

**AUDIT OF COUNTY GOVERNMENTS
COMPLIANCE WITH NATIONAL AND
INTERNATIONAL LEGISLATIVE
PROVISIONS ON
GENDER BASED VIOLENCE**

With an Advisory on the Use of the Formal Justice Systems

2015

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Foreword

I am pleased to present to you the National Gender and Equality Commission's (NGEC) report on County Governments' audit and spot checks on Gender Based Violence (GBV) Legislation in Meru, Kwale, and Kisumu & Migori. The report includes dialogue meetings with their respective Council of Elders on the use of formal justice systems in the prevention and response to Gender Based Violence in Kenya. This document is dedicated to all Kenyans who strive to reduce and eliminate the incidences and impact of Gender Based Violence in our society.

The Kenya government has performed fairly well in the enactment of laws, policies and regulations on the prevention, response and management of GBV which have been utilized in the process of compiling and publishing of this report. To mention a few, the applications of the Constitution (2010), Penal Code (2009), Prohibition of Female Genital Mutilation Act (2011), the National Gender and Equality Commission Act (2011), international instruments including the Convention on the Elimination of all Forms of Discrimination Against Women (1979), the Convention on the Rights of the Child (1990), and the Protocol of the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003). These form the legal, human rights and State's obligation context upon the basis of this report, offering guidance for the County audits and the advisories on the use of formal justice systems in all GBV cases.

The Commission, pursuant to its mandate and functions as stipulated in the Constitution of Kenya (2010) and in the NGEC Act (2011), in collaboration with UN-Women, facilitated the development process for the advisory on the use of formal justice system on Sexual and Gender Based Violence (SGBV) and spot checks to audit and monitor County Governments Compliance with National and International Legislative Provisions on SGBV. An extensive consultative process was followed in every step in the collection and collation of information. Beyond agreements on indicator definitions, feedback and validation of the report, the stakeholders outlined their responsibilities towards the prevention and response efforts in the war against SGBV in Kenya. Their participation was crucial in ensuring consensus, quality and ownership of the processes and the report, which will act as a roll out template for other counties.

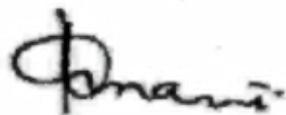
This report documents compliance level of the County governments of Meru, Kwale, Kisumu and Migori with national and international legal frameworks in the prevention and response to GBV; The report also provides

1. Summarized views of Council of Elders and leaders from these counties use of formal justice systems in GBV cases; and
2. A way forward towards the national and county government approach for the implementation of laws, policies and regulations on the prevention, response and management of GBV.

This report emphasizes the progressive nature of the Kenyan Constitution which has an elaborate bill of rights and strong provisions for the upholding women's rights, and the recognition of equality of men and women and their entitlement to enjoy equal opportunities in the political, social and economic spheres. Through this report, NGEC hopes to provide transparency on the

progress of the governments' compliance with gender responsive laws.

Thank you.

A handwritten signature in black ink, appearing to read 'W. Lichuma'.

Winfred Lichuma, E.B.S.

Chairperson

National Gender and Equality Commission



Acknowledgement

The National Gender and Equality Commission (NGEC) would like to acknowledge the support and contribution of individuals and institutions that have made the publication of this report possible. First, we would like to thank our consultants Justice Violet Mavisi and Ms. Anne Ireri who collated and analyzed the data and information contained in this report. The Commission is also grateful to the County Governments of Meru, Kwale, Kisumu and Migori; and their respective Council of Elders for their valuable input and open deliberations, which contributed greatly to the information contained in this report.

We would also like to make a special mention to the efforts of the NGEC team led by the Chairperson, Commissioner Winfred Lichuma, Jackline Nekesa, Tabitha Nyambura, Stephanie Mutindi, Angellah Khamala and James Ngechu. They worked tirelessly to ensure the successful completion of this report. Support from other NGEC Commissioners and staff is also acknowledged and appreciated.

Our gratitude extends to UN Women, the UN entity for gender equality and women empowerment, whose financial support did not only make the field activities possible, but as well as the publication of this report.

And to all other persons who have not been mentioned by name but made significant contributions to the process of producing this report, we sincerely thank you for your efforts towards the completion of the report.

Paul Kuria

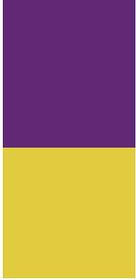
Ag. Commission Secretary/CEO

Abbreviation

COE	- Council of Elders
ECD	- Early Childhood Development
FGM	- Female Genital Mutilation
HIV	- Human Immunodeficiency Virus
MCA	- Member of County Assembly
NGEC	- National Gender and Equality Commission
NGO	- Non-Governmental Organisation
SGBV	- Sexual and Gender Based Violence
STI	- Sexually Transmitted Infection
UN	- United Nations



Audit Findings Dissemination Meeting held at Silver Springs on 12th June 2015



1.0 Introduction

The Kenya Constitution is one of the most progressive constitutions that has an elaborate bill of rights and strong provisions for the upholding women's rights. The constitution recognizes the equality of men and women and their entitlement to enjoy equal opportunities in the political, social and economic spheres.

The Constitution also acknowledges that any treaty or convention which Kenya has ratified forms part of the law of Kenya¹. These instruments have far reaching protection measures for women in the area of SGBV. This includes the Convention on the Rights and Welfare of the Child², Convention on the Elimination of all forms of Violence Against women³, International Convention on Civil and Political Rights⁴; the International Convention on Economic, Social and Cultural Right; the Universal Declaration on Human Rights⁵; The African Charter on Human and Peoples Rights⁶the African Charter on the Rights and Welfare of Children, The Maputo Protocol and other regional instruments.

The state is also expected to pass legislation and other measures including policies and programmes to give effect to these rights. The government has made progress in the enactment of laws and policies that are gender responsive touching on equality and non- discrimination and also aimed at giving protection against SGBV of its citizens. Such laws include the Sexual Offences Act 2006, the Marriage Act 2014, the Matrimonial Property Act 2013, The Protection against Domestic Violence Act 2015, the Prohibition against Female Genital Mutilation Act 2013, the Counter Trafficking in Persons Act 2013 and the Victim Protection Act 2014.

The government has also developed a number of policies including the National Gender and Development Policy 2000, National Action Plan for Elimination of Female Genital Mutilation 1999-2019, Multi-sectoral Standard Operating Procedure (SOPs) for Prevention of and Response to Sexual Violence in Kenya (2013) and National Framework toward Response and Prevention of Gender Based Violence in Kenya⁷. All this goes to show the government's commitment to tackle the menace of sexual and gender based violence in Kenya. These laws and policies have been passed at the national government level.

