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## KENYA WOMEN'S NATIONAL CHARTER FOR REALIZING THE RIGHTS OF WOMEN

Developed by: Mwamko Mpya Uongozi Bora Consultant: Prof. Amb. Maria Nzomo

### Preamble

**WE**, the women of Kenya, as full citizens making up over half the Kenyan people;

**CLAIMING** our birthright to have freedom to equality and non-discrimination as a matter of human rights; as a condition for social justice and a necessary and fundamental prerequisite for Development and Peace

**HAVING** contributed equally with men to the struggle for our country's independence from colonial rule and its development throughout its post colonial period;

**RECOGNIZING** our shared history of oppression as women, under patriarchy, retrogressive customs and traditions, colonialism, exclusion from governance and exploitation by global capitalism; within political, economic and social life and the multiple forms of oppression and discrimination experienced by women in our different situations.

**FINDING** ourselves still discriminated and marginalized in politics, economy, society, culture and religion; as workers and as the mothers of the current and future generations;

**RECOGNIZING** the economic, social, cultural and political contribution women make to the Kenyan society; and hence the importance of their right to full participation and inclusion of their views in all decision making processes as an essential element to the development of a sustainable, thriving and equal society;

**RECOGNIZING** that the impact of policies, actions and services will be efficient and effective when gender considerations are taken into account at the outset and when the achievement of human rights and equality for women informs everything that Kenya does;

**ACKNOWLEDGING** the diversity and multiple identities that exist amongst women and hence the need to nurture unity in diversity as a strategy of individual and collective empowerment

**CONVINCED** that if democracy and human rights are to be meaningful for women, they must address women's historic subordination and oppression;

**EQUALLY CONVINCED** that any practice that hinders or endangers the normal growth and affects the physical and psychological development of women and girls should be condemned and eliminated;

**ACKNOWLEDGING** that after 20 years of Struggle for a new Constitution by both women and men, Kenyans obtained in August 2010 a new Constitution with a progressive Bill Of rights that comprehensively provide for the full range of rights for both genders;

**CONCERNED** that despite the progressive and women friendly provisions contained in the 2010 Kenyan Constitution, women in Kenya continue to be victims of discrimination; sexual and gender based violence and harmful socio- cultural practices;

**CONSIDERING** that the Maputo protocol to the African Charter on Human and Peoples' Rights, on the Rights of Women, of which Kenya is a signatory, enshrines the principle of non-discrimination on the grounds of race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status;

**RECALLING** that Kenya has signed and ratified international human rights instruments that guarantee women's rights, notably the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination Against Women and its Optional Protocol, the African Charter on the Rights and Welfare of the Child, and all other international and regional conventions and covenants relating to the rights of women as being inalienable, interdependent and indivisible human rights;

**NOTING** that Kenya has a constitutional obligation to operationalize all the international Conventions that it has ratified, as provided for under article 2(5 & 6) of the 2010 Constitution;

**DETERMINED** to ensure that the rights of women are secured, promoted, realized and protected in order to enable women to enjoy fully all their human rights and social justice;

**FURTHER DETERMINED** to attain effective equity and equality in governance and decision-making in the home, in politics, the law, and in the economy;

**COMMITTED** to transform leadership and governance in a manner that conforms and gives effect to the national values and principles as provided under Article ten(10) and chapter six(6) of the Constitution;

**WE** as women of Kenya have come together in a Coalition of women's *organizations, governmental and non-governmental organizations*, as well as individuals that are committed to make women's rights and equality a reality; and to that end, have engaged in a campaign that has enabled women to draw on their experiences and define what reforms, legislations, strategies, policies, programs and other measures are needed to bring about transformative and empowering change in the lives of women under the new 2010 Constitutional dispensation;

**TO THIS END, WE HEREBY** chart out a program for transformative and meaningful realization of women's rights, empowerment and welfare, in all spheres of our lives, including the law, the economy, education, development; infrastructure, political and civic life, family life, custom, culture and religion, health and the media and **AGREE and commit ourselves and all other signatories to this Charter** as follows:

# Article 1

## Definitions

For the purpose of the present Charter, unless the context requires otherwise:

