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REVIEW OF KENYA



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THIS REPORT

JOINT STAKEHOLDERS' SUBMISSION BY WOMEN RIGHTS CLUSTER OF UNIVERSAL PERIODIC REVIEW KENYA COALITION

October 2024

African Gender and Media Initiative Trust (GEM) | Association of Media Women in Kenya (AMWIK) | Centre For Domestic Training & Development (CTD) | Centre for the Study of Adolescents (CSA) | Centre for Rights Education and Awareness (CREAW) | Federation of Women Lawyers (FIDA) Kenya | Flone Initiative | Kenya Alliance for Advancement of Children (KAACR) | Network for Adolescent and Youth of Africa (NAYA Kenya) | Plan International | Polycom Girls | Wangu Kanja Foundation, | Women Empowerment Link (WEL) | Zamara Foundation |

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Key Words

- Gender Equality
- Gender Based Violence
- Menstrual Health Management
- Girls and Young Women
- Unpaid Care Work



Executive Summary

1. This stakeholder report has been developed and submitted by the Women Rights Cluster, a member of Universal Periodic Review Kenya, a coalition that brings together over 200 Civil Society Organizations, all of which are divided into 30 sub clusters. Members of the Cluster include African Gender and Media Initiative Trust (GEM), Association of Media Women in Kenya (AMWIK), Centre For Domestic Training & Development (CDTD), Centre for the Study of Adolescents (CSA), Centre for Rights Education and Awareness (CREAW), Federation of Women Lawyers (FIDA) Kenya, Flone Initiative, Kenya Alliance for Advancement of Children (KAACR), Network for Adolescent and Youth of Africa (NAYA Kenya), Plan International, Polycom Girls, Wangu Kanja Foundation, Women Empowerment Link (WEL), and Zamara Foundation.
2. This submission focuses on six key issues on women's rights:
 - Gender Based Violence (GBV)
 - Poor Menstrual Health Management for Girls and Young Women.
 - Unequal Gender Representation
 - Lack of Social Protection Mechanisms for Women Migrant Workers.
 - Poor Labour and Social Protection for Unpaid Care Workers
 - Lack of Legal Recognition and Protection for Domestic Workers.
3. Kenya has previously been reviewed thrice by the Universal Periodic Review and has received key recommendations on the above themes.
4. Kenya was last reviewed by the Universal Periodic Review Working Group 35 in January 2020 and received 319 recommendations and supported 263, while noting the rest. The supported recommendations represent an increase of 36.97% from the second cycle review.
5. Kenya supported key recommendations on the issue of women's rights including 28 recommendations on sexual and gender-based violence, 8 on violence against women, 5 on advancing women's rights, 2 on participation of women in political and public life and 2 on discrimination against women including the recommendation to strengthen gender equality by implementing the two-thirds gender principle in all elective or appointive bodies in a timely manner.
6. An analysis of the recommendations through the lenses of the 2030 Sustainable Goals reveals that recommendations by gender equality goals, reduced inequalities and decent work goals were cumulatively among the highest contributing for 16%, 11% and 7% respectively.
7. Whereas there has been progress since the last review, this report describes that women's rights to be free from violence and discrimination, to decent work and economic growth, to health and to representation in politics is yet to be fully realized, and in some circumstances have worsened since the last review.
8. This report further provides specific recommendations to ensure women's rights are protected, fulfilled and respected.

ISSUE 1: Gender Based Violence (GBV).

Laws and Policies

9. Kenya has ratified international instruments that oblige the state to protect women from and respond to GBV as a form of discrimination against women. These instruments include the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the African Charter on Human and People's Rights - Article 18(3) and the Protocol to the Africa Charter on Human and People's Rights on the Rights of Women in Africa.
10. Kenya has also enacted national laws and policies aimed at addressing various forms of GBV including the Sexual Offences Act 2006 that covers sexual offenses but does not cover forms of online sexual exploitation and abuse. The provision for sexual harassment is limited to that perpetrated by public officers only. The Employment Act, of 2017 also covers sexual harassment, and the protections required of an employer only extend to organizations with more than twenty employees.
11. The Protection Against Domestic Violence Act 2015 is a law aimed at combating intimate partner violence (IPV) and makes extensive protection measures for victims.
12. The Penal Code criminalizes murder, and assault among other offences in gender neutral terms.
13. These legislations do not specifically provide for femicide as an offense specific to women, thereby limiting efforts to combat and address the recent cases.

