

# KEEPING THE PROMISE END GBV CAMPAIGN



## DUTY BEARERS' HANDBOOK



**NGEC**

National Gender and  
Equality Commission

*Kutetea usawa wa jinsia na haki za waliobaguliwa na kupuuzwa*





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## LIST OF ABBREVIATIONS AND ACRONYMS

<b>AACs</b>	Area Advisory Committees
<b>AG</b>	Attorney General
<b>CBOs</b>	Community Based Organizations
<b>CCC</b>	Comprehensive Care Centers
<b>CEDAW</b>	Convention on the Elimination of All forms of Discrimination against Women
<b>CBEFs</b>	County Budget and Economic Forums
<b>CHSSIP</b>	County Health Sector Strategic Investment Plan
<b>CIDP</b>	County Integrated Development Plan
<b>CoB</b>	Controller of Budget
<b>CSOs</b>	Civil Society Organizations
<b>DNA</b>	Deoxyribonucleic Acid
<b>DPP</b>	Director of Public Prosecutions
<b>DG</b>	Directorate of Gender
<b>ECP</b>	Emergency Contraceptive Pill
<b>FGM</b>	Female Genital Mutilation
<b>GBV</b>	Gender Based Violence
<b>GBVIMS</b>	Gender Based Violence Information Management Systems
<b>GBVRC</b>	Gender Based Violence Recovery Centre
<b>GBVCO</b>	Gender Based Violence Coordination Office
<b>GBVNAP</b>	Gender Based Violence National Action Plan
<b>GBVIASC</b>	Gender Based Violence Implementing Agency Steering Committee
<b>IWD</b>	International Women’s Day
<b>KDHS</b>	Kenya Demographic and Health Survey
<b>KNBS</b>	Kenya National Bureau of Statistics
<b>KNPS</b>	Kenya National Police Service
<b>LVCT</b>	Liverpool Voluntary Counseling and Testing Centre
<b>MoDP</b>	Ministry of Devolution and Planning
<b>M&amp;E</b>	Monitoring and Evaluation
<b>NGEC</b>	National Gender and Equality Commission
<b>PEP</b>	Post Exposure Prophylaxis
<b>PRC</b>	Post Rape Care
<b>SGBV</b>	Sexual Gender Based Violence
<b>SOA</b>	Sexual Offences Act
<b>TSC</b>	Teachers Service Commission

## ACKNOWLEDGEMENTS

The National Gender and Equality Commission (NGEC) whose main mandate is the promotion of gender equality and freedom from discrimination has the key function under the NGEC Act 2011 to coordinate, and facilitate, mainstreaming of issues of gender, persons with disability and other marginalized groups in national development and advise government on the above.

In line with this function the NGEC coordinates the National Gender Based Violence (GBV) Working Group, which is a working group that consists of various implementing agencies (state and non-state actors), that convenes to discuss prevention and response mechanisms to address Gender Based Violence.

The National Keeping the Promise End Gender Based Violence Campaign is the endeavor of the National Gender Based Violence working group efforts to prevent and respond to Gender Based Violence in Kenya. The overarching goal of the campaign is reduction of Gender Based Violence through development and implementation of effective and efficient prevention and response strategies.

This handbook seeks to clarify the roles of the various duty bearers in relation to Gender Based Violence. This is in line with the main objective of the National campaign, which is envisioned to strengthen action and accountability, by state and non- state actors, on their mandate in relation to Gender Based Violence work.

I wish to thank all the members of the National GBV Working Group for their hard work, commitment and dedication to the elimination of Gender Based Violence in the country, and for trusting us to provide leadership to the Working group and the Campaign.

Finally I would like to thank the UN Women for their financial and technical support towards the development of this handbook.

*'I can, you can, together we can end Gender Based Violence'.*

Thank you



**Winfred Osimbo Lichuma, E.B.S**

**Chairperson**

**National Gender and Equality Commission**

# 1. INTRODUCTION

## 1.1 Gender Based Violence (GBV)

**Gender Based Violence (GBV)** is violence that is directed against a person on the basis of their gender. Any act of gender-based violence that results in physical, sexual or psychological harm or suffering, including threats of such acts, coercion or arbitrary deprivations of liberty, whether occurring in public or private life<sup>1</sup> is regarded as Gender based Violence. Further Gender Based Violence also includes economic deprivation and isolation which may cause eminent harm to safety, health and wellbeing.<sup>2</sup>

Gender Based Violence is based on socially assigned (gender) differences between males and females. The term “Gender” is a concept that refers to the social differences between women and men that have been constructed, learned and changeable over time and have wide variations both within and between cultures. Gender as a social construct can be seen as the allocation of roles, attitudes and values that are deemed by the community to be appropriate for each sex. These roles define power relations between men and women regarding who makes decisions and who controls resources as well as the status women and men, boys and girls hold in the society. The learned constructs are reinforced through interactions in the home, community and institutions.