- **“Access”** means the process and outcome of seeking entry to and/ or engagement with formal political structures: parliaments, political parties, etc.
- **“Accountability”** means the outcome, fulfillment and compliance with obligations and commitments that a leader makes to the constituent group that s/he claims to represent.
- **“Agenda setting”** means both the process and the action plans that a leader makes with the target constituency and seeks to execute in fulfillment of the needs of the constituency that s/he represents.
- **“Constitution”** means the 2010 Constitution of Kenya;
- **“Discrimination against women”** means any distinction, exclusion, restriction or any differential treatment based on sex and whose objectives or effects compromise or destroy the recognition, enjoyment or the exercise by women, regardless of their marital or other statuses, of their human rights and fundamental freedoms in all spheres of life;
- **“FGM”** means Female Genital Mutilation
- **“Government”** means the Kenya Government and all its constituent organs;
- **“Harmful Practices”** means all behavior, attitudes and/or practices which negatively affect the fundamental rights of women and girls, such as their right to life, health, dignity, education and physical integrity;
- **“NGEC”** means the Kenya National Gender and Equality Commission
- **“SGBV”** means Sexual and Gender Based Violence
- **“Transformative leadership”** a type of leadership that causes positive change to happen and that results in the realization of overall social justice, and in particular, substantive improvement in the welfare and daily lives of the poor, vulnerable and/ or marginalized groups in the process qualitative that benefits the whole society.
- **“Violence against women”** means all acts perpetrated against women which cause or could cause them physical, sexual, psychological, and economic harm, including the threat to take such acts; or to undertake the imposition of arbitrary restrictions on or deprivation of fundamental freedoms in private or public life in peace time and during situations of armed conflicts or of war;
- **“Women”** means persons of female gender, including girls;
- **“Women’s Charter”** means the **“Kenya Women’s National Charter”**;

## Article 2

### Elimination of Discrimination Against Women

1. We applaud and embrace the non-discrimination provisions of the Constitution, in particular article 27 that unequivocally outlaws all forms of discrimination including that based on gender and sex. This notwithstanding, past experience and lessons from other countries have taught us that even excellent constitutional provisions can be abused or watered down during the development of legislations and/or during the implementation process. This undesirable trend has already occurred during the first 16 months of implementation of the Kenyan constitution.
2. Women of Kenya being the ones that have suffered most under the old oppressive constitution that we repealed in August 2010 and the persisting socio-cultural practices are determined not to lose any of the women's rights gains that we have attained through the current constitution. To that end and in respect to the elimination of all forms of discrimination against women, we resolve as follows:-
  - That a comprehensive and substantive law that defines, criminalizes and provides guidelines and parameters for the enforcement of the constitutional provisions in respect to non-discrimination and upholding of women's human rights, be put in place. To this end, we propose that the legislation be termed: "The Human Rights and Equality Act;"
  - That women representatives chosen by a large enough sample, representing the diversity of Kenyan women, participate in the making of appropriate legislative, institutional, regulatory and other measures that affect women;
  - That the National Gender and Equality Commission (NGEC), working closely with relevant State and non-State institutions, be allocated adequate resources and support from all stakeholders, to serve effectively as a watchdog mechanism, with capacity to constantly monitor, evaluate, investigate and take corrective and positive action in those areas where discrimination against women in law and social practice, continues to exist despite the constitution, and in so doing, combat all forms of discrimination against women.
  - That the NGEC ensure full compliance with the non-discrimination constitutional provisions, in particular, those under Article 27; the full integration of a gender perspective in all national policy decisions, legislations, development plans and programs in all spheres of life; and ensure the effective implementation of the same
  - That both civil society, independent commissions and relevant organs of government, develop a harmonized curriculum and communication strategies, for public education and undertake a well coordinated public education campaign, to instill , reform and/ or eliminate retrogressive socio-cultural values, practices and patterns of conduct, that promote harmful cultural and traditional practices and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes, or on stereotyped roles for women and men.

## Article 3

### Right to Dignity & Respect

1. Right to personal dignity, integrity and respect is at the core of our womanhood and a core element of our sense of pride and self worth; and self determination as women. Anything that violates this right degrades, disempowers and deprives us of the right to self determination and self worth. To ensure that women fully and effectively enjoy the right to dignity and respect inherent in every human being, the government shall adopt and implement appropriate legislative and other measures including:
  - the recognition and protection of human and individual legal right to the free development of a woman's personality and personal identity;
  - Prohibition of any violation and/or denial, direct or indirect, of the right to self definition and self determination, in both public and private life.