Problem Statement

14. According to the Kenya Demographic Health Survey (KDHS) 2022¹, over 40% of women have experienced physical or sexual violence from their partners at least once during their lives. A recent report by CREAM-Kenya² also reveals that over 3762 cases of gender-based violence were reported in 2022, and out of these cases, 2985 were women.
15. Patriarchy is the root cause of GBV. Patriarchy is perpetuated by culture transmitted through norms and values that subjugate women. This affects their wellbeing and limits the realization of their full potential.
16. Kenya has had increasing numbers of women experiencing emerging forms of gender-based violence that have not been criminalized in Kenyan laws. These include technologically facilitated GBV, electoral GBV, femicide, and sexual harassment beyond the workplace. These include sexual harassment in transport and sextortion in institutions of learning.

¹ Kenya Demographic Health Survey 2022

² <https://home.creaw.org/publications/>

17. Between 2016 and 2023 over five hundred women have been killed. The circumstances surrounding the murder of these young women has been linked to intimate partner violence and technology-facilitated gender-based violence (TFGBV)³. The majority were under 35 years old and were killed by intimate partners or people known to them.
18. Ninety percent of young adults enrolled in Nairobi tertiary institutions have witnessed technology-facilitated gender-based violence, with 39% having experienced it personally⁴.
19. These forms of violence are perpetuated by the deep-rooted gender stereotypes and social norms as well as unregulated technological advancements.
20. GBV continues to be a serious public health concern whose manifestation has escalated to increasing numbers of women killed by men, more women bullied on online platforms leading to increased mental health challenges, and evident lack of accountability from the perpetrators of the emerging forms of violence therefore emboldening them and perpetuating misinformation and disinformation.

Progress Since Last Review

21. POLICARE⁵ initiative was launched in 2021, a National Police Service (NPS) initiative designed as a multi- agency victim centred “ONE STOP CENTER” service provider. The service providers were to include Police, Forensic investigators, Health providers, Psychologists, Director of Public Prosecutions representative, a Magistrate on call, Medical-legal, Gender experts, correctional personnel among others under all under one roof.
22. POLICARE’s overall objective was to strengthen the capacity of the National Police Service to prevent and respond to SGBV cases through the establishment of a ONE STOP victim support centre incorporating the synergy of multi agencies. However, the roll out of the Policare centres that were intended to be countrywide have stalled since the government regime change in 2022.
23. In 2023, the Judiciary established sexual and gender-based violence courts⁶ aimed at fast tracking cases arising from the Sexual Offences Act and other gender-based violence statutes from a survivor-centred approach. The pilot courts were established in Mombasa, Siaya and Kisumu. In May 2024, the Chief Justice discussing the success of the pilot courts stated that they were to be renamed to gender justice courts in order to destigmatize the access and use of the courts by the citizens and also to be rolled out in other parts of the country.
24. The Protection Against Domestic Violence Rules were enacted in 2020 in order to enhance the procedural aspect of the Act to ensure that victims received adequate support and protection from domestic violence.

3 <https://icj-kenya.org/news/the-dark-side-of-online-platforms-fueling-violence-against-women/>

4 UNFPA Rapid Study on Technology-Facilitated Gender Based Violence (TFGBV) in Kenya Higher Learning Institutions

5 <https://home.creaw.org/wp-content/uploads/2021/10/POLICARE-Policy-Compressed.pdf>

6 <https://www.judiciary.go.ke/wp-content/uploads/2023/07/SGBV-Strategy.pdf>

25. The Chief Justice has also constituted a committee of the National Council on the Administration of Justice (NCAJ) to review all laws relating to sexual violence and report back on any reforms made.

