7	29.2	22.7	31.2	25.7
Central	20.1	24.6	42.4	46.4	44.8	45.1	42.6	42.8	48.3	47.6	53.3	51.3	57.2	57.6
Eastern	13.1	14.4	33.2	32.9	35.2	33.5	33.8	32.3	36.0	33.7	43.6	37.5	44.1	38.3
Nairobi	10.5	7.1	16.4	8.7	30.3	19.0	23.8	17.2	25.2	17.5	39.9	31.3	40.2	32.3
Rift Valley	11.7	11.5	27.6	24.3	29.9	24.5	29.0	24.2	34.3	28.1	37.4	30.8	39.5	32.5
Western	15.3	16.4	28.3	29.5	31.9	29.0	32.2	27.1	31.5	28.6	40.0	32.8	41.3	35.6
Nyanza	18.8	15.6	32.4	28.6	31.9	23.1	35.8	26.3	37.7	28.7	44.4	30.6	47.6	32.7
N. Eastern	3.2	2.0	14.0	2.6	6.1	3.0	6.4	3.2	8.6	3.6	9.7	4.4	10.2	6.4
TOTAL	13.9	14.0	29.7	27.4	32.1	27.6	31.3	27.2	34.6	29.9	40.4	33.3	46.3	38.8
Overall		14.0		28.5		29.8		29.3		32.2		36.8		42.5

Source: MOE; 2009

Table 3. University and tertiary enrolment

	2002/03		2003/04		2004/05		2005/06		2006/07		2007/8		2008/9	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F
University	51,099	29,862	51,500	30,592	57,991	33,550	58,805	33,511	68,345	43,884	70,775	47,464	73,543	49,304
Teacher Training	10,542	9,635	10,508	10,628	10,560	11,279	11,069	11,266	11,268	11,352	11,428	11,480	11,422	10,806
Tivet /Polytechnics	26,629	25,625	29,001	27,341	33,916	32,821	36,070	34,442	36,541	34,626	38,942	35,574	43,915	41,285

Source: MOE Reports

Women representation in the private sector (formal and informal)

Sector	% Representation of women at organization	% Management Level	% Executive level	Overall	
1. Formal sector:					
Agriculture & Forestry		41.7	37.0	32.8	37.2
Mining and Quarrying		13.1	19.0	22.9	18.3
Manufacturing		30.1	36.0	30.9	32.3
Electricity, Energy & water		34.6	27.0	30.9	30.8
Building & Construction		10.8	20.0	23.3	18.0
Trade, Restaurant & Hotels		35.2	48.0	39.6	40.9
Transport & Communications		19.9	24.0	28.4	24.1
Financial, Insurance, Real Estate & Business		31.7	39.0	33.6	34.8
Community, Personal & Social Services		42.1	44.0	40.7	42.3
Training Institutions & Schools		39.5	47.0	49.0	45.2
Formal Sector Overall Representation		34.3	39.0	37.2	33.5
2. Informal Sector					
		22.9	32.0	-	27.5

Source: Field survey 2009