Gender Based Violence affects women, girls, men and boys; however, women and girls are disproportionately affected by GBV as a direct correlation between women and girl’s subordinate status in society and their greater susceptibility to violence.

The forms of GBV are sexual violence, physical violence, emotional and psychological violence, harmful traditional practices, trafficking in persons and socio-economic violence. Each type of Gender Based Violence has manifestations in several forms as seen below the list is not exhaustive.

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1 UN Declaration on Elimination of Violence Against Women

2 General Assembly Resolution on the Elimination of Domestic Violence Against Women

## 1.2 Sexual Violence:

This includes; Rape, attempted rape, defilement, incest, sexual abuse, sexual exploitation, forced prostitution, sexual violence as a weapon of war and torture and trafficking for sexual exploitation.

## 1.3 Physical Violence:

This includes; Physical assault, trafficking and slavery.

## 1.4 Emotional/Psychological Violence:

This includes; Abuse/humiliation, sexual harassment and confinement and intimate partner violence.

## 1.5 Harmful Traditional Practices:

They include; Female Genital Mutilation (FGM), Early Marriage, Forced Marriage, Infanticide and/or Neglect, widow inheritance and disinheritance.<sup>3</sup>

Gender-based violence constitutes a breach of the fundamental right to life, liberty, security, dignity, equality between women and men, non-discrimination and physical and mental integrity.

## 2. CONSEQUENCES OF GBV

Gender based Violence has serious consequences, which are far reaching. GBV survivors are at high risk of severe and long-lasting health problems, which could be physical or psychological in nature. These include permanent physical disabilities, erosion of self-esteem, loss of productivity, costs of health care, unwanted pregnancies, infections and even death. Gender based Violence can lead to trauma due to social stigma and rejection, unsafe abortion. In addition Gender based Violence has legal and judicial costs.

Effective strategies like duty bearers responding and preventing the vice through reliable public services, rights awareness and options available can decrease the impact of gender based violence in the society. On the other hand insensitive response to reported cases of gender-based violence like disbelief, apathy, re-victimization and blame of survivor can lead to escalation of the vice and under-reporting.

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3 Categorization of forms of Gender Based Violence from the Draft National Policy to Prevention and Response to Gender Based Violence

## 3. CONTEXT

### 3.1 About The Keeping the Promise End GBV Campaign

The “National Keeping the Promise End Gender Based Violence Campaign” seeks to provoke and sustain a transformative shift in perceptions towards Gender Based Violence from a culture of tolerance and normalization of Gender Based Violence to a new orientation that affirms accountability and sustainable remedies. The theme of the campaign is ‘Prevent and Respond to Gender Based Violence and Protect survivors’. The campaign will be implemented in 3 phases.

In the first year of implementation, the platform seeks to hold duty bearers to account in relation to prevention and response to Gender Based Violence. In this regard the platform created through the campaign in seeking opportunities for strengthening Gender Based Violence prevention and response strategies, has identified the need to interrogate the capacity of various actors to effectively deal with Gender Based Violence in all its manifestations and align practices with viable strategies and transformative goals.

### 3.2 Objectives of the Campaign

- To strengthen action and accountability by state and non- state actors on their mandate in relation to GBV work;
- To profile the achievements, opportunities, challenges, emerging trends and gaps pertaining to GBV work in Kenya;
- To influence implementation of the various policies and legislations on GBV in Kenya through dissemination and awareness creation, and give recommendations to the government;
- To assess, analyze and strengthen existing policy, legal and service delivery infrastructure for the prevention and response to GBV in emergencies;
- To engage communities focusing on men, boys, women and girls in negating the culture of normalization and acceptance of GBV.

The platform created through the campaign intends to explore opportunities for strengthening Gender Based Violence prevention and response strategies through emerging policy and legislative frameworks and institutions. The Keeping the promise to end GBV campaign was launched on the 10<sup>th</sup> December 2014. The day was befitting as it was on international human rights day and in commemoration of the 16 days of activism. The campaign is an initiative of the national GBV

sub-cluster working group and is being spearheaded by the National Gender and Equality Commission.