Recommendations

26. The state to ratify and domesticate the International Labour Organization Convention 190 on Violence and Harassment in the World of Work.

27. The government should strengthen the legal and policy framework to include technology facilitated GBV, femicide, sexual harassment beyond the workplace and other emerging forms of violence against women.

28. The government should establish and fully operationalize comprehensive survivor centred one stop GBV services that includes the health, justice, security, and safety services.

29. The state to invest in the collection, analysis, sharing and use of disaggregated data on women for evidence-based action on women's rights.



ISSUE 2: Poor Menstrual Health Management for Girls and young women.

Policies and Laws

30. The Kenya Sexual Offences Act (2006)⁷ criminalizes sexual offenses, including sexual exploitation, defilement, and child prostitution. Transactional sex involving minors may fall under these provisions.
31. Kenya Children's Act (2022)⁸ Part III on parental responsibility 29 2b defines the rights of the child, including protection from neglect, abuse, and exploitation. It further outlines the duty of parents, guardians, and the state to ensure the welfare and best interests of the child.
32. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW⁹) Article 12 calls for eliminating discrimination against women in healthcare access, including menstrual hygiene management services and products.
33. The United Nations Convention on the Rights of the Child (CRC)¹⁰ consists of fifty-four articles that set out children's rights and how governments should work together to make them available to all children. Under the terms of the convention, governments are required to meet children's basic needs and help them reach their full potential while Article 24 emphasizes the right of children to the highest attainable standard of health, including access to menstrual hygiene management facilities and education.
34. Sustainable Development Goals (SDGs)¹¹ Goal 6 seeks to ensure the availability and sustainable management of water and sanitation for all, which includes access to menstrual hygiene management facilities and services.
35. The Kenya National School Health Policy (2019)¹² recognizes the importance of promoting menstrual hygiene management in schools to ensure the health and well-being of students. It emphasizes the provision of adequate menstrual hygiene facilities, including clean and private toilets, handwashing facilities, and access to sanitary products.
36. The Kenya Water, Sanitation, and Hygiene (WASH) Policy (2019) prioritizes menstrual hygiene management as part of broader efforts to improve access to clean water, sanitation, and hygiene services. It underscores the need for gender-sensitive WASH interventions that address the specific needs of women and girls, including access to menstrual hygiene products and facilities.
37. The Kenya National Adolescent Sexual and Reproductive Health Policy¹³ (2015) recognizes the importance of providing comprehensive sexual and reproductive health services to adolescents, including menstrual hygiene education and access to menstrual hygiene products. It emphasizes the need for age-appropriate and culturally

7 http://www.kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/SexualOffencesAct_No3of2006.pdf

8 https://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/2022/TheChildrenAct_2022.pdf

9 <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>

10 <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

11 <https://sdgs.un.org/goals>

12 <https://ncdak.org/wp-content/uploads/2021/08/School-Health-Policy-DFH-MOH-26.06.18.pdf>

13 <https://tciurbanhealth.org/wp-content/uploads/2018/03/Ministry-of-Health-ASRH-POLICY-2015.pdf>

sensitive information on menstrual hygiene to empower adolescents to manage their menstruation with dignity.

38. The Kenya Education Sector Policy on Menstrual Hygiene Management (2019¹⁴) focuses on promoting menstrual hygiene management in schools to ensure that girls can attend school regularly and participate fully in their education. It provides guidelines for integrating menstrual hygiene education into the school curriculum, improving access to menstrual hygiene facilities, and addressing stigma and discrimination related to menstruation.
39. The Kenya Health Act (2017)¹⁵ establishes the right to access healthcare services, which includes menstrual hygiene management services.
40. The Kenya Basic Education Act (2013¹⁶) section 37, ensures that girls' access to education is not impeded by menstruation, requiring schools to provide adequate facilities for menstrual hygiene management.
41. The Kenya Water Act¹⁷ (2016) tasks the state with ensuring access to clean water for sanitation purposes, including menstrual hygiene management.
42. The Kenya National Menstrual Hygiene Management Policy 2019 aims to address menstrual hygiene challenges, including access to affordable menstrual hygiene products, education, and facilities.