## Article 4

### Realization of Freedom from Sexual and Gender Based Violence (SGBV)

1. SGBV is pervasive and all women live under the threat of or experience of primary violence and/or secondary victimization at all stages of their lives. Women are entitled to security and integrity of the person which includes the right to be free from all forms of violence in the home, in communities, in the workplace and integrity of the person.
2. To ensure that every woman has access and capacity to claim and enjoy rights and full respect for her life, integrity and security of her person, the State and non-State actors shall take legislative and other actions to eliminate all forms of SGBV and exploitation, cruel, inhuman or degrading punishment and treatment against women. In this regard, the government, private institutions and civil society should collaborate, to realize the following actions:
  - Actively promote gender and human rights education and establish mechanisms and accessible services for effective information and sensitization, through curricula and social communication in order to eradicate SGBV and elements in traditional and cultural beliefs, practices and stereotypes which legitimize and exacerbate the persistence and tolerance of violence against women;
  - Punish the perpetrators of all forms of SGBV, including FGM; rape and sexual harassment; marital rape; forced marriages wife inheritance and sexual exploitation of Women through human trafficking etc and implement appropriate programs for the rehabilitation and reparation for victims of violence against women;
  - Put legislation and effective mechanisms in place to prevent and prohibit all medical or scientific experiments on women without their informed consent;
  - In situations of intra- state war and armed Conflicts, government shall put in place special security mechanisms to protect all women, especially internally displaced women, against all forms of violence, rape and other forms of sexual exploitation, and ensure that if such criminal acts are committed, they are treated as genocide and/or crimes against humanity.
  - Government shall provide adequate budgetary and other resources for the implementation and monitoring of actions aimed at preventing and eradicating SGBV and related violations.
  - Take effective legislative and administrative measures to prevent the exploitation and abuse of women in advertising and pornography.
  - The government provides adequate and women friendly facilities staffed by trained personnel where women can report cases of rape, battery, and sexual assault, undergo medical examination and receive appropriate treatment and counseling.
  - The government should also avail legal aid to all survivors of SGBV and train law enforcement officers & medical personnel on the same.
  - Develop collaboration of government with civic organizations to provide appropriate education and training for the police, prosecutors, magistrates, judges, district medical officers and other persons involved in dealing with SGBV cases.
  - The government should put in place accessible shelters and counseling services for survivors of SGBV.

3. The Sexual Offenses Task Force was constituted and tasked with developing strategies and specific guidelines for the implementation of the Sexual offenses act. However, the task force report has not been implemented.
4. We therefore demand the immediate release of the task force report to facilitate the implementation of the Sexual Offences Act. In the meantime, we urge the strengthening of the existing mechanisms including: i) training of Paralegals at community level, on the implementation of the sexual offenses act ii) strengthening partnerships between media, advocacy groups and individual women and iii) use of vernacular languages media to publicize the Sexual Offences Act.
5. We further demand that the Government, through line ministries, the Attorney General's office, the courts and other relevant institutions collectively develop an actionable plan, to ensure implementation of Sexual Offences Act, and urgent dispensation of justice on the many Sexual offences cases pending in our courts.
6. To ensure the elimination of Harmful Practices against women, Government and Civil Society shall take all necessary legislative and educational measures respectively, including:
  - Creation of public awareness, specifically gender sensitization education, and outreach programs in all sectors of society regarding harmful practices;
  - Allocation of adequate budget to enable the NGECC, to enhance its capacity to monitor, evaluate and ensure stiff sanctions are meted to all those that engage or support all forms of FGM, forced wife inheritance, forced marriages and all other practices in order to eradicate them;
  - Provision of necessary support to victims of harmful practices through basic services such as health services, legal and judicial support, emotional and psychological counseling as well as vocational training to make them self-supporting;
  - Establishment of adequate escape shelters for the protection of women who are at risk of being subjected to harmful practices or all other forms of violence, abuse and intolerance.

# Article 5

## Family and Equality in Marriage

1. Some marriage rituals in the Kenyan society objectify women to the point where a woman is viewed as a trophy; a piece of property to be bought and sold at will. Forced marriages, forced wife inheritance are still rampant because of the objectification of women. Furthermore, we believe that marital rape is a result of the objectification of women. It afflicts many women who suffer in silence because of the misguided traditional belief that it is their duty to submit to their husbands under any circumstance.
2. In this connection, we recognize and uphold article 45 of the Constitution in respect to the family in general and in particular to the fundamental principle of equality in marriage, as laid down in article 45 (3). We therefore believe that any marriage that does not meet the principle of equality and equity between the partners should be criminalized and rendered unlawful. We are thus opposed to any form of marital relationship that promotes or is characterized by SGBV, forced marriages and forced wife inheritance or any other form/type of marriage that is contrary to article 45 (1,2 and 3).
3. To ensure that women and men enjoy equality of rights and equity in marriage as provided for under article 45 of the constitution and in the endeavor to promote and attain democratic governance and promote family welfare in private life, we believe and affirm that spouses shall endeavor to share equitably domestic responsibilities, resources and decision-making powers and information in regard to the management of the household based on the principles of partnership and mutual respect in marriage.
4. We further believe and demand that the Government, the NGEK, women leaders and gender and human rights organizations ensure the full and effective implementation of the anticipated Marriage Act currently under discussion, including the enforcement of the following:
  - That the minimum age of marriage for women shall be 18 years; and no marriage shall take place without the free and full consent of both parties;
  - That in respect to potentially polygamous marital relationships, both law and social practice shall ensure that the prenuptial agreement is complied with, and the female party to the marriage has given her free and prior consent to a polygamous marriage and that her rights in the marriage are subsequently not compromised.
  - That a married woman reserves the right to retain her maiden name, to use it as she pleases, jointly or separately with her husband's surname; and enjoy equal rights and responsibilities with her spouse, with respect to the nationality and other identities of their children.
  - That the government ensures that women and men enjoy the same and reciprocal rights in case of separation, divorce, death or annulment of marriage in respect to:
    - i) rights and responsibilities towards their children;
    - ii) sharing of the joint property deriving from the marriage;
    - iii) the right to remarry the person of their respective choices; and
    - iv) in the event of death of one spouse, the surviving spouse automatically becomes the guardian and custodian of the children as provided for in the Children Act No.8 of 2001 , unless this is contrary to the interests and the welfare of the children;
  - That legislation be enacted that clearly and legally defines, criminalizes and spells out the penalty for marital rape.
  - That Dowry and bride price signify a price paid for by/or for the female spouse; and hence they should be both delegitimized, as they are tantamount to commercialization and objectification of women.
  - That relevant policies, programs and mechanisms be put in place as appropriate, to promote these rights and obligations.