## 4. LEGAL FRAMEWORK ON GBV IN KENYA

### 4.1 The Constitution of Kenya 2010

[http://www.lcil.cam.ac.uk/sites/default/files/LCIL/documents/transitions/Kenya\\_19\\_2010\\_Constitution.pdf](http://www.lcil.cam.ac.uk/sites/default/files/LCIL/documents/transitions/Kenya_19_2010_Constitution.pdf)

#### The Constitution:

- Affirms the country's commitment to nurturing and protecting the well-being of the individual, the family, communities and the Nation (preamble)
- Guarantees every person the right to freedom and security of the person, which includes the right not to be subjected to any form of violence from either public or private sources (Article 29 (c)) and subjected to torture in any manner whether physical or psychological (29(d))
- Guarantees every child the right to be protected from abuse, neglect, harmful cultural practices, all forms of violence, inhuman treatment and punishment (Article 53 (1) (d))
- Mandates the Parliament to enact legislation providing for the protection, rights and welfare of victims of offences (Article 50 (9)).

#### 4.1.1 Penal Code Chapter 63 of the Laws of Kenya

<http://www.kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=CAP.%2063>

#### The Penal Code:

- Establishes a code of criminal law in Kenya
- Prohibits simple assault as well as assault which results in bodily harm (Sections 250 and 251)
- Prohibits conspiring to defile a girl, woman, boy or man and further prohibits permitting through any means any person from having unlawful carnal knowledge of any such person (Section 157).
- Creates offences against morality and includes penalties for defilement detention of females for immoral purposes (Section 151).
- Criminalizes male persons living on earnings of prostitution or soliciting and women living on earnings of prostitution or aiding, abetting the same.
- Prohibits detaining a person for the purpose of having unlawful sexual connection or in a brothel including preventing a person from leaving by withholding their clothing or any clothing from them (Sections 162,163 and 166)

- Criminalizes the spread of any infection or disease that is dangerous to life.

#### 4.1.2 Sexual Offences Act 2006

[http://www.chr.up.ac.za/undp/domestic/docs/legislation\\_40.pdf](http://www.chr.up.ac.za/undp/domestic/docs/legislation_40.pdf)

##### **Sexual Offences Act:**

- Makes provision about sexual offences, their definition, prevention and the protection of all persons from harm from unlawful sexual acts, and provides for minimum sentence for offences.
- Prohibits different types of sexual violence committed against men, women and children, including attempted rape, rape, sexual assault, indecent acts, defilement, gang rapes, sexual harassment, child pornography, child prostitution, child sex tourism, exploitation of prostitution, incest, deliberate transmission of HIV including other life threatening sexually transmitted diseases, and cultural and religious offences (Sections 3, 5, 8, 10, 20, 21, 26, and 29)

#### 4.1.3 HIV and AIDS Prevention and Control Act 2006

[http://www.chr.up.ac.za/undp/domestic/docs/legislation\\_35.pdf](http://www.chr.up.ac.za/undp/domestic/docs/legislation_35.pdf)

##### **HIV and AIDS Prevention and Control Act:**

- Seeks to create public awareness on causes, modes of transmission, consequences and means of prevention and control of HIV and AIDS
- Protects the rights of the infected and affected and prohibits all forms of discrimination against PLHIV and AIDS or those perceived or suspected to have HIV and AIDS. (Sections 31 (1) and (32))

#### 4.1.4 Counter-Trafficking in Persons Act 2010

[http://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/Counter-TraffickinginPersonsAct\\_No8of2010.pdf](http://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/Counter-TraffickinginPersonsAct_No8of2010.pdf)

##### **Counter-Trafficking in Persons Act:**

- Sets out the definition of trafficking in persons and exploitation and explains particular instances of trafficking which include acquisition of travel documents by entry and exit into the country and particularly promotion of child trafficking.

#### 4.1.5 Prohibition of Female Genital Mutilation Act 2011

[http://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/ProhibitionofFemaleGenitalMutilationAct\\_No32of2011.pdf](http://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/ProhibitionofFemaleGenitalMutilationAct_No32of2011.pdf)

- Prohibits the practice of female genital mutilation, to safeguard against violation of a person's mental or physical integrity through the practice of female genital mutilation
- Makes provision that anyone convicted of participating in the practice—traditional circumcisers, parents, doctors, nurses, even the person who supplies the premises or the FGM tools—will be subjected to imprisonment and a fine.