Despite this progressive legal and policy framework, cases of sexual and gender based violence are minimally reported. This may be due to:

- Lack of awareness of the existence of laws
- Lack of awareness by communities of what sexual violence entails
- Lack of knowledge of the formal justice system

- Cultural practices that endorse various forms of sexual violence e.g. FGM
- Stigma and discrimination

The use of the formal justice system has been discredited by some, as this has been found to:

- Be irrevocably adversarial and in some cases damages relationships within the family, neighborhoods and communities
- Takes a long time to finalize a case
- Be out of reach for many communities due to distance, cost especially to children, persons with disabilities, women, the elderly, minority and marginalized groups
- Some of the cases need not go to the courts and this burdens the court system itself

The statistics around SGBV are high especially against women. This fact can be seen from the various statistics of government on SGBV cases. The Kenya Demographic and Health Survey (KDHS) 2014 indicate that women are more likely to experience physical violence committed by their spouse/partner than men and that sexual violence committed by a spouse/partner is not as prevalent as physical violence. 38 percent of ever-married women age 15-49 have ever experienced physical violence committed by their husband/partner, while 23 percent experienced violence in the 12 months prior to the survey. Nine percent of ever-married men age 15-49 have ever experienced physical violence committed by their wife/partner, while 5 percent experienced violence in the 12 months prior to the survey. About 14 percent of women and 4 percent of men have experienced sexual violence committed by a spouse/partner.

Gender-based violence, particularly against women and children, is on the rise in Kenya as evidenced by Gender Violence Recovery Centre's 2012 statistics that showed that among the cases reported, 2,532 were attributed to sexual violence while 422 were on physical violence. A 2010 study conducted by UNICEF on Violence against Children showed that nearly one in three females and one in five males experiences at least one episode of sexual violence before reaching age 18¹. These statistics are supported further by the 2014 Annual Crime Report by the National Police Service which indicated that cases of sexual violence had increased in some aspects especially for defilement.

Type of violence	2012	2013	2014
Rape	786	953	893
Defilement	3387	3286	3685
Incest	284	226	240
Sodomy	110	108	106
Abduction	75	59	68

Kenya National Police Service Annual Crimes Report 2014

¹ Republic of Kenya. (2012). Violence against Children in Kenya. Findings from a National Survey 2010. UNICEF, Nairobi, Kenya

2.0 The Study Objectives and Background

The National Gender and Equality Commission (NGEC) in meeting its wide mandate aims at facilitating and advocating for the use of formal justice systems in Sexual and Gender Based Violence (SGBV) disputes in ensuring that justice is achieved. It is also the duty of NGEC to facilitate, audit, monitor and advice on gender mainstreaming and to raise awareness on the existence of legislation for the creation of a culture of respect for the principles of equality and freedom from discrimination. NGEC aims at engaging community leaders and inform them on the various evils attributed to SGBV. NGEC has the principle mandate of ensuring compliance with all treaties and conventions ratified by Kenya relating to issues of equality and freedom from discrimination. The development of legislation by the respective counties touching on SGBV need be aligned to the existing legislation at the national, regional and international level on gender equality. To this end, the aim of this assignment is to monitor the legislation that exist in the county governments in an effort to ascertain their compliance with national, regional and international provisions on SGBV.

The United Nations (UN) Women is a United Nations' entity for gender equality and empowerment of women established to accelerate progress on meeting women's needs worldwide and to support international political negotiations to formulate globally agreed standards for gender equality. UN Women works with governments and non-governmental partners to help them put in place policies, laws, services and resources that women require to move towards equality. It is in this light that the UN Women partnered with the National Gender and Equality Commission to audit such laws, policies and other mechanisms put in place by County governments to tackle SGBV.

A tool to monitor compliance of the county governments was developed. The tool monitored the area of legislative and policies put in place, administrative action or measures put in place and lastly, the strategies put in place by the counties to deal with SGBV. See annexure 1. A one day awareness meeting was held with the Council of Elders (CoE) in order to enhance their understanding of the laws in place to deal with SGBV and to agree on their role in the dealing with SGBV.

The audit was carried out in the counties of Meru, Kwale, Kisumu and Migori. Meetings were held with the county government officials, members of the county assemblies, council of elders and chiefs⁹. The aim of the meetings with the elders and chiefs was to

- Sensitize the elders on the laws dealing with SGBV
- Sensitize the elders about gender and SGBV
- Understand the role of the CoE in the resolution of SGBV cases
- The use of formal and informal justice system
- Get their perspective and response in dealing with SGBV.

⁹ The meetings with the Meru County Officials was held on the 18th March 2015 at the County Government offices, the meeting with the Njuri Ncheke was held at the Westwind Hotel on the 19th March 2015. The meeting with the Kwale County Government Officials was held on the 25th March 2015 and that of the Kwale Council of Elders was held on the 26th March 2015 at the Hill Park Tiwi Hotel. The Meeting with the Kisumu and Migori County Government officials was held on the 19th and 20th May 2015 while the meeting with the Luo Council of Elders was held on the 20th May 2015 at the City Hotel Kisumu.



3.0 Meru County

3.1 Introduction

SGBV cases in Meru identified by the county government include;

- Female Genital Mutilation
- Sexual violence
- Early marriage and sexual activities by the young children
- Psychological torture (women should not be heard, who handles the finances in the home)
- Child labor
- Domestic Violence
- Lack of ownership of property which in most cases is used as collateral for bank loans

These cases are not usually reported nor spoken about by the community. While violence happens to both males and females, the majority of the victims who are women do not speak out against them, either due to lack of knowledge or cultural reasons. On the other hand, the Council of Elders known as the Njuri Ncheke fights against vices like FGM and general gender based Violence. In 1956 for example, the council of elders outlawed the practice of FGM. Njuri Ncheke was built on five pillars and these are;

- Ensuring social justice in Meru
- Ensuring issues of drug use are dealt with
- Ensuring sanity in the home and marriages (i.e. peaceful co-existence)
- Fighting social vices in society including FGM and GBV

It is for this reason that the county government has reached out to the elders to request them to take the lead role in the fight against FGM and to be in the forefront in advocating for the rights of the girl child. This will ensure that SGBV is eradicated as the elders command a lot of respect in the community.

Some of the challenges faced in the fight against SGBV in the county include.

- Most of the people have no knowledge on the laws and policies on the issue of SGBV.
- There is also lack of awareness on these issues as being crimes.
- Lack of statistics on SGBV that would help in planning activities on these issues
- There are no rescue homes and centers to accommodate victims of SGBV

The county government has recognized the role played by NGOs who have grassroots presence in the fight against SGBV like Maendeleo ya Wanawake. These organizations carry out a lot of sensitization and awareness on issues such as FGM. The County government has taken the initiative of partnering with and strengthening the efforts of Maendeleo ya Wanawake in

dealing with SGBV through awareness raising on laws and policies and development of women leaders. In some instances, the county government has funded the awareness activities of these organizations. The churches support the work of the county in the protection of women's rights and the fight against SGBV.

Efforts of helping women have been done on an individual basis. The Women Representative of Meru Hon Florence Kajuju has set up her office as a place of rescue. This is something that the county government can ride on and work with her. There are efforts by the county government to work with other stakeholders in a multi-sectoral manner in dealing with SGBV.