Problem Statement

43. According to Lancet, in 2020, 52.0% of adolescent girls and young women experienced a menstrual health product-access challenge¹⁸.
44. Prior to the onset of the COVID-19 pandemic, over half (54%) of Kenyan girls faced challenges in accessing menstrual products and an estimated 65.0% of women and girls could not afford sanitary pads.
45. Studies have indicated that up to 65% of women and girls in Kenya cannot afford sanitary pads (Afri-Can, 2015). Since commercial sanitary products are highly valued, some girls without access will resort to (or are coerced into) having sex to pay for sanitary products. For example, in Western Kenya, 10% of young adolescent girls admitted transactional sex for pads (Phillips Howard et. al., 2015).
46. If women and girls are well informed about pre-menarche, understand their bodies, and can access the correct information without shame, they will be able to choose products based on their needs and economic capacity.
47. Overcrowded urban areas lack proper sanitation facilities to serve the needs of the population especially girls, leading to unhygienic conditions. Many rural areas lack proper sanitation facilities and access to private spaces for managing menstruation

14 <http://guidelines.health.go.ke/#/category/16/422/meta>

15 <https://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/HealthActNo.21of2017.pdf>

16 http://www.parliament.go.ke/sites/default/files/2017-05/BasicEducationActNo_14of2013.pdf

17 https://kenyalaw.org/kl/fileadmin/pdfdownloads/RepealedStatutes/WaterAct_Cap372_.pdf

18 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9165989/>

thus leading to girls missing out on school during their periods which ultimately impact their education.

48. In most communities, girls who become pregnant or marry early face discrimination and lack of support from their communities and schools. Instead of being provided with a conducive environment to continue their education, they are often criticized or even expelled from school, further limiting their opportunities for personal and professional development. This most likely leads to early marriage. In Kenya, early marriage has been estimated at 25 - 30 %¹⁹.

Progress Since Last UPR Review

49. The Kenyan government has continued to provide free sanitary pads to schoolgirls since 2017²⁰. This initiative aimed to address menstrual hygiene challenges and reduce school absenteeism among girls during their menstrual periods.
50. The Kenya Menstrual Health Management Strategy and Policy 2019 - 2030 was put in place to structure the governments' intention to make menstrual health products accessible and affordable to women and girls from low-income backgrounds.
51. Civil society organizations have also made significant strides in the distribution of free sanitary towels to adolescent girls which has helped in the retention of girls in school especially in marginalized and informal settlements.

Recommendations

52. Enact the Provision of Sanitary Bills 2024 into law to ensure the provision of quality, free and sufficient sanitary towels.
53. Enact the Care and Protection of Child Parents Bill 2023 to law to provide a framework for the care and protection of child parents and to provide a framework through which expectant girl child or a child parent may actualize their right to basic education and at the same time ensure the care of their children.
54. Resource and implement the Basic Education Amendment Act 2016, the Kenya Menstrual Health Management Strategy and Policy 2019-2030, National Guidelines for School Re-Entry in Basic Education 2020 and all laws and policies on Menstrual Health Management.
55. The government should remove all forms of taxes on Menstrual Health Management products to make them affordable and accessible.
56. The government should diversify the menstrual health products to cater to people living with disabilities.

19 <https://pubmed.ncbi.nlm.nih.gov/31433600/#:~:text=Globally%2C%2015%20million%20girls%20are,communities%20where%20they%20are%20prevalent.>

20 <https://gender.go.ke/sanitary-towels-program/>

ISSUE 3: Unequal Gender representation.