#### 4.1.6 Children Act 2001

<http://www.kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=CAP.%20141>

##### **Children Act:**

- Gives effect to the principles of the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child.
- Guarantees children (both girls and boys) the right to protection from physical and psychological abuse, neglect and any other form of exploitation including sale, trafficking or abduction (Section 13)
- Protects children from female circumcision, early marriage or other cultural rites, customs, or traditional practices which are harmful to the child's development.
- Protects children against discrimination on any ground including sex, religion, creed, custom, language and other status among others.
- Prohibits sexual exploitation of children as well as actions that expose children to torture or cruel or inhuman treatment such as circumcision or child marriages (Section 14).

#### 4.1.7 Marriage Act 2014

[http://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/TheMarriage\\_Act2014.pdf](http://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/TheMarriage_Act2014.pdf)

##### **Marriage Act:**

- Sets a mandatory minimum marriage age of 18 years for both parties to a marriage and considers void any marriage contracted with a person below the minimum age (Section 4)
- Identifies offences related to marriage and sets penalties
- Prohibits inducing consent to marry by coercion or fraud
- Prohibits marrying a person below 18 years.

#### 4.1.8 Matrimonial Property Act 2013

<http://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/MatrimonialPropertyAct2013.pdf>

**Matrimonial Property Act:**

- Prohibits the eviction of a spouse from the matrimonial home by or at the instance of the other spouse during the subsistence of the marriage, except by order of a court.

**4.1.9 Protection Against Domestic Violence Act 2015**

<http://kenyalaw.org/kl/fileadmin/pdfdownloads/bills/2013/TheProtectionAgainstDomesticViolenceBill2013.pdf>

**Protection against Domestic Violence Act:**

- Recognizes domestic violence, in all its forms, is unlawful behavior
- Makes provisions to ensure that, where domestic violence occurs, there is effective legal protection for its victims
- Empowers the police to take action against domestic violence
- Empowers the courts to make orders to protect victims of domestic violence
- Empowers the survivor and other individuals and institutions to take action against domestic violence.

**4.1.10 Witness Protection Act 2006**

[https://www.issafrica.org/anicj/uploads/Kenya\\_Witness\\_Protection\\_AmendAct\\_2010.pdf](https://www.issafrica.org/anicj/uploads/Kenya_Witness_Protection_AmendAct_2010.pdf)

**Witness Protection Act:**

- Makes provision for the protection of witnesses in criminal and other proceedings.

**4.1.11 Victim Protection Act 2014**

<http://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/VictimProtection-Act17of2014.pdf>

**Victim Protection Act:**

- Seeks to protect the dignity of victims through various victim support services including health, psycho-social, legal and economic support.

**4.2 International and Regional Instruments**

Apart from the national laws mentioned above, Kenya is also a signatory to several international and regional instruments (treaties and declarations) that prohibit Gender Based Violence. By virtue Article 2(6) of the Constitution of Kenya, 2010 these international obligations that have been ratified by Kenya become part of Kenyan law. These include the Universal Declaration of Human Rights (UDH), the International Covenant on Civil and Political Rights (ICCPR), the Conven-

tion on the Elimination of all Forms of Discrimination against Women (CEDAW), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984), the United Nations Convention on the Rights of Child (CRC), the Beijing Platform for Action (BPFA), UN Resolution 1325, the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, The ILO Convention 182 on the Worst Forms of Child Labor; and The Optional Protocol on the Convention of the Rights of the Child on Child Trafficking, Child Prostitution and Child Pornography. At the regional level, the Protocol to the Africa Charter on Human and Peoples' Rights on the Rights of Women in Africa (ACHPRW) (Maputo Protocol), the Solemn Declaration on Gender Equality in Africa (2004), the International Conference of the Great Lakes Region Protocol; and The African Charter on the Rights and Welfare of the Child (ACRWC).<sup>4</sup>

### 4.3 Policy Framework

#### 4.3.1 National Policy on Gender and Development, 2011

<http://www1.uneca.org/Portals/ngm/Documents/GenderPolicy.pdf> –

- This is a comprehensive overall framework for guiding gender mainstreaming within the different sectors and line ministries involved in development to allow for them to participate in the sectors and benefit from the development.

#### 4.3.2 Sessional Paper No. 2 of May 2006 on Gender Equality and Development

[http://www1.uneca.org/Portals/ngm/Documents/Gender\\_Mainstreaming%20Action%20Plan%20final%20-Apr08.pdf](http://www1.uneca.org/Portals/ngm/Documents/Gender_Mainstreaming%20Action%20Plan%20final%20-Apr08.pdf)

- This is in tandem with the National Policy on Gender and Development and providing a framework for gender mainstreaming and outlining strategies of implementing programmes in varying sectors such as agriculture, health, education, environmental, legal and information communication technology (ICT).