## Article 6

### Access Administrative Justice and Equal Protection Before the Law

The Constitution accords women and men equality before the law and equal protection and benefit of the law. We however note that only a minimal percentage ( standing at 24% in 2010 ) of cases are handled through the formal justice system, whereas the bulk of the cases are handled by informal justice systems including Councils of Elders, whose membership is male dominated. Accordingly the State, jointly with the Commission on Administration of Justice, shall ensure gender equality in representation, access and participation in the development, application, adjudication, interpretation and enforcement of the law as follows:

- That social, economic and political position of women be taken into account in deciding policy, determining legislative priorities, and in formulating, applying, interpreting, adjudicating and enforcing all laws to ensure the realization of gender equality.
- That all public and private institutions take measures to enable women to exercise their legal capacity; as well as make legal services accessible and affordable.
- That women be equally represented on, and participate in the selection of the judiciary, the magistracy, all tribunals, traditional courts and all other institutions for dispensing justice, as well as dispute resolution mechanisms at community levels.
- That law enforcement organs at all levels be well equipped to effectively interpret and enforce gender equality rights;

# Article 7

## Effective Representation of Women in Leadership and Governance

**D**emocracy requires that the political playing field between men and women be leveled by creating gender balanced space for women to participate equally with men in all socio-economic and political activities, as well as equal opportunity and access to leadership and decision-making positions at all institutional levels of governance. Towards this end, we resolve as follows:-

1. That effective leadership and representation is not just about presence in decision-making bodies. It is about positive value addition and accountability, measured by performance and influence in a manner that delivers services, welfare and empowerment to the poor and the vulnerable social sectors, especially women.
2. That for women to fully and substantially realize the benefits of Political and civil rights in the constitution, we not only need to have a presence of the minimum 33% in all political and other public and private decision-making positions, we also need quality leaders with a transformative agenda that places the empowerment and emancipation of women of Kenya at the core of their mission and vision during the entire cycle of decision-making. To that end, women as the major stakeholders to this charter, as individuals and through the various institutions that we belong, undertake to ensure all leaders seeking women's votes for elective office, meet the transformative leadership criteria, as set out in this Charter as follows:
  - Competence and possession of relevant experience
  - Proven record of Integrity
  - Proven record of Honesty
  - Proven record of Reliability
  - Proven record of promotion of gender and women's rights and empowerment
  - Proven record of Citizen oriented and responsive style of leadership, manifested in service delivery
3. That to realize transformative leadership and governance, both Civil society and government institutions shall provide relevant civic education,

aimed at instilling new democratic values of inclusive governance, with effective mechanisms for ensuring transparency and accountability of the leaders to the citizens. Both shall undertake targeted and comprehensive Civic Education programs to transform patriarchal cultural values in social relations and in governance institutions and processes into democratic values of social justice, equality of rights and responsibilities. Towards this end civic education should focus on the following areas:

- Strategies for changing the stereotyped gender division of labour, power and relations in family and daily life
  - Transformative leadership and governance
  - Merits of gender equity in governance, including the high cost of male privilege and the equally high cost of women's marginality in key decision-making positions
  - Strategies for changing the violent and undemocratic culture of campaigns and political processes
  - Capacity building of the knowledge base for women political leaders on core areas of public policy, including national and international issues, law making, policies, democratizing political culture, as well as the procedures of parliamentary work.
4. That the Government take specific positive action, by enacting enabling legislations to give full effect to affirmative action provisions as provided for in the Constitution and ensure compliance with the said provisions.
  5. That Government agencies, in particular, the Gender and Equality Commission, Women in Civil society and private institutions undertake to ensure increased and effective representation and participation of women at all levels of decision-making processes and implementation of development policies and programs, with a view to effectively addressing women's empowerment and welfare concerns, at all levels and in all sectors of development.