3.2. Department of Gender, Sports and Culture

It is not clear whether the gender department and its activities carried out the National Government through the Ministry of Gender, Children and Social Development is devolved. However, the county government is dealing with gender issues and has a department on gender. This department has had a process of analyzing the laws and policies on SGBV. The county identified the main problem that causes violence as alcoholism. The county assembly has therefore passed a law on alcohol and a body to regulate the use of alcohol.

The county government has done some work on FGM but not the wider issues of SGBV. The department is in the process of analyzing the FGM act and work around it, and it will be handled in the next work plan. The county will also develop a bill on FGM customized for the Meru County. Very little work has been done on sexual offences. The department is working on having a general law on SGBV law as a whole and have regulations on each area identified.

3.3 Use of Formal Justice System

The elders deal with family cases such as domestic violence through mediation. In some cases they deal with criminal cases and are encouraged to intervene for example where one is suspected of handling illegal guns. The elders take up cases which in most cases have gone through the formal justice system and the complainants are not satisfied with the system. The elders therefore act on appeal. When the elders decide, the case is then finalized and the parties withdraw their cases from court. Most of the cases they deal with are civil cases on land and inheritance.

The community members use the formal justice system especially for sexual assault and not for FGM which is done in secrecy. FGM cases are not reported as they ought to be. Cases on FGM that reach the courts are reported by the administration especially the chiefs or other institutions like the children department or Non-governmental organisations.

3.4 Analysis of laws, policies, administrative action and strategies on SGBV

3.4.1. Legislative and policy compliance.

3.4.1.1. Enacted laws

Meru County Alcoholic Drinks Control Act 2014

The county does not have any laws that directly deal with SGBV. However the county has passed **the Meru County Alcoholic Drinks Control Act 2014** pursuant to the Fourth Schedule Part

II of the Constitution. The act provides for the licensing and regulations of production, sale, distribution, consumption and outdoor advertising of alcoholic drinks. The county government identified alcoholism and especially excessive alcoholism as a cause of GBV in society and its regulation is good for the society.

Some of the objectives of the act are to:

- Protect the health of the individuals from dangers of excessive consumption of alcoholic drinks
- Inform and educate the residence in the county on the harmful health, economic and social consequences of the consumption of alcoholic drinks
- Reduce and mitigate the negative health, social and economic impact on communities resulting from production, sale and consumption of alcoholic drinks

3.4.1.2 Proposed legislation

Meru County Health Services Bill 2014

This bill is intended to give effect to the implementation of Section 2 of Part 2 of the Fourth Schedule of the Constitution on County Health Services. The purposes of the act is

- Promote access to health services
- Facilitate the realization of the right to health care as provided for under Article 43 of the Constitution.

One of the principles in service delivery is that health rights of the individuals shall be upheld, observed, promoted and protected. The health care personnel shall have the duty to provide health care to the best of their knowledge and the patients have the right to be treated with dignity and have their privacy respected. The bill has proposed the development of a number of laws but none touches on SGBV.

3.4.1.3 Policies:

Meru Health Policy

This aims at offering quality accessible health services to all by improving access to health care across the county. However, a reading of the same does not provide how the county will deal with SGBV specifically.

There is a commitment by the county to review and implement laws and policies to strengthen Meru County Health Interventions, to develop county and adopt national treatment guidelines and health standards and to implement them as appropriate. The county is also committed to implement the community health strategy by educating communities to embrace wellness and maintain health, create demand for quality health services and to engage the community for quality health services, planning and governance and feedback services.¹⁰

There is need to establish a smooth process in handling SGBV cases including referrals. The

Meru Hospital does not have a GBV center.

Sexual and Gender Based Violence Policy

This has not been developed. However in discussions with the County Government Minister for Gender, Sports and Culture, they have the Alternative Rite of Passage Policy which is used to deal with the issue of FGM and early Marriages. This is done by training young girls entering secondary school on alternative to FGM which is seen as a rite of passage to adulthood. The girls are then sent out as ambassadors in their respective villages as peer educators

The county has regulations aimed at empowering women. There is a framework to empower women so that they can be able to participate in all aspects including governance. Women are given grants through SACCOs of the different groups. They are funded in every sub county at the ward level and every sub county will get an amount equivalent to the wards. Economic empowerment is seen as one of the ways that will empower women to be able to speak.

3.4.2. Administrative/procedural measures (preventive and supportive measures)

The Health Development Plan 2014/2015 does not include SGBV. However, one of the developmental challenges identified in the development plan include rising burden of injuries and violence and the high risk of STI/HIV, teenage pregnancies, abortion, drug and substance abuse. There are no administrative measures or procedures developed or put in place to deal with the issues identified or with SGBV generally.

3.4.3. County strategy in dealing with SGBV

The following strategies have been put in place by the county working in partnership with other stakeholders.

- Enlighten the women to that know they can participate in the leadership and give them a role in the society including taking part in the running the government
- Empower the women financially, in farming, and in other fields. and this will give the women a voice to speak on issues such as SGBV
- Working with the Elders (Njuri Ncheke). This body is seen to have authority over the community and their word is respected by all
- Working with NGOs especially in awareness raising on SGBV and empowerment of women. This includes Maendeleo ya Wanawake, the churches and other NGOs. These organizations are found throughout Meru and have been working with the community for a long time.
- Enhancing the department of Gender, Sports and Culture to deal more with SGBV issues
- Reaching out to the older women with organisations like Maendeleo ya wanawake training them on leadership and eradication of FGM and SGBV in general
- Using the Rite of Passage programme to discourage early marriages and diseases.
- Organize international seminar for women in Meru to give women a voice and to benchmark and learn from others.

3.5 Way Forward: County Government.

During the discussions, the following were identified as key issues that would help the county deal with SGBV

- The need to pass the policy on Alternative rite of passage to deal with FGM
- Customizing the FGM act and other laws on SGBV to deal with the issue through the policy and laws
- The need to have continuous trainings of police on SGBV
- The need to sensitize the county government and the MCAs on SGBV to ensure that laws and policies are passed and there is enough funding allocated for gender and SGBV work.
- There is need for more capacity building trainings for staff members of the county government on gender and SGBV
- The administrative structure of the county which goes down to the village elders can be used for sensitization and other activities on SGBV. However these people need to have knowledge on what they can deal with. There is no law or regulation guiding their work. There is therefore need to train them on laws and policies on gender and SGBV
- Continuous awareness activities for the general public have been planned to help in the elimination of SGBV. These are already on going in collaboration with NGOs and funded by the county government
- Increased budgetary allocation for the gender department

3.6 Council of Elders (CoE) Njuri Ncheke

3.6.1 Introduction

The participants in a meeting of council of elders included members of the council of elders, chiefs, county assembly member, and county government officials. The participants' expectations were:

- To enhance their capacity of formal justice systems as well as understand more their roles
- To receive help from the gender ministry to support the facilitation of meetings up to the grass roots
- Every county to have seminars like this so that they can be reached with this information
- To receive support from the County Government with regard to the activities of the Council of elders
- Partner with the county government upto the grassroots levels

The Njuri Ncheke is an old institution that came in place during the migration of the Meru community to their current home. It is known as Njuri Ncheke of Meru. There are more than 5000 Njuri Ncheke elders spread across the whole of Meru. Njuri Ncheke works for the interests of the child, man and woman.