#### 4.3.3 The National Policy for Prevention and Response to Gender Based Violence

- The overall objective of the National Policy for Prevention and Response to Gender Based Violence is to accelerate efforts towards the elimination of all forms of Gender Based Violence in Kenya.

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4 Information obtained from the Draft National Policy to Prevention and Response to Gender Based Violence

- The Policy provides a strategy for a coordinated approach in the various State and non-state actors' in addressing Gender Based Violence.
- The Policy also aims at enhanced enforcement of laws and policies towards Gender Based Violence prevention and response; increased access to quality and comprehensive support services across sectors; as well as improved sustainability of Gender Based Violence prevention and response interventions.

#### 4.3.4 The Kenya Vision 2030

<http://www.vision2030.go.ke/>

- This Kenya Vision 2030 is a long term policy plan for accelerating transformation of Kenya into an industrializing middle income nation by 2030.
- It acknowledges that cases of GBV are increasing and lays out strategies to reduce the same and the vulnerabilities that surround it.

#### 4.3.5 National Guidelines on the Management of Sexual Violence

<http://www.svri.org/nationalguidelines.pdf>

- The guidelines establish government standards of service provision which include counseling, treatment and management of injuries, sexually transmitted diseases, PEP, HIV care and pregnancy preventions.
- Provide detailed information on management of sexual violence in a manner involving several parties and at several stages including information on steps to be taken when treating a survivor of sexual violence, like preservation of evidence for court use, issues of psycho-social support and other ethical issues.

#### 4.3.6 The National Monitoring and Evaluation (M&E) framework on sexual violence

<http://www.ngeckkenya.org/Downloads/National-ME-Framework-towards-the-Prevention-Response-to-SGBV-in-Kenya.pdf>

- The National Multi-sectoral Monitoring and Evaluation Framework for Response and Prevention of Gender and Sexual Gender Based Violence in Kenya was developed under the auspices of the National Gender and Equality Commission in collaboration with LVCT Health, ITECH, and Center for Disease Control.
- The framework provides for the following:
  1. Mechanism for monitoring progress of response and prevention management programmes

2. Systematic mechanism for coordination on sexual gender response and prevention mechanism
  3. Facilitate availability of credible and reliable data for policy and programme decision
  4. Facilitate timely submission of data for routine, periodic reporting for stakeholder's consumption and international reporting.
- The framework takes cognizance and compliments other related national frameworks including:
    1. The National HIV and AIDS Monitoring, Evaluation and Research Framework (2009/10-2012/13);
    2. Monitoring and evaluation framework for Kenya Health Sector Strategic Investment Plan (July 2012- June 2018); and
    3. Vision 2030 implementation framework.
    4. The linkage between the National Multi-sectoral Monitoring and Evaluation Framework for Response and Prevention of Gender and Sexual Gender Based Violence in Kenya and other related National frameworks for reporting purposes.

## 5. OBJECTIVE OF THE DUTY BEARER HANDBOOK

Despite the gains made, gaps and challenges in Gender Based Violence prevention and response still persist. These include limited funding by the National and County Governments to sustain Gender Based Violence prevention and response, lack of accountability by various stakeholders, lack of supported shelters and safe houses for Gender Based Violence survivors. Other challenges include gaps in service provision by various service providers, lack of centralized data and data management systems on Gender Based Violence and inadequate research on emerging trends on Gender Based Violence. In light of these gaps and challenges, the Working Group on Gender Based Violence launched the 'Keeping the promise to End GBV Campaign' on the 10<sup>th</sup> December 2014. The Working Group indentified the issue of the capacity of the various actors and prioritized the putting in place a duty bearer's handbook that would clearly spell out duty bearers respective roles and enable them to effectively deliver on prevention and response to Gender Based Violence.

It is therefore intended that the Duty Bearers Handbook will aid in the capacity enhancement of the various duty bearers to effectively deal with Gender Based

Violence in all its manifestations and align practices with viable strategies and transformative goals. The Duty Bearers Handbook will also enable the rights holders and stakeholders to know what services to expect from the respective duty bearers in order to hold them to account in relation to Gender Based Violence prevention and response. It is important to note that the work around Gender Based Violence in the National Government as well as at the Counties should be underpinned on the existing legal and policy frameworks, and especially the National Policy on the Prevention and Response to Gender Based Violence launched in Nov 2014.