## Article 8

### Realization of Economic and Social Rights for Women

1. We note that, whereas article 43 provides for economic and social rights, it is article 21(2) that imposes an obligation on both the Legislature and the Executive to take legislative, policy and other measures, including the setting of standards to achieve the progressive realization of the rights guaranteed under article 43.
2. As women we bear the greatest social burden of the shortfall and/or deprivation of socio-economic family welfare, and inadequate social services, due to the primary responsibility society places on us, that of maintaining the household and community.
3. We are therefore concerned that this “progressive” methodology of realizing rights is too open ended and leaves room for indefinite delay in the implementation of these very crucial rights that have a bearing on basic human survival of both men and women.
4. We thus demand that the anticipated enabling legislation to give effect to article 43, be fast tracked and relevant policies and programs be put in place, with specific priorities, targets and realistic time lines, for realizing these rights in the shortest time possible.
5. In the meantime, we demand that i) the national budget policy be overhauled to establish a 60% development budget and 40% re-current budget to free resources to be allocated towards the full realization of Social economic rights and ii) no person should be allowed to die due to Lack of food; medical care; shelter; water and sanitation and iii) women should be given free maternity care .

# Article 9

## Realization of Women's Employment and Welfare Rights

Women face social, economic and ideological barriers to full and equal participation in the economy. Women are perceived in terms of their domestic and reproductive roles, while their large numerical participation in the formal economy is predominantly characterized by low wages and poor working conditions. We therefore demand that:

1. Domestic labor be made a shared social responsibility that should not be borne by women alone. Consequently, there should be adequate provision of child care facilities and reasonable working hours to accommodate shared family responsibilities.
2. Effective affirmative action programs be introduced to ensure gender equity and equality of access to all jobs, training, promotion and equal pay for work of equal value, especially in respect to the disabled and minority women.
3. Government and private sector employers adopt and enforce legislative, policies, regulatory and other measures, to guarantee women equal opportunities and access to gainful work, career advancement and other economic opportunities, with a view to:
  - Promoting gender equality in access to employment, credit services that are not based on collateral or marital status ; and remuneration for jobs of equal value;
  - Ensuring transparency, non- discrimination and legal compliance, in recruitment, promotion and dismissal of women.
  - Guaranteeing women the freedom to choose their occupation, and protect them from exploitation by their employers, in a manner that violates their fundamental rights and human dignity, as recognized and guaranteed by international conventions; national laws and the policies in force;
  - Establishing mechanisms for sexual harassment in the workplace; with a view to combating disempowerment of women through sexual exploitation and abuse at the workplace.
4. We note that the current labour laws provide three months maternity leave and two weeks paternity leave. However we are concerned that:
  - i) these laws are not being applied in social practice, and
  - ii) that the period of leave provided in both cases is too brief given the vulnerability of infants who require special care at this stage of their lives. We therefore demand:
5. That this period be extended to six months maternal leave and one month paternal leave.

# Article 10

## Sustainable Development and Women's Economic Empowerment

1. Women contribute more than 50% of national revenue through public service, taxes and the unpaid work that they perform for the well being of families. Women should therefore be equal partners with men in designing and implementing national development policies and programs.
2. Furthermore, both the national and devolved governments should allocate adequate and targeted funds that ensure that women's specific concerns are effectively addressed in development to meet their needs, including, accessible and safe water supplies and sanitation; communications and electricity or other appropriate sources of energy; and affordable and secure housing.
3. To ensure that women effectively participate in and benefit from a sustainable development, government shall take all appropriate measures to:
  - Ensure the participation of women at all levels of decision-making, including: the conceptualization, planning, management implementation and evaluation of development policies and programs pertaining to the environment and the sustainable use of natural resources;
  - Mainstream and integrate a gender perspective in the national development planning, programming and implementation at all levels;
  - Take into account indicators of human development specifically relating to women in the elaboration of development policies and programs;
  - Promote women's access to and control over productive resources such as land and guarantee their right to property; including through joint title deeds of spouses to family property;
  - Promote women's access to credit, training, skills development and extension services at rural and urban levels in order to provide women with a higher quality of life and reduce the level of poverty among women; including exercising affirmative action in favour of women's projects in the allocation of funds to devolved governments.
  - Promote women's access to and control of research and investment in new and renewable energy sources and appropriate technologies, including information technologies and protect and facilitate the development of women's indigenous knowledge systems;