The members are drawn from Meru and Tharaka Nithi Counties. The focus of the CoE is:

- Human rights of the people of Meru
- To address gender equality and women rights issues in Meru County
- To address land issues
- To ensure peaceful co-existence within Meru county
- To ensure access to education for children
- To protect the rights of children in the family
- To ensure peaceful family existence
- To resolve SGBV cases
- To ensure there is no child labour
- To advocate for rights of the girl child including the eradication of early marriages, FGM, school drop out
- To eradicate alcoholism and the use of illegal drinks which leads to children not having their rights
- To preserve the forest including planting of trees
- To conserve water catchment areas by ensuring the same are not allocated to people

The elders help to address these issues at the grassroots level where the county government may not be able to reach. The County Government too recognizes the role of the elders and supports them in their work. The Njuri Ncheke is therefore one of the traditions that the Meru culture respects. The membership of the Njuri Ncheke does not include women. Despite this, the council of elders takes it upon themselves to solve issues that also affect women and this can be seen from their area of focus.

According to the elders, the SGBV Cases in Meru include;

- Rape
- Defilement
- FGM (this was first outlawed by the elders in 1957)
- Domestic violence
- Early marriages
- Use of alcohol especially illegal one that lead to a lot of violence
- Lack of education for boys and this leads to violence in marriages

3.6.2 Role of the Elders

Land issues. The elders have over the years resolved land cases. Some of these cases are in court and may have been pending in court for a long time. The courts also advise the parties to go to the elders to solve such cases. The decision of the elders is final and once determined, one withdraws the case from the formal courts. .

- i. **Sexual and gender based violence:** The elders have through its structures been conducting continuous awareness at grass root level with regard to SGBV. They have continued to condemn such acts including FGM. In 1956, the Njuri Ncheke Paramount Chief condemned it and now Meru is about 60% off from practicing it. The elders will continue to fight the remaining 40% of the vice.
- ii. **Alternative Dispute Resolution:** The elders have taken the role of resolving SGBV that is not of a criminal nature such as marital disputes by counseling the partners and mediating the disputes. Acts such as rape and FGM are seen as crimes and are not resolved by the elders but are reported to the police
- iii. **Alcoholism and use of illegal drinks:** this is seen as the main cause of SGBV cases. The elders are at the forefront of fighting this vice in the community by speaking against it.

It was agreed that the county government policies and laws, together with the national laws and policies should guide the work of the elders. The elder's role does not include solving cases that are of a criminal nature. This is despite the fact that the Constitution recognizes the role of traditional dispute resolution mechanism.

3.6.3 Way forward: Elders

The elders agreed that:

- The elders carry out a lot of work in the community including awareness. The elders therefore need to have their capacities enhanced and to have knowledge on laws and policies of the land on SGBV including laws on marriage.
- The elders need to understand which cases they can deal with and which ones they cannot
- There is need to carry out awareness on SGBV to the men too instead of concentrating with the female gender. This will help in killing such vices
- The elders are the custodians of the heritage and customs and can continue to build on this in dealing with SGBV
- There is need to have exchange programmes with other elders around the country and to learn from them
- The elders need and do uphold such core values. These are the same core values of NGEC. They include
 - o Fairness (equity)
 - o Transparency (accountability)
 - o Respect of diversity
 - o Inclusiveness
 - o Integrity (chapter Six. To be an elder character is important)
- There is need to have another forum for women leaders and have this information taken to the grassroots. The women groups and the elders to be involved in the trainings. It would be good if there is a district programme to carry out the work of educating the

community on SGBV

- It is important that a number of elders and women leaders are identified who will be trained as trainers and who will carry out the work in the grassroots and they are given a token of appreciation.
- There is need for NGEC to have a follow up to the various actions identified.

4.0 Kwale County

Kwale County is faced by different GBV cases including,

- Wife assault and battery
- Defilement, incest and rape
- Tourism related violence such as child sex trafficking and exploitation
- Forced child labour

Kenya's human rights situation on GBV and the use of the formal justice systems is seen as still having a long way to go. This is because access to justice still faces a lot of impediments such as distance to the institutions of justice. Kwale County still has very few courts and the majority of the people live in the rural areas where there are no courts. Secondly, victims of GBV still face a lot of stigma from the community and this continues to re-victimize them. They therefore do not report many of these cases.



A member of the Kwale Council Of Elders makes his point During the meeting

4.1 Legislative and Policy measures

The laws that touch on the protection of cases of GBV such as the constitution and the sexual offences act can be said to be adequate. However they are not well implemented. Such measures like shelters and halfway homes that would help have not been addressed in the laws and policies of the national government. Lack of accurate data and statistics on GBV both in the county and the whole country general is lacking and this cannot help in the full implementation of the law.

The county government has not enacted any laws nor proposed any such bills that would therefore address the gaps identified in the law. This is despite having passed regulations aimed at mainstreaming gender in all the departments of the county government. The county government has passed policies such as the Beach access and management policy which also looks at the issue of GBV. .

4.2 Administrative/ Procedural measures (Preventative and Supportive measures)

The health services throughout the county operated by the county help in the treatment of the victims/ survivors of GBV although no other supportive measures have been undertaken. Financially, the county has established a revolving fund kitty whose aim is to boost women and youth economically. The county's revolving fund is expected to empower the women economically.

4.3 County Strategy in dealing with GBV

The county has put in place a number of strategies that would help to deal with GBV. These include:

- Collating data on GBV in the County which in turn will inform planning and response
- Strengthening the role of Youth and gender offices in the county to address GBV
- Lobbying for a court in each Sub- County to enhance access to justice for victims of GBV
- In terms of medical response, the county is exploring ways of having public private partnerships to support; for example the GBV center at the County Hospital
- Awareness activities for the general public have been planned to help in the elimination of GBV
- Measures put in place to deal with discriminatory laws, customs, traditions and religious practices that perpetrate GBV, and this include:
- Legislative empowerment of Members of County assembly to pass gender responsive legislation
- To have an increased budgetary provision to address GBV matters in the County. Currently there is no budget allocated towards GBV

No strategies have been put in place to guide informal justice systems dealing with GBV

4.4 Council of Elders of Kwale

The participant's expectations were:

- To enhance their capacity of formal justice systems as well as understand more their roles
- To receive support from the NGEN in Kenya with regard to the activities of the Council of elders
- To receive more information as regards the work of UN Women in Kenya.