### 5.1 Target Audiences

In line with the “National Keeping the Promise End Gender Based Violence Campaign’s” objective to strengthen action and accountability by state actors in relation to their mandate on Gender Based Violence prevention and response, one of the activities of the first year of the campaign is the development of a duty bearer’s handbook. This handbook has therefore been prepared for use by gender based violence duty bearers who have been identified for the purposes of the campaign’s first year of implementation. These are: The National Government (relevant ministries), County Governments, the Parliament, the Judiciary, Prosecutors, Police, Health Workers, Media and Teachers.

Faith Based Institutions, Civil Society and the Private Sector were also identified both as stakeholders and duty bearers. The key role of the Private Sector was identified as putting in place Gender Based Violence work place policies to protect both employees and stakeholders against Gender Based Violence. The key role of Faith Based Institutions and Civil Society were identified as:

- Complementing the government’s efforts in Gender Based Violence prevention and response
- Influencing policy and laws on ending Gender Based Violence
- Keeping the government in check on implementation of laws and policies and delivering services in connection with Gender Based Violence prevention and response.

The handbook provides basic information to State actors and the media as key duty bearers with regard to their respective roles and responsibilities in prevention and response to gender based violence. The handbook also provides basic information on how the duty bearers and stakeholders can assess the performance of the roles and responsibilities by the Key Duty Bearers.

## 6. KEY DUTY BEARERS OF GBV IDENTIFIED FOR THE PURPOSE OF THIS HANDBOOK

The key duty bearers identified for the purpose of this handbook are those actors who have a particular direct and indirect responsibility to respect, promote and realize human rights and to abstain from human rights violations with regard to Gender Based Violence. The key duty bearers identified for the purpose of this handbook are also those actors who have a particular obligation to respond in the event of an occurrence of Gender Based Violence. They include:

- National Government
  - The Cabinet
- Ministry of Interior and Coordination of National Government
  - National Police Services
  - Prisons services
  - Department of Immigrations
  - Department of Immigration
- Ministry of Devolution and Planning
  - Kenya Bureau of statistics
  - Gender Directorate
- The National Treasury
- Ministry of Health
  - Director of Medical Services
  - Government Chemist/successor institution
- Ministry of Education, Science and Technology
- Parliament
- Judiciary
- Independent Offices
  - Attorney General (AG)
  - Office of the Director of Public Prosecution
  - Controller of Budget
- Constitutional Commissions
  - Teachers Service Commission
  - National Gender and Equality Commission
- County Governments
- County Executives
- County Assemblies
- At Community - Chiefs and Assistant chiefs.

## 7. ROLES AND ACCOUNTABILITY PROFILE OF DUTY BEARERS OF GENDER BASED VIOLENCE

### 7.1 National Government

#### 7.1.1 The Cabinet

##### Obligation/Roles

- Ensure the full implementation of the Constitution
- Provide leadership and political goodwill to the initiatives on prevention and response to GBV
- Ensure proper infrastructure is in place to facilitate adequate Gender Based Violence prevention and response mechanisms

##### Accountability profile/Assessment

- Report on implementation of the Constitution
- Gender Based Violence issues discussed at Cabinet level
- Statements of commitment to reduce GBV by Cabinet
- Number and quality of infrastructures in place and operational

#### 7.1.2 Ministry of Interior and Coordination

##### Obligation/Roles

- Ensure there is adequate security for Gender Based Violence Prevention –pre-emptive measures to prevent Gender Based Violence
- Conduct public sensitization forums on GBV e.g., *barazas*
- Co-ordinate Gender Based Violence response mechanisms
- Refer Gender Based Violence cases to the Police and health facilities
- Assist in arresting of Gender based violence alleged and actual perpetrators of Gender based violence.
- Monitor, collect and Share of relevant data related to Gender based violence cases.
- Liaise with other structures/departments/agencies to mitigate, and to respond on cases of gender based violence

##### Accountability profile/Assessment

- Number and nature of cases referred to the police, health and other institutions.
- Number of forums organized and held.

- Nature of Gender Based Violence issues discussed in public forums.
- Number and nature of Gender Based Violence cases reported.
- Number of perpetrators arrested.
- Reduction in reported cases of Gender based violence

## **Responsibility Ministry of Interior and Coordination of National Government to Gender Based Violence in Emergency**

### **Obligation/Roles**

- Security (prevention of occurrence and recurrence)
- Documentation (OB)
- Preservation of evidence

## **National Police Service**

### **Obligation/Roles**

- Professional investigation of Gender Based Violence cases
- Collection and preservation of evidence/exhibits
- Maintaining chain of evidence
- Presentation of evidence for court use
- Apprehending perpetrators
- Witness/Survivor protection
- Actively listen to the survivors
- Provide referrals to the survivors
- Escort the survivors to health facilities when necessary.
- Provide services free of charge
- Support the survivors in courts
- Maintaining confidentiality in collection of data, documents, and data analysis.
- Capacity building for police force
- Create an independent unit to address Gender Based Violence
- Preserve and escort evidence to the government chemist department for analysis and collect the evidence submitted after analysis
- Enhance security during volatile times like electioneering period

### **Accountability profile/Assessment**

- Number of cases reported, successfully investigated and forwarded for prosecution

- Numbers of established/equipped gender response (crimes) unit/desks
- Numbers of operational gender desks
- Numbers of security officers available during electioneering period
- Numbers of Police Officers trained on Gender Based Violence prevention and response.