# Article 11

## Gender Equality in Opportunity and Access to Education and Training

1. Gender equality in opportunity and access to education and training requires the equal participation of both women and men in the design and content determination of the academic curricula; as well as related policies and programs. This entails that women be represented in all levels of the policy-making, management and administration of education and training, to ensure that available education and training meets the economic, social, cultural and political needs of women in Kenya.
2. For women to fully access and benefit from education, Affirmative Action shall be applied to ensure that Women have special access to funds for education and training, as well as Childcare facilities at all education and training institutions, to cater for both students and women teachers with young children.
3. Civic, gender and human rights education should forthwith be implemented countrywide in a harmonized and co-coordinated manner, as a core element of education curricula in all institutions and at all levels, in order to:
  - i) eliminate negative gender stereotyping in both curriculum development and educational practice;
  - ii) Develop gender and equity values among both female and male students, and
  - iii) Build women's self-confidence to claim their constitutional and legal rights.
4. Government, other public and private institutions, working jointly with Civil society and other non-state actors shall put in place appropriate mechanisms to ensure enrolment and retention of the girl child in school at all levels, by inter alia, through regular supply of free sanitary wear to school girls, as well as encouragement and facilitation of their stay in educational and training institutions during and after pregnancy.
5. Those educational and training institutions that have not already done so, should immediately embark on and eliminate all stereotypes in textbooks, syllabuses and the media, that perpetuate such discrimination, with a view to;
  - protect women in schools and other educational institutions, especially the girl-child, from all forms of abuse, including rape, sexual harassment and provide for stiff sanctions against the perpetrators of such practices;
  - provide access to counseling and rehabilitation services to women who suffer sexual abuse and sexual harassment;
  - Integrate gender sensitization and human rights education at all levels of education curricula including teacher training.
  - Put mechanisms in place to ensure compliance and enforcement of policies and laws in respect to the promotion of women's rights to education and training
6. In order to realize the provisions under 5 above, we believe and insist that the NGEC be tasked with reviewing all training and education curricula to give full effect to this concern.
7. We demand that the Government comply with the provisions and timelines set by the UN Millennium Development Goals and the National Vision 2030, in respect to:
  - Attainment of universal literacy among women; and
  - Attainment of set targets in promotion of education and training for women at all levels and in all disciplines, particularly in the fields of science and technology.

# Article 12

## Reproductive and Health Care Rights

1. We note that the Constitution only provides for the right to reproductive health care and is silent on any other areas of reproductive rights that are of fundamental importance to women. To correct this shortcoming, we insist that the government takes appropriate legislative, policy and programmatic measures to ensure that the right of women to reproductive health care be extended to include sexual and reproductive rights of women, in respect to the following:
  - the right to control ones fertility;
  - the right to decide whether to have children, the number of children and the spacing of children;
  - the right to choose any method of contraception that is appropriate for each individual;
  - the right to self protection and to be protected against sexually transmitted infections, including HIV/AIDS;
  - the right to be informed on one's health status and that of one's sexual partner, particularly if affected with sexually transmitted infections, including HIV/AIDS, in accordance with internationally recognized rules, standards and best practices; and
  - the right to have access to family planning education.
2. Because of the important role women play in society as the mothers of the current and future generations, the government shall, in providing affordable and accessible health care services, give priority to reproductive health care needs of women and provide such services free of charge and/ or subsidize them in accordance with women's specific health needs and ability to pay. But at any event, government shall ensure that no woman shall be denied access to medical attention in cases of sexual violence or other reproductive health related treatment or detained in hospital for inability to pay for the service, especially after child delivery and in cases of sexual assault, rape, and incest.
3. Government should legitimize Traditional Birth Attendants in the rural areas, by strengthening, institutionalizing and allocating them adequate financial and infrastructural resources to ensure safety of baby and mother during delivery and in post natal maternity care.
4. To ensure that women fully and effectively exercise their reproductive rights, which includes the right to reproductive decisions. The government and civic organizations shall as a matter of priority, make information and knowledge accessible to all women to enable them to make informed choices about their bodies and about their health care needs. Towards this end, the Government shall provide education and family planning services free of charge to both men and women, as appropriate.