4.4.1 About the Council of Elders of Kwale

The Kwale Council of Elders was established in 2008 and by 2010 was fully registered and membership drawn from across the County of Kwale. The focus of the CoE is three fold:

- To address and find resolve for the land injustices and issues that the residents of Kwale were facing
- To address the education challenge in the county that is evidenced by extremely low literacy levels in the County
- To address gender equality and women rights issues in Kwale County.

The SGBV issues identified by the elders include:

- Financial gender based violence where one partner mostly the male denies their spouse support of a financial nature thereby leading to mental and psychological torture
- Succession disputes where majority of women are denied an opportunity to inherit their deceased spouse's property especially by their relatives and this leads to wife disinheritance
- Poor education standards in the county which has led to parents and teachers imposing to students to repeat classes over a very long period and leads to learner apathy and eventually the students dropping out of school.
- Early marriages especially for the girl child due to poor literacy levels in the County as well as low education standards.
- Land grabbing especially by political leaders over successive years and thereby leading to landlessness and increased vulnerability of especially female headed households
- Massive drug abuse by the youth in the County which in turn has resulted in high sexual and gender based violence levels especially defilement.

4.4.2 Role of the CoE

- Land issues:** The CoE has through existing structures documented the land issues and injustices in Kwale County and has presented the same to the Cabinet Secretary for land. The most affected is public land such as schools and public parks which have been grabbed. There has also been illegal allocation and relocation of squatters which has seen female headed household discriminated the most in the process. The CoE reports that despite them presenting the issues to the government there has been no concrete action to date.
- Sexual and gender based violence.** The CoE has through its structures have been conducting continuous awareness at grass root level with regard to SGBV and ways of combating the vice. Through collaborations with other organizations on human rights in the area as well as the local governments (Chiefs), they have been keen in combating defilement and early marriage challenges. The CoE maintains that they continue to face challenges from the community who are not willing to come out as witnesses in these cases and also not willing to providing a safe haven for survivors. The CoE also raised

a concern that in some instances the Police are also a challenge as they take little or no action when the cases are reported to them. They recommend that awareness creation should be carried out targeting both the duty bearer on their role to prosecute SGBV as well as the rights of the victims of the vice.

- iii. **Alternative Dispute Resolution.** The CoE has taken the role of resolving SGBV that is not of a criminal nature such as marital disputes by counseling the partners and mediating in the disputes. They have also involved relevant government agencies such as the children department when a need has risen to assist in resolving the disputes. They however have identified a capacity gap on matters of mediation and negotiation and request for support from NGECC towards enhancing their capacity.

5.0 Kisumu County

Kisumu County is faced by different GBV cases including,

- Access to education for the girl child
- Forced domestic labour
- Sexual violence especially defilement
- Forced cultural practices such as wife inheritance
- Child abuse

According to the county representatives the current legislation in place to address GBV in Kenya is sufficient and what is lacking is the coordinated implementation of the same. They are aware of the existence of the Constitution, the Sexual Offences Act and the Children Act.



Council of Elders from Kisumu and Migori Counties

5.1 Challenges in Kisumu County

- There is a gap in GBV service provision. Residents travel long distances to access justice as the law courts are far from their reach
- Cultural obstacles and barriers in the context of GBV increase stigma that survivor face especially in incest cases
- There is need to domesticate early childhood Guidelines and ensure the retention of children in school. The Laws against child trafficking and child marriages need to be localized to the contexts within the counties.

- There is no available data on GBV at county levels; and such data is crucial for planning and budgeting
- Budgeting constraints are still being experienced, thereby making it difficult to implement the policy guidelines

5.2 Legislative and Policy measures

5.2.1 Proposed bills

The Persons with Disabilities Bill and the Public Participation Bill have been prepared and are awaiting discussion in the assembly. These bills have a component of addressing SGBV especially for persons with disabilities who are protected from all forms of violations including sexual and gender based violence.

The Cultural bill of Kisumu County is now with the County Cabinet. This bill aims to address the ethnic diversity of the County. The bill does not deal with existing cultural practices that contribute to SGBV violations such as wife inheritance.

The County is currently formulating a number of policies to address gender issues namely the youth policy and the gender policy

5.3 Administrative/ Procedural measures (Preventative and Supportive measures)

The Kisumu County Gender Strategic plan seeks to ensure that gender mainstreaming is achieved in all aspects of the County government's plan and implementation. At executive level, there is considerable female representation in governance by having a deputy governor, 4 cabinet women as well as the speaker and deputy speaker; all being women.

Victims of GBV are referred to Police stations some of which have been equipped with gender desks. There are around 720 newly recruited teachers by the County government and they have all signed a code of conduct which includes child protection measures. There are also plans to equip the ECD teachers to conduct civic education on gender and child issues.

5.4 County Strategy in dealing with GBV

The County has put the following strategies in place;

- Development of empirical data to enable planning and programming on GBV matters
- To Conduct awareness through ECD teachers
- Establishment of the Gender Committee in County Assembly to work together with other stakeholders to sensitize the public on GBV matters
- Seeking the intervention of NGEC to assist in the implementation of the County strategy on gender

The county has also put in place medical strategies that would deal with SGBV. The county has distributed 7 ambulances to the 7 sub- counties. The County has also benefited by being a recipient of the First Lady's Mobile Clinic initiative.

6.0 Migori County

Migori County is faced with different GBV cases including,

- Domestic Violence
- Female genital mutilation
- Sexual gender based violence; defilement
- Early child marriages

The current legislation in place to address GBV in Kenya is sufficient and what is lacking is the coordinated implementation of the same. The members are aware of the existence of the Constitution, the Sexual Offences Act and the Children Act

6.1 Legislative and Policy measures

The Migori County government is yet to pass any laws to address SGBV. The County government is part of the Technical working group on gender issues which brings together various stakeholders on matters of gender. There is however no specific committee at the Assembly level to address gender issues. The Migori Education Committee has however drafted an Alcohol Control Bill to address alcoholism which is a contributing factor to SGBV.

6.2 Administrative/ Procedural measures (Preventative and Supportive measures)

- The Migori County government has together with the national government trained youth and gender officers at sub- county level on matters of GBV.
- The Members of County Assembly from Kuria sub- County have been working with the Anti- Female Genital Mutilation board in awareness creation on matters of GBV.
- The County intends to put up rescue centers in each Sub- county as outlined in the County Integrated Development Plan (CIDP). Currently the County has been collaborating with a local community based organization to offer shelter to girls who have been rescued from FGM.
- The County government has been encouraging women to apply for county jobs to increase the number of women addressing gender issues at County level as this will boost the fight against GBV
- The County government has held public forums and intends to continue holding gatherings that are open and free to the public during which they address matters of SGBV
- There is in place a Governor's scholarship Scheme that focuses on bright and needy children as beneficiaries and hopes to also motivate the retention of girls in schools
- The county has put in place a financial empowerment Kitty(revolving Fund run by County government)

6.3 County Strategy in dealing with GBV

The county has put in place the following strategies;

- Conduct sensitization forums
- Set up child rescue centers at sub- county level
- Focus interventions in areas where FGM is prevalent such as Kuria East, Kuria West and Suna West
- Lobby for increased budgetary allocation towards GBV matters.
- Training of Members of County Assembly on gender responsive budgeting
- The county government has not put in place the necessary budget that would help them implement the various administrative and other strategic measures they would like to implement.