## Department of Immigration

### Obligation/Roles

- Enhance proper record management to track immigrating citizens, to ensure protection against Gender Based Violence in the host countries
- Monitor recruitment bureaus for immigrant workers to prevent trafficking of persons.
- Collaboratively work with the police to ensure protection of immigrants.
- Ensure training of staff providing assistance to immigrant population, on Gender Based Violence prevention and response.
- Ensure proper mechanisms for punishment of Immigrants who are Gender Based Violence perpetrators.
- Ensure proper mechanisms are in place for prevention and response to Gender Based Violence perpetrated against immigrants.

### Accountability profile/Assessment

- Proper records in place.
- Databases developed for immigrant workers.
- The number of cases reported to the police.
- The number of staff trained on Gender Based Violence prevention and response.
- The number of Gender Based Violence perpetrators who are immigrants apprehended and successfully prosecuted

## Prisons/Correctional Services

### Obligation/Roles

- Ensuring safe environment for convicted persons
- Ensuring safe environment for prison officers
- Presenting offenders to courts for hearing
- Rehabilitation
- Counseling
- Medicare

- Empowerment-life skills
- Probation and aftercare
- Debriefing and training prison officers in prevention and response to Gender Based Violence

#### **Accountability profile/Assessment**

- The number of prison staff trained on Gender Based Violence prevention and response
- Reduction of Gender Based Violence on convicted persons
- Safe environment for prison officers
- Timely presentation of offenders to courts
- Number of offenders rehabilitated
- Numbers of offenders counselled
- Number of offenders empowered with life skills

### **7.1.3 Ministry Of Devolution and Planning**

#### **Obligation/Roles**

##### **Gender Directorate**

- Convene gender sector working group
- Implementation of Gender Based Violence programs
- Policy formulation, dissemination and implementation
- Put in place “one-stop” centres for Gender Based Violence
- Make case for Budget Allocation for Gender Based Violence
- Monitoring Gender Based Violence interventions and contributing to national data (e.g. police desk assessment)
- Providing training and capacity building in Gender Based Violence prevention and response
- Domestication and dissemination of international ratifications and Treaty Body recommendations e.g. (Commission of Human Rights, Commission on the Elimination of All Forms of Discrimination against women, Commission on the Rights of Children etc.)

#### **Accountability profile/Assessment**

- Numbers of meetings addressing Gender Based Violence convened
- Numbers of programs initiated
- Numbers of policies formulated, disseminated and implemented. E.g. equality policy

- Proportion of budget allocation for Gender Based Violence Numbers of advocacy forums
- Numbers and quality of advocacy materials
- Number of “one-stop-shop” centres for Gender Based Violence
- Numbers and quality of training and capacity building undertaken
- Number of Child Protection Units (CPU) established and operational.

#### **Kenya National Bureau of Statistics (KNBS)**

- Develop National GBV indicators
- Data collection, management and analysis
- Provide official Gender Based Violence related statistics.
- Help in mapping hotspots areas...
- Provide County specific data e.g: Gender Based Violence county profiles.
- Capacity building for data collection and management on Gender Based Violence

#### **Accountability profile/Assessment**

- Standard indicators developed
- Numbers of survey reports
- Numbers of capacity building reports

### **7.1.4 The National Treasury**

#### **Obligation/Roles**

- Ensure Gender Responsive Budgeting
- Ensure allocation for Gender Based Violence prevention and response

#### **Accountability profile/Assessment**

- Gender Responsive Budget
- Proportion of allocation for Gender Based Violence prevention and response

### **7.1.5 Ministry of Education, Science and Technology**

#### **Obligation/Roles**

- Formulate and operationalize Gender Based Violence prevention and response policy in education

- Integrate Gender Based Violence prevention and response education in the learning curriculum.
- Work with affiliate agencies to ensure there are enough teachers trained (Pre- service and in-service) on Gender Based Violence/trauma counselling
- Make schools and their environs safe and secure for the learners and staff
- Build the capacity of Board of Management and field officers on Gender Based Violence prevention and response, so as to empower parents to ensure they do not compromise on issues of abuse by teachers
- Establish gender desk and install child/student information boxes

#### **Accountability Profile/Assessment**

- Gender Based Violence prevention and response policy in education instituted
- Gender Based Violence education is integrated in the learning curriculum
- The number of teachers trained on Gender Based Violence/trauma counselling
- The number of schools with trained Gender Based Violence counsellors
- Number of gender desks established and Number of child/student information boxes installed.