Laws and Policies

57. The promulgation of the Constitution of Kenya, 2010 cast a new dawn towards the fight towards the actualization of the two-thirds gender rule. Article 10 outlines the national values and principles of governance that bind all state organs, state officers, public officers, and all persons whenever any of them— applies or interprets this Constitution; enacts, applies, or interprets any law; or makes or implements public policy decisions. The national values and principles of governance include patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people; human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized; good governance, integrity, transparency and accountability; and sustainable development.
58. Article 27(3) states women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural, and social spheres. Article 81(b) stipulates that not more than two-thirds of the members of elective public bodies shall be of the same gender.
59. Kenya has signed on to various global agreements that promote women’s emancipation including the Charter of the United Nations (Articles 8 and 101) which stipulates that there shall be no restrictions on the eligibility of men and women to participate in every capacity and under conditions of equality in its principal and subsidiary organs; the Convention of Elimination of All Forms of Discrimination Against Women—the primary international legal instrument for the promotion and protection of women’s rights which recognizes gender equality and prohibits discrimination against women in all spheres, including the private and public spheres.
60. Article IX of the Maputo Protocol²¹ call on states to take specific positive action to promote participative governance and the equal participation of women in the political life of their countries through affirmative action, enabling national legislation and other measures to ensure that women participate without any discrimination in all elections; that women are represented equally at all levels with men in all electoral processes; that women are equal partners with men at all levels of development and implementation of State policies and development programmes.
61. The 2030 Sustainable Development Goals (SDGs), Goal 5 provides for gender equality and has targets on ensuring full participation of women in leadership and decision-making.
62. Kenya continues to face significant obstacles in the advancement of women into positions of public and political leadership. During the 2022 General elections, women won 201 out of 1882 elective seats, representing 10.6% of the elected seats. Out of

21 <https://au.int/en/treaties/protocol-african-charter-human-and-peoples-rights-rights-women-africa>

forty-seven governors, only 7(15%) are women, out of forty-seven senators 3 (6%) are women. Only eight percent of all elected Members of County Assembly (MCA) are women and 10% of the elected Members of Parliament (MP) are women²².

63. The under-representation is caused by social gender norms that perpetuate female subjugation, coupled with a lack of legislation to realize the two-third gender rule as enshrined in Articles 27 (8) and 81(b) of the Constitution.
64. There is also a lack of political good will to implement the two thirds gender rule. This is evidenced by the repeated failure to enact legislation on two thirds and lack of awareness on the significance of implementing the two thirds gender rule. Myths and misconceptions around the two thirds gender rule- gender is conflated with women. Political party structures are also not gender sensitive.
65. Attempts to use the legal mechanisms through courts to implement the two thirds gender rule have been futile. In July 2020, the Law Society of Kenya tried to compel former President Uhuru Kenyatta to dissolve the 12th Parliament for failure to give life to the two-thirds gender rule. In September 2020, the former Chief Justice, David Maraga issued an advisory to President Uhuru Kenyatta to dissolve Parliament under Article 261(7) of the CoK for failure to realize the envisioned proportional representation in Parliament. Justice Maraga further stated that the same was a great omission and everyone involved must be held accountable. This notably instigated a conversation on the same, which quickly shifted to whether an advisory by the Chief Justice is legally binding. This further demonstrates the lack of political will to fully effect the provisions of the Constitution, both in word and spirit. As a result, there is limited advocacy for women's issues in development, gender blind policies, and gender-biased decision-making. Addressing these issues requires targeted interventions to promote gender equality and protect women's rights.

Progress Since Last Review

66. Article 100 of the Constitution of Kenya on enactment of legislation to promote the representation of women in Parliament; persons with disabilities; youth; ethnic and other minorities; and marginalized communities is incorporated in the Political Parties Act 2019 and was actualized in the 2022 elections allowing for nomination of Special Interest Groups within political parties, including women.
67. The cabinet Secretary Ministry of Public Service and Gender established the multi-sectoral working group to identify a viable framework for the realization of the two thirds gender rule and its submission of a report that provides options for achieving two thirds gender rule.

22 <https://www.kas.de/documents/286528/0/Factsheet+on+women%27s+performance+in+2022+elections.pdf/c865aa12-6ada-5a4d-56f5-03e0075a8f0c?version=1.0&t=1695192872031>

Recommendations

68. Parliament to enact a law to give effect to Article 81(b) of the Constitution on two thirds gender rule.
69. State to intensify civic education to enhance awareness around inclusive leadership.
70. The Government to provide a framework for collection, analysis, and repository of gender disaggregated data across all sectors.