The meetings with the County representatives highlighted that there is good will to address GBV. However there is need to strengthen the capacity of the duty bearers. The County is yet to establish a department on gender and the County assembly is yet to establish a committee to address gender issues. As a result, the county is yet to undertake concrete steps towards compliance with national and international guidelines on GBV. The National Directorate of gender has undertaken some activities on addressing gender based violence but these efforts need to be complemented with initiatives at County level.

6.4 Luo Council of Elders

6.4.1 Introduction

The elders present were drawn from the four counties of Kisumu, Homabay, Siaya and Migori. The participant's expectations were:

- To learn more about the gender from the different participants present
- To learn more about gender based violence and understand more the different types of GBV
- To know more whether Luo men are victims of gender based violence
- To understand more about the roles of the Luo Council of elders as regards GBV

The most prevalent forms of gender based violence in the counties of Kisumu and Migori as identified by the elders are;

- Wife battery
- Succession and inheritance related violence
- Child labour
- Sexual gender based violence
- Men battery
- Early child marriage

- Female genital mutilation
- Economic violence

The elders also shared their views as regards the existing legal framework on the rights of children and in particular the issue of street children in Kisumu which is a serious issue. The elders were also keen on the need to have full implementation of the laws so as to protect vulnerable children from exploitation. The elders appealed to the NGEC to intervene on matters relating to the issue of street children in Kisumu.

The elders also brought out the issue of corporal punishment in schools. In their view, when applied responsibly, discipline is necessary in order to raise children well. It was however also noted that corporal punishment was banned due to the fact that it has been in some instances been applied excessively and has led to injuries and fatalities of children. The elders also indicated that the issue of early child pregnancies contributes to health issues and complications of the young girls as well as contributing to abortion cases.

It was emphasized that the Constitution of Kenya has made recognition of special groups with special protection of human rights. These groups include children, the elderly as well as persons living with disability. The Constitution has made recognition of the need to ensure that these vulnerable groups are accorded protection from human rights violation and that the involvement of the elderly in matters of development is guaranteed.

6.4.2. Role of Council of Elders

6.4.2.1 Homa Bay County

- The Council of elders can support the political involvement of women which will reduce the incidences of violations that the women may face when seeking involvement and participation in political matters at County level.
- The CoE can also be part of the empowerment of girls at community level and to ensure that they are guaranteed the protection of the law as outlined in the Constitution of Kenya and other laws such as the Children Act intended to ensure that the rights of children are protected.
- The CoE in Homa Bay County appealed to the NGEC for empowerment, capacity building and support to be able to carry out their roles as outlined in Article 159 of the Constitution.

6.4.2.2. Migori County

The CoE from Migori County outlined their role as regards combating sexual and gender based violence as:

- Participating in the creation of awareness on gender based violence. They proposed that this can be done through chief's barazas, churches and youth meetings.
- Dissemination of the Constitution and especially the provisions of Article 159 that speaks of the role of the CoE in exercising judicial authority.
- Intervention role in gender based violence cases where they can refer the cases to the

relevant service providers such as the law enforcement agencies as well as the medical providers. The CoE also pointed out that they have no authority to preside over criminal cases including sexual gender based violence.

The CoE also appealed to the NGEC to support them through funding to enable them to disseminate information on GBV as well as the creation of awareness. The CoE also highlighted the need for legal recognition of their roles and authority so as to enable them to carry out their mandate fully.

6.4.2.3. Kisumu County

- The CoE from Kisumu indicated that they will establish a committee in each constituency to handle GBV matters that are reported to the elders and thereafter refer the cases to the relevant service providers.
- The CoE also proposed to set up a County committee to handle and coordinate the role of the constituency structures and to also assist in handling the cases that are beyond the Constituency levels.
- The CoE also highlighted their role in the creation of awareness on Article 159 of the Constitution.
- The CoE also indicated that they will play a role in the referral of cases to the police and the medical service providers.
- The Kisumu CoE indicated that they require support from NGEC to carry out awareness on gender based violence as well as the recognition of the CoE legally and in government undertakings.

6.4.2.4. Siaya County

The CoE from Siaya County outlined their role as;

- Sensitizing the community on GBV and awareness creation on the Constitution and in particular provisions of Article 159
- Promotion of peace in the communities.
- Arbitration of cases as well as advocate for the abandonment of repugnant cultural practices that have led to gender based violence
- The CoE appealed to NGEC for financial support to conduct awareness on gender based violence. The CoE also requested that data on gender based violence be availed to them.



Mr. Joshua Ogembo, NGEC, Regional Coordinator, Kisumu Office welcomes the Council of Elders to the meeting.

7.0 Cross Cutting Issues

- There is some work going on in the counties that has some impact on SGBV. Most of the work done is around awareness on SGBV and those issues that heighten SGBV for example alcoholism.
- This work has been done in collaboration with non-governmental organisations in the counties with some counties funding the work of the said NGOs.
- The counties have made more strides towards compliance largely at policy and regulatory level. This includes passing of laws on alcoholism
- Budgetary constraints have also been experienced with regard to implementing regulations. This calls for affirmative budgetary processes for gender and other activities
- All the counties are yet to enact legislation or policies that specifically address gender based violence.
- Some policies and regulations have been passed dealing with SGBV. This includes laws on alternative rite of passage, beach access and management
- Economic empowerment of women and youth has been identified as key to tackling SGBV and counties have put in place funding through revolving funds.
- The counties identified lack of knowledge on this issue as being a draw back in the fight against these vices
- Council of Elders are seen as a crucial institution in the fight against SGBV. They have a role in ensuring the community lives in harmony. This they do by carrying out a lot of awareness and resolving disputes. Their role is therefore important even where they cannot resolve certain disputes like rape. They therefore need their capacities enhanced especially in the understanding and application of the national and county laws and policies where they are in existence on SGBV.
- There is need to have continuous training for the police on SGBV both by the national government and by the counties. The measures that are found in other places such as gender desks that help to prevent stigma in the reporting of these cases are missing.