## Article 13

### Culture and Women's Empowerment

1. Acknowledging the Constitutional provisions invalidating harmful cultural practices and the laws that have been formulated to address retrogressive cultural practices. We note that the the Children Act 2001; Sexual Offences Act 2006; Prohibition of Female Genital Mutilation Act(2011); Penal Code laws have not been fully implemented due to the laxity of some of the duty bearers including the police, provincial administration and local leaders.
2. In order to fully claim and enjoy the benefits of a positive cultural environment women must participate at all levels in the formulation and determination of cultural policies and practices that they wish to adhere to, the government shall take all appropriate measures to enhance the participation of women at all levels.
- 3 We further note that prior to the prohibition of FGM legislation, some of the success registered in the anti- FGM campaign resulted from the combined strategies of civic education and the development of alternative but positive rites of passage to replace FGM.
5. We believe that in addition to the enforcement of the anti FGM legislation, it will be necessary that both civic education and alternative rites of passage continue to be used, but that alternative rites of passage practiced in different regions be harmonized to guarantee their effectiveness and the promotion of gender equality.

## Article 14

### Special Protection of Elderly Women and Women with Disabilities

The UN Universal Declaration on Human Rights (UDHR) states that 'all human beings are born free and equal in dignity and rights' and this does not change as people grow older. Rights are entitlements of all human beings, irrespective of age, citizenship, nationality, race, ethnicity, language, gender, sexuality or abilities. Elderly men and women and persons with disabilities have the same rights as everyone else.

Even so, the rights of the elderly are mostly invisible under international law. Despite the existence of the UDHR, older people are not recognized explicitly under the international human rights laws that legally oblige governments to realize the rights of all people. Only one international human rights convention (The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families) mandates against age discrimination. Commitments to the rights of older people exist, such as with the Madrid International Plan of Action on Ageing (MIPAA). However, these are not legally binding and therefore only impose a moral obligation on governments to implement them.

Elderly people need adequate income support as they age, opportunities to engage in decent employment should they wish to remain active, and access to appropriate health and social services, including long-term care.

The lack of policies to address these issues condemns millions of older people to a life of poverty instead of recognizing the active economic and social contributions they can make to their families, communities and society as a whole. Protecting older people's rights will help

to enable them to lead dignified, secure lives, as equal members of society. Furthermore, women age differently from men and the discrimination that they experience is often multi-dimensional, based not only on age but on other factors, such as gender, ethnic origin or literacy levels.

- **We are gratified to note that the rights of the elderly and persons with disabilities are well provided for under the Kenyan constitution article 57 and 54 respectively, while article 27 of the constitution prohibits all forms of discrimination. We further note that Kenya has a national legislation in place (Persons With Disabilities Act 2004). However we note with concern that even where a legislation exists, enforcement has been lacking. We therefore** tt, private institutions and civil society
- Devolve National Council for Persons With Disabilities to the County levels and establish national disability mechanisms on: Health, Education, Employment and protection
- Raise awareness among the elderly and Persons with Disabilities on the social services and institutional support available that can assist in facilitating and enhancing the quality of their lives, such as the services offered by the National Council for Persons With Disabilities
- Engage in transparent implementation of social protection policy. We particularly call for the immediate payment of the monthly stipend to all elderly women above the age of 65 and the substantive support to elderly women caring for orphaned and vulnerable children and people living with HIV/AIDS, by providing financial, psychosocial and institutional support.

## Article 15

### Role of the Media in Promotion of Women's Empowerment

1. We recognize the role that media can and has played in promoting gender justice and advancing the emancipation of women. We are however concerned that the media has also been a channel of transmitting content and advertisements that can play a destructive role with regards to the objectification and exploitation of women.
2. Furthermore, we note that women are notable by their absence in top management of the major national media houses. Very few Kenyan women own or control executive or editorial decision-making that regulate content and slant taken in media reporting.
3. We further note that gender and women's issues media coverage only "make news" when the news item is negative or sensational. The political activity of women leaders are generally marginalized and trivialized in the media reporting and analysis. The principle of freedom of speech and press should not justify the portrayal of women in a manner that is degrading and humiliating or promotes violence against them.
4. We are also concerned that sexual exploitation of women through Pornography has rapidly increased as a result of media advertising facilitated by rapid advances

in information technology. Furthermore, the rapidly growing and unregulated social media sites- such as Face book and twitter, have become the most prevalent peddlers of pornography, but the government is unable to regulate and control the content of social media.