Issue 4: Lack of Social Protection Mechanisms for Women Migrant Workers.

Laws and Policies

71. Kenya has laws and policies that govern the labour market and social protection. These include the Constitution of Kenya 2010, the Employment Act Cap 226, the Social Protection Policy of 2014, National Gender and Development Policy of 2019. These laws provide for non-discrimination and fundamental rights of employees. However, there are no specific policies or laws providing for the protection of migrant workers or recognizing any form of care work, whether paid or unpaid.

Problem Statement

72. Migrant women workers have been facing significant labour rights challenges with little to no redress. This is exacerbated by the lack of proper legal and policy frameworks on migrant work. According to the KIPpra report²³ in 2023 there were close to 80,000 migrant workers in Saudi Arabia and 60,000 in the UAE who are predominantly domestic workers. It denotes the increased poor working conditions, employer relations, labour laws and social protection violations. As a result, the women migrant workers suffer from psychological effects, bodily harm, document confiscation and even in extreme cases loss of lives. In a 2021 Kenyan Parliamentary report, 93 Kenyans working in the middle east were documented to have lost their lives in a span of three years and most of these deaths were attributed to inhumane treatment from their employers as reported by survivors to the Kenyan authorities.

73. The Kenya Senate fact finding mission²⁴ to the Middle East in 2021 attributed the poor working conditions of migrant workers to lack of comprehensive legal and policy frameworks such as the Bilateral Labor Agreements and MOUs between countries, poor access to justice mechanisms for migrant workers for lack of an elaborate migrant database; no shelters and social support for migrant workers in distress; Inadequate repatriation policies, process, and resources to distressed migrant workers and little or no regulation of recruitment agencies.

Progress Since Last Review

74. To address the exploitation of Kenyan nationals abroad, the Ministry of Labor and Social Protection's National Employment Authority has tried to mitigate these effects by deploying three labour attachés in Kenyan diplomatic missions in Qatar, United Arab Emirates (UAE), and Saudi Arabia.

75. The Ministry in collaboration with the National Employment Authority and the Ministry of Foreign Affairs have enhanced awareness of Labour migration issues amongst members of the public and the media through the public sensitization/awareness programmes against unregulated migrant labour and human trafficking in the Middle East. Such forums have been conducted in Kilifi and Muranga Counties.

²³ <https://kippra.or.ke/measures-to-ensure-the-safety-of-kenyan-domestic-workers-in-the-middle-east/>

²⁴ <http://parliament.go.ke/sites/default/files/2022-08/Report%20on%20Labour%20Migration%20senate%20study%20visit%20to%20Middle%20East%20%26%20Policy%20Implications.pdf>

76. The National Employment Authority has consequently established a Toll-Free No.: 0800222223 and reporting mechanisms on www.neaims.go.ke for migrant workers to contact in case of emergencies, disputes, or concerns regarding their working conditions. Kenyan embassies and consulates have made efforts to make their consular services accessible. To promote access to justice and further protect victims participating in investigations and prosecutions, some courtrooms have been equipped with facilities that allow victims to provide testimony via video, one-way glass, or written statements.

Recommendations

77. Kenya to ratify and implement ILO Convention No. 190 on harassment and violence in the world of work.
78. Kenya should also document and aggregate data of all migrant workers, those in distress and currently being held in prisons and deportation centres abroad with an intention to repatriate and re-integrate them back to Kenya
79. Establish temporary shelters like safe houses in major labour destinations to help those in distress.
80. Meaningfully engage all stakeholders including migrant workers, returnees, civil society and unions in the development of policies and laws including Bi-Lateral agreements and review of the same.
81. Engaging host countries to develop and implement frameworks on migrant workers' rights and ensuring access to justice.

ISSUE 5: Poor labour and social protection for Unpaid Care Workers.