8.0 Challenges/ Gaps

- Lack of capacity of the county assembly members and the officials in the county governments on gender and SGBV.
- Lack of a specific budget for SGBV in both counties is also a worrying issue in the implementation of any projects identified by the counties.
- There are no statistics in the counties on the magnitude of cases on SGBV and this will be good in helping them understand and plan in the implementation of their work.
- The department of gender in the counties and the county government's officials and assembly members need to have their capacities enhanced on gender and SGBV. This will help them identify their roles and plan their work on gender and SGBV. It will also help the county governments and assemblies in proposing the laws and policies to be passed by the assemblies and to seek for sufficient budgetary allocation for this work.
- Lack of a multi-sectoral understanding and work on SGBV
- There is lack of other supporting institutions in dealing with SGBV including rescue homes and centres, SGBV centres in hospitals, lack of gender desks at police stations
- The county governments and assemblies need to be helped in the identification and development of laws and policies and other measures to deal with SGBV cases in order to be compliant
- Lack of adequate knowledge, skills and understanding on gender, SGBV, laws and policies and dispute resolution mechanism by CoEs in carrying out their work
- There are no critical monitoring and evaluations components on SGBV cases which will help with the responses required
- The Kuria Council of Elders should have been included as this is one area that is highly affected by SGBV
- The campaigns against SGBV by the UN and other bodies does not include the CoEs who have a lot influence in their communities

9.0 Recommendations

9.1 County Governments

- County government's require legislation and policies that directly address SGBV
- The County governments should enhance their linkages and collaboration with other stakeholders in SGBV and in particular the CoE
- The County governments should focus on enhancing the capacity of key players in the fight against SGBV such as MCAs, youth and gender officers
- The County governments should lobby for adequate budget allocation towards SGBV response such as the establishment of shelters and rescue homes in the counties
- The county governments to support the work of the CoE

9.2 Council of Elders

- The CoE require a clear understanding of their role as outlined in Article 159 of the Constitution
- The CoE require clarity on the types of cases that they can handle and those that they do not have jurisdiction over especially criminal cases
- The CoE should implement exchange learning's with other traditional justice systems so as to learn and exchange best practices
- The CoE have a crucial role in awareness creation around SGBV and should utilize this opportunity
- The CoE to work with county governments and national governments of the day and also work with the members of the national and county assemblies to ensure they succeed in their work
- To audit laws and policies of the county governments and push for implementation of the said laws and polices

9.3 National Gender and Equality Commission

- To enhance the capacities of the County governments, the County Assemblies on Gender and SGBV specifically
- To enhance the capacities of the county governments and assemblies on gender sensitive budgeting and carry out an audit where this is said to have been carried out
- To start the process of working on the provisions of Article 159 of the Constitution on the role of traditional justice mechanism
- To initiate the multi-sectoral approach mechanism in the work around SGBV in the counties which brings in all the players, the health, police, judiciary, CoE, and other NGOs
- To continue making frequent follow up visits and meetings
- To help in documenting and disseminating best practices on SGBV

10.0 Annexes

Annex I: Respondents/ participants questionnaire

ANNEX1: ADVISORY ON THE USE OF FORMAL JUSTICE SYSTEMS ON GBV AND AUDIT OF COUNTY GOVERNMENT COMPLIANCE WITH NATIONAL AND INTERNATIONAL LEGISLATION/PROVISION ON GBV

RESPONDENT'S NAME	
RESPONDENT'S DESIGNATION	
RESPONDENT'S PHONE NUMBER	
RESPONDENT'S EMAIL	
ORGANIZATION	
DATE OF INTERVIEW	
LOCATION OF INTERVIEW	

Introduction

The UN Women and the National Gender and Equality Commission has commissioned a study on the use of the Formal Justice Systems on GBV and also a spot check to audit and monitor the county governments compliance with National and International Legislation/provisions on GBV. We would like your perspectives on the subject based on the following set of questions. Your time is highly appreciated.

Question	Response
What in your opinion is Kenya's current human rights situation on GBV and the use of the Formal and informal justice systems	

<p>Kindly discuss the different forms of GBV encountered in the county.</p>	
<p><u>LEGISLATIVE AND POLICY MEASURES</u></p>	
<p>Have you read or seen any Kenyan laws and policies that are relevant on GBV?</p>	
<p>Do any of the laws and policies have any gaps?</p>	
<p>What laws have been passed by the county government designed to deal with SGBV and gaps earlier identified in our national laws</p>	
<p>What regulations have been passed that address GBV</p>	
<p>What bills have been proposed in response to SGBV</p>	
<p>What policies have been passed by the county government in dealing with GBV</p>	
<p>What policies have been proposed to deal with GBV</p>	

ADMINISTRATIVE/PROCEDURAL MEASURES (PREVENTIVE AND SUPPORTIVE MEASURES)	
Kindly describe some of the services victims/survivors of GBV access in this area	
What supportive and protective measures has the county undertaken with respect to GBV	Gender desks Safe houses
What empowerment measures have been undertaken by the county with regard to GBV	Sensitization Training of relevant officers (police, health officers, teachers, social workers, community workers) Training of the county government
COUNTY STRATEGY IN DEALING WITH GBV	
What strategies has the county put in place to deal with GBV	Having segregated data Having a multi-sectorial approach in dealing with GBV Rehabilitation of offenders
What strategies have been put in place for medical response to GBV	
What activities have been planned towards elimination of GBV	
What measures have been put in place to deal with discriminatory laws, customs, traditions and religious practices that perpetrate GBV	
What strategies have been put in place to guide informal justice system dealing with GBV	
What kind of budget has been allocated towards GBV activities	
Thank you very much for your time!	

Annex 2: Meeting Council of Elders- program

ANNEX 2: ADVISORY ON THE USE OF FORMAL JUSTICE SYSTEMS ON GBV AND AUDIT OF COUNTY GOVERNMENT COMPLIANCE WITH NATIONAL AND INTERNATIONAL LEGISLATION/PROVISION ON GBV

TIME	ACTION	RESPONSIBLE
8.00-8.30	Registration	NGEC
08.30 – 09.30	Welcome and Opening Remarks Expectations Workshop Objectives	NGEC UN WOMEN Mavisi
09.30 – 10.30	Sexual and Gender Based Violence Definition, Myths and Stereotypes Situation in Kenya	Mavisi
10.30 – 11.00	TEA BREAK	
11.00 – 11.30	Role of Council of Elders in GBV cases (sharing in plenary)	Mavisi
11.30 – 01.00	International and National Standards on GBV Constitution CEDAW Sexual Offences Act Female Genital Mutilation Act Victim Protection Act Penal Code Counter Trafficking in Persons Act	Mavisi
01.00-02.00	LUNCH BREAK	
02.00 – 3.00	ADR and the role of Council of Elders	Mavisi

Annex: 3: Constitutional Provisions that protect and promote women rights

The following constitutional provisions aim at protecting, promoting and fulfilling the rights of women. They have a bearing to the elimination of SGBV and can be used by the counties to address SGBV issues.