In view of the above and in order for the media to meaningfully serve as an instrument for women's emancipation and empowerment, we demand the following interventions:

- That the Ministry of information and Communications create a national firewall that will act as a guard against pornography in advertising and in the social media.
- That the media be guided by the principle of affirmative action in its recruitment policies for top management positions, with a view to redressing gender imbalance in its key decision-making positions.
- That media houses promote responsible journalism that balances between commercial interests and social responsibility, especially towards promotion of women's emancipation
- That the government enact laws that ban advertisements that sexually exploit women

# Article 16

## Rights and Responsibilities of Women in Promotion of Peace

1. We believe "Peace" to mean not only the absence of war, but rather, it is a serene human condition in which there is absence of any form of physical or psychological violence, including SGBV; it is an environment that fosters mental, physical, social, economic political and spiritual growth. We therefore hold the view that any environment in which any of women's rights are violated, cannot be said to be peaceful; nor can development thrive under such conditions.
2. We acknowledge that women, children and other vulnerable groups suffer most in times of conflict and war. However, we challenge and reject any portrayal of women that depicts us as merely helpless and passive victims of conflict. Such portrayal denies women of their agency, as active participants in conflict prevention; as champions of peace and the invisible force in peace building processes. We underscore and affirm the fact that Women are not just victims of war and violence, but also have a stake in peace and conflict prevention, and hence are legitimate and substantive actors, as protagonists of history and makers of the peace.
4. We however note with concern that the characterization of women as mere vulnerable victims of conflict, has been used to legitimize their near total exclusion from key decision-making processes related to war and peace and participation in national matters related to conflict prevention and management of this country. We therefore resolve and demand as follows:
  - That affirmative action measures be taken to ensure that at least 33% women presence in all top decision-making processes related to peace and security, including the military, police forces; security related government ministries and other security agencies and committees.

That existing peace building mechanisms, programs and strategies for peace building, such as: Peace education caravans, theaters and Peace dialogues, be strengthened and a larger proportion of resources be allocated towards projects geared towards conflict prevention and the building of sustainable peace.

We celebrate the role women of Kenya have historically played before, during and after the various periods of armed conflict and unrest in the country. We especially laud the role of women during and after the 2007 post election violence, in reconciling and restoring peace between hostile communities and initiating post conflict peace building programs.

## Article 17

### Mechanisms and Strategies for Realizing Gender and Women's Rights

1. We believe that the constitution bestows upon the Government the primary responsibility in promoting women's rights and eliminating all forms of discrimination against women. Other actors play an supportive but important role.
2. We equally believe that for women's rights to be fully and effectively realized, the various stakeholders and actors must coordinate and harmonize their programs, policies and strategies of intervention. Failure to do this, would result in poor outcomes and wastage of resources through duplication of efforts
3. This calls for one strong and independent mechanism to coordinate, monitor and evaluate performance on a regular basis. Towards this end, we propose that this mechanism be the NGEC.

# Article 18

## Our Commitment as Women

1. Women as the major stakeholders (as leaders and individual citizens), bear the primary and most important responsibility of upholding the Principles, the Resolutions and the Action Plan outlined in this Charter and holding all others accountable. As key Stakeholders therefore, we hereby commit ourselves to undertake the following:-
  - To jealously guard and uphold the constitution and resist any attempt to violate it, especially in respect to women's rights and human rights in general;
  - To enhance our role and contribution towards changing retrogressive values and harmful cultural practices and inculcate gender equality values to our daughters and sons. Towards this end, we shall employ our strategic positioning in the home and role as mothers to shape and positively influence family values, in a manner that contribute towards the elimination of retrogressive cultures
  - To enhance our role as Peace Champions, and undertake to expand programs for conflict prevention and building of sustainable peace
  - To work closely with men in promoting the goals of this Charter, in the knowledge that no man is free until all women are free. Hence, both women and men have a responsibility to work towards achieving these goals.
  - To take full advantage of all the rights and opportunities that has been accorded to us
2. In the realization of the commitments and resolutions made in this Charter, we undertake to uphold and promote the basic values and goals of transformative leadership cited above, and in so doing, ensure that all leaders demonstrate understanding, commitment and engagement with the issues of *Access, Agenda setting and Accountability in public leadership*

# Appendix 1

## Declaration of Commitment (Individuals, Public Institutions, Political Parties, NGOs etc)

I/We \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Having** studied and concurred with the provisions of the foregoing Charter and in particular the proposed legislations, policies, programs and other transformational changes that are considered mandatory for the realization of women's rights, empowerment and welfare;

**Aware** that the realization of women's rights, empowerment, welfare and participation in public and power structures in the last 48 years have been impeded by structural forces arising from cultural, religious and other social obstacles that are not only detrimental to the advancement of women but also the country in general;

**Further** alive to the fact that equality for women and men is an essential prerequisite for the attainment of peace, sustainable development and better quality of life for all,

**Now do hereby** agree and declare My /Our commitment to actively contribute to the attainment of the principles and objectives of this Women's Charter.

Signed \_\_\_\_\_  
Signature Name

On this \_\_\_\_\_ day of \_\_\_\_\_ the year \_\_\_\_\_

For and on behalf of  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_