Laws and Policies

82. Unpaid Care Work is not recognized in Kenyan law or Policy.

Problem Statement

83. Unpaid care work is shouldered by women and girls, encompassing activities such as childcare, elder care, household chores, cooking, cleaning, and fetching water and firewood within Kenya.

84. The provisions of Article 41 of the Kenyan Constitution, should be extended to account for women's unpaid care to provide fair remuneration and reasonable working conditions for these women.

85. Article 27 of the Kenyan Constitution provide for equality and non-discrimination in all spheres of life. Despite these provisions, women and girls continue to shoulder the burden of unpaid care work.

86. This situation is a result of social norms that define care work as a women's work only. As a result, women and girls continue to be limited in the pursuit of personal development in education and gainful labour which pushes them to poverty as their work is not economically valued.

Progress Since Last Review

87. The Third Cycle Mid-Term progress reporting does not address the issues of Unpaid Care work.

Recommendations

88. Establish policies and laws that explicitly recognise, value and support care work.

89. Conduct research on unpaid care to inform policy decisions and ensure that women's and girls' contributions are accurately measured and valued.

90. Collaborate with actors including women rights organizations and civil society to conduct sensitizations and campaigns to challenge harmful norms that pass on bulk of unpaid care work to women.

ISSUE 6: Lack of Legal Recognition and Protection for Domestic Workers.

Laws and Policies

91. Kenyan laws such as the Constitution of Kenya 2010, Employment Act 2007, Labor Relations Act 2007, National Social Security Fund Act of 2013 and Regulation of Wages (General) Order and Amendment Orders of 2018, ensure their rights to fair wages, reasonable working conditions, and protection from exploitation. For example, the Regulation of Wages (General) Amendment Order 2018 mandates a minimum wage based on locality and includes provisions for overtime, leave, healthcare, housing, and NSSF contributions. International treaties such as ILO Convention 189 safeguarding decent work and ILO Convention 190 calling for the elimination of violence and harassment in the place of work are yet to be ratified despite numerous efforts by state and non-state actors through the Ministry of Labor and Social Protection.
92. According to the Regulation of Wages (General) (Amendment) Order 2018²⁵, domestic workers in cities such as Nairobi, Mombasa, Nakuru, and Kisumu are entitled to a minimum wage of Ksh. 13,572.90 per month, while those in other areas should receive at least Ksh. 7,240.95 per month. Additionally, the Employment Act 2007 mandates that domestic workers are entitled to annual leave, sick leave, maternity leave, healthcare coverage, and housing or a housing allowance.

Problem Statement

93. Domestic workers in Kenya and abroad, including nannies, caretakers, cooks, gardeners, cleaners, drivers, and security officers, are vital to the country's economic development, with around two million individuals in Kenya and more than 350,000 abroad. It is estimated that the country gets more than \$400 million from the Gulf states as direct remittances with Saudi Arabia having the highest at \$245.95 million in 2023, according to Central Bank statistics; Kenya Diaspora Remittances Report²⁶. It is estimated that the direct employment of local domestic workers injects close to \$135million and benefits indirectly nearly 6 million persons within Kenyan households.
94. Kenyan migrants working as domestic workers and migrant workers from other countries have often been subjected to harsh, exploitative and unfair working conditions with several human rights violations, sometimes leading to death. They are often kept under lock and key and their visa or identification documents withheld by their employers, forced to work for more than 18 hours a day, deprived of food and wages, made to sleep on cold floors, engaged in heavy work and physically, verbally and sexually abused and sometimes killed, among other gross human rights violations.
95. Their terms of work are in most cases drafted and signed by rogue recruitment agencies, whose reach is almost impossible once they land in their destination countries. Very little legal assistance is provided by the foreign embassies or consulates to address

²⁵ <https://au.int/en/treaties/protocol-african-charter-human-and-peoples-rights-rights-women-africa>
²⁶ <https://www.centralbank.go.ke/diaspora-remittances/>

these violations with no rescue centres to protect those in dire need of a safe shelter. Limited labour attaches and weak laws and bilateral agreements usually exacerbate inadequate protection and safeguarding of migrant workers.