NO	ARTICLE	PROVISION	RELEVANCE TO SGBV
1	2(1)	This Constitution is the supreme law of the Republic and binds all persons and all State Organs at both levels of government	All acts done must be in conformity with the constitution
2	2(4)	Any law including customary law, that 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	Cultural practices that allow for violence against women are unconstitutional
3	2(5)	The general rules of international law shall form part of the law in Kenya	Any rules that outlaw violence and give interpretation to what SGBV is will be recognised
4	2(6)	Any treaty or convention by Kenya shall form part of the law of Kenya under the Constitution	Any treaty that Kenya has signed that relates to SGBV is part of the laws applicable in Kenya
5	10(2)(b)	Values include human dignity, equity, social justice, inclusiveness, equality, human rights, non- discrimination and protection of the marginalised	These principles apply to women
6	19(2)	The purpose of recognising and protecting human rights and fundamental freedoms is to preserve the dignity of individuals and communities and to promote social justice and the realisation of the potential of all human beings	The reasons of protecting women against SGBV is to preserve their dignity
7	19(3) (a)	The rights and fundamental freedoms in the Bill of Rights belong to each individual and are not granted by the State	Women are entitled to the same rights found in the Bill of rights and other rights not in the bill but are recognised or conferred by law and are not inconsistent with the Constitution
8	21(1)	It is the fundamental duty of the State and every State organ to observe, respect, protect, promote and fulfil the rights and fundamental freedoms in the Bill of Rights	Women can hold government and any state organ accountable for the failure to honour any of their obligations regarding their fundamental rights and freedoms

9	21(3)	All State organs and all public officers have the duty to address the needs of vulnerable groups within society including women, older members of society, persons with disabilities, children, youth, members of minority or marginalised communities, and members of particular ethnic, religious or cultural communities	Women can hold state organs accountable if they do not address their needs
10	21(4)	The State shall enact and implement legislation to fulfil its international obligations in respect of human rights and fundamental freedoms	The law will protect the rights of women living with HIV
11	22(1),	Every person has the right to institute court proceedings claiming that a right or fundamental freedom in the Bill of Rights has been denied, violated or infringed, or is threatened	This gives one the right to seek justice and file suit in court for any violation of their right
12	22(2),	In addition to a person acting in their own interest, court proceedings under clause (1) may be instituted by A person acting on behalf of another person who cannot act in their own name A person acting as a member of, or in the interest of , a group or class of persons A person acting in the public interest; or An association acting in the interest of one or more of its members	A person can have their rights pursued on their behalf
13	22 (3) (c)	No fees may be charged for commencing the proceedings	Fees will not be a hindrance in pursuing ones rights
14	22 (3) (d)	The court, while observing the rules of natural justice, shall not be unreasonably restricted by procedural technicalities	Ensures that courts will not lock out one because of procedural technicalities
15	24	A right of fundamental freedom in the Bill of Rights shall not be limited except by law, and then only to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors	Ensures that government does not limits the rights of anyone without justification and only by law

16	26(1)	Every person has the right to life	Ensures that one shall not be denied their right to life through unjust laws, policies and practices
16	27(1)	Every person is equal before the law and has the right to equal protection and equal benefit of the law	Prevents Discrimination against women because of their gender or health status
17	27(4)	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	Outlaws for sex and health status to be used to discriminate against women
18	27(5)	A person shall not discriminate directly or indirectly against another person on any of the grounds specified or contemplated in clause 4.	Ensures that discrimination shall not happen directly or indirectly
19	28	Every person has inherent dignity and the right to have that dignity respected and protected	Women are to be treated with respect and dignity
20	29 (a), (c) (d) and (f)	Every person has the right to freedom and security of the person, which includes the right not to be Deprived of freedom arbitrarily or without just cause (c) subjected to any form of violence from either public or private sources; (d)subjected to torture in any manner, whether physical or psychological (f) treated or punished in a cruel, inhuman or degrading manner	
26	43 (1)	Every person has the right- To the highest attainable standard of health, which includes the right to health care services, including reproductive health care	
27	43(2)	A person shall not be denied emergency medical treatment	
28	45(2)	Every adult has the right to marry a person of the opposite sex, based on the free consent of the parties	

31	47	Every person has the right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair If a right to fundamental freedom of a person has been or is likely to be adversely affected by administrative action, the person has the right to be given written reasons for the action	
32	48	The State shall ensure access to justice for all person and, if any fee is required, it shall be reasonable and shall not impede access to justice	Access to justice is paramount
33	53(1)(d)	Every child has the right- (d)to be protected from abuse, neglect, harmful cultural practices, all forms of violence, inhuman treatment and punishment, and hazardous or exploitative labour	Protects children from all forms of violence
34	55(d)	TheStateshalltake measures,including affirmative action programmes, to ensure that the youth- Are protected from harmful cultural practices and exploitation	Prohibition of such cultural practices including FGM, forced marriages and early marriages
35	59		

Annex 4: International Treaties and Conventions and Declarations that Kenya has signed that have a bearing to SGBV

0.TREATY
United Nations Declaration on the Elimination of Violence Against Women (1993)
International Convention on Civil and Political Rights
International Convention on Economic Social and Cultural Rights
The Convention on the Elimination of All Forms of Violence Against Women (1993)
The Rome Statute (1998)
The Convention on the Rights of the Child (1990)
The African Charter on Human and Peoples Rights (1981)
The Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa (Maputo Protocol, 2003)
The Solemn Declaration on Gender Equality in Africa (2004)
The Protocol on the Prevention and Suppression of Sexual Violence Against Women and Children-International Conference on the Great Lakes Region (2006)
The African Charter on the Rights of the Child (2006)
The Declaration of the Heads of States and Governments of the Member States of the International Conference on the Great Lakes on Sexual and Gender Based Violence (2011)

Annex 5: Laws and Policies on SGBV in Kenya

LAWS	
Sexual Offences Act (Act No 3 of 2006) Revised edition 2007	
The Prohibition Against Female Genital Mutilation (Act NO 32 of 2011)	
The Counter Trafficking in Persons Act (Act No 8 of 2010)	
The Penal Code (Revised Edition 2012)	
The Children Act (2001)	
The Criminal Procedure Code (Revised Edition 2012)	
The Victim Protection Act (Act No 17 of 2014)	
The Marriage Act (Act No 4 of 2014)	
The Matrimonial Property Act (No 49 of 2013)	
The Protection against Domestic Violence Act 2015	
POLICIES	
The 2005 Policy Framework for the Implementation of Post Rape Care Services	
The Kenya Adolescent Reproductive Health Policy 2003	
Education Gender Policy 2007	
National Gender and Development Policy	
The Vision 2030 Second Medium Term Plan (2013-2017)	
National Reproductive Health Strategy (2009-2015)	

Annex 6: PARTICIPANTS

Meru County

The county executive member for gender sports and culture

The county government gender officials

The county assembly speaker

Kwale County Government

County Director of Legal Services

County Youth and sports officer

County Assembly Finance Officer

County Assembly Legal Officer

Kisumu County

Director Gender and Youth affairs

Coordinator Cabinet Affairs

County Executive, Education

MCA (Chair Gender Committee)

MCA (Gender Committee Member)

MCA (Gender Committee Member)

Migori County Assembly

Director Youth and Gender

County Clerk

Director Education

Sub County youth and gender officer