Progress Since Last Review

96. While the rights of domestic workers were not discussed in the previous cycle of the UPR, the government has put in progressive measures such as the existence of the 24-hour hotline +254 (020) 800222223, email; info@nea.go.ke and use of emergency reporting form on www.neaims.go.ke are channels that are sometimes hard to reach or conclusively address fast responses to guarantee timely and efficient protection interventions for migrant workers.
97. The formulation of the Diaspora Policy 2024, seeks to protect, engage, empower and prosper Kenyans in the diaspora, focusing on diaspora rights, welfare and interests; diaspora savings, investments, remittances and technology transfer; diaspora partnerships and engagement; and international job placements for Kenyans.
98. In the case of Robai Musinzi Versus Safdar Khan of 2012 where a former domestic worker had sued her employer for unpaid wages, their verbal contract was recognized and formed the basis for her compensation among other remedies which provided an avenue for domestic workers in Kenya to seek justice for various violations

Recommendations

99. Ratify and domesticate ILO Convention 189 on Domestic Workers.
100. Enact the Labor Migration and Management Bill 2023 to provide for the regulation of private employment agencies and the recruitment of workers within and outside Kenya and to safeguard the rights and welfare of job seekers and migrant workers.
101. Establish and or review bilateral agreements and MoU's with destination countries and increase formal mechanisms including requisite consular assistance to protect and safeguard the wellbeing and protection of migrant domestic workers.

UPR Kenya Stakeholder's Submission Matrix

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3 Centre for the Study of Adolescents (CSA)	Mbaazi Avenue off Kingara Road, Lavington, Nairobi.	Jane Nyanjom	csa@csakenya.org nyanjomjane@csakenya.org
4 Centre for Rights Education and Awareness (CREAW)	Hse No. 1 (on the left), Elgeyo Marakwet Close off Elgeyo Marakwet Road, Kilimani.	Wangechi Wachira	info@creaw.org
5 Federation of Women Lawyers (FIDA)-Kenya	Amboseli Road, Off Gitanga Road	Anne Ireri	info@fidakenya.org anneireri@fidakenya.org
6 Kenya Alliance for Advancement of Children (KAACR)	Design Center, Unit 1A, 12 Tausi Road, off Muthithi Road, Westlands.	Peggy Namadi Saka-Masika	kaacr@kaacr.com

ORGANISATION	PHYSICAL ADDRESS	UPR CONTACT PERSON	EMAIL ADDRESS/TELEPHONE
7 Network for Adolescent and Youth of Africa (NAYA Kenya)	Upper hill Gardens, Third Ngong Avenue, Apartment 31	Robert Aseda	info@nayakenya.org robert.aseda@nayakenya.org
8 Plan International	Methodist Ministries Centre Oloitoktok Road.	Christine Ololo	christine.ololo@plan-international.org kenya.co@plan-international.org 0722 201293/0734 600774
9 Polycom Girls	Olympic Estate, Kibera Drive	Caroline Ojuondo Anne Agar	info@polycom.or.ke 0791774213/0728029718
10 Wangu Kanja Foundation (WKF)	BuruBuru Phase 5 -Katulo Road, Boma Court West	Wangu Kanja	wangu@wangukanjafoundation.org info@wangukanjafoundation.org
11 WEL'S Women Empowerment Link (WEL)	Danha Court Unit 8. Off Mwanzi Road, Westlands	Virginia Nduta	virginia@wel.or.ke
12 Flone Initiative	3rd Floor KCDF House, Chai Road, Pangani, Nairobi, Kenya	Cynthia Kipsang	cynthia@floneinitiative.org info@floneinitiative.org
13 Zamara Foundation	Timshack House 4th Floor Ngong Road Dagoretti Corner	Esther Kimani	e.kimani@zamarafoundation.org
14 Association of Media Women in Kenya	Mbaruk Road, Off Muchai Drive, Opp. Awash Ethiopian restaurant	Sharon Kechula	sharon.kechula@amwik.org