### **7.1.6 Ministry of Health**

#### **Obligation/Roles**

- Develop and review policy guidelines and Standard Operating Procedures (SOPs) addressing Gender Based Violence in the health sector
- Institute policies on Gender Based Violence addressing prevention and response should be in place
- Disseminate and ensure implementation of Gender Based Violence policies within all the tiers of Health system
- Ensure Compliance and enforcement of polices of Gender Based Violence and regulations
- Ensure budget allocation for comprehensive care and capacity building for national referral hospitals
- Decentralized government chemist functions including human capacity to county levels

- Ensure Government chemist have data banks for tracking Gender Based Violence cases

#### **Accountability profile/Assessment**

- Numbers of policies developed/reviewed and operationalized
- Percentage of the policies and guidelines disseminated across the tiers of Health System
- Quarterly Monitoring and evaluation (M&E)
- Percentage of funds allocated for Gender Based Violence and capacity within the National referral Hospitals
- Numbers of Government chemists/laboratories established at county level
- Numbers of data banks installed
- Numbers of survivors and families of survivors accessing free health services

#### **7.1.6.1 Government Chemist**

- Capacity building to service providers (Health workers and police) on collection, documentation and preservation of evidence – chain of Evidence)
- Accurate and timely Analysis of forensics evidence specimens from Gender Based Violence survivors
- Ensure professional gathering, transportation and storage of evidence
- Train more forensic experts
- Put up more storage facilities
- Decentralize services to Counties
- Expert Witness in court

#### **Accountability profile/Assessment**

- Proportion of service providers within facilities per county trained
- Numbers of forensic analyzed reports
- Numbers of court appearances as expert witnesses
- Number of Counties with Government Chemists
- Numbers of forensic experts trained and giving serving
- Numbers and quality of storage facilities

#### **Responsibility of Ministry of Health in emergency**

- Rapid response

- Provision of Post exposure prophylactic (PEP)
- Provision of trauma counseling, mental healthcare, Psychosocial and rehabilitative care
- Treatment of wounds/injuries
- Provision of Post Rape care (PRC)
- Provision of dignity kit
- Comprehensive support

#### **Responsibility profile/Assessment**

- Percentage reduction in cases of Gender Based Violence in emergencies
- Numbers of Gender Based Violence survivors and families accessing comprehensive support

### **7.1.7 Ministry of Labour, Social Security and Services**

#### **Obligation/Roles**

- Ensure provision of social services including Safe Spaces and Shelters (SSS)
- Ensure implementation of Gender Based Violence policies at work places
- Censure job seekers to foreign countries to mitigate human trafficking
- Build capacity of Area Advisory Committees (AACs) on prevention and response of Gender Based Violence

#### **Accountability profile/Assessment**

- Numbers Safe Spaces and Shelters established and in operation
- Presence and adherence to GBV polices at work places
- Numbers of Job seekers censured / Screened for foreign jobs
- Numbers of Area Advisory Committees trained

### **7.1.8 Ministry of Transport and Infrastructure**

#### **Obligation/Roles**

- Ensure public transportation is free from Gender Based Violence
- Put in place rules and regulations for prevention and response to Gender Based Violence in public transport

### **Accountability profile/Assessment**

- Presence and adherence to rules and regulations for prevention and response to Gender Based Violence in transportation system
- Reduction of Gender based violence in transportation system.

## **7.1.9 Parliament**

### **Obligation/Roles**

- Enact gender responsive legislation
- Provide oversight on implementation of GBV laws
- Provide political goodwill for GBV issues

### **Accountability profile/Assessment**

- Number of legislations passed on GBV
- Percentage of budget allocation towards GBV
- Number of members trained on GBV issues

## **7.1.10 Judiciary**

### **Obligation/Roles**

- Timely trial and determination of Gender Based Violence cases
- Ensure access to justice for Gender Based Violence Survivors and victims
- Establishment of victim friendly courts,
- Facilitation of witness attendance by providing witness expenses,
- Maintain register for pro bono representation,
- Ensure that access to justice is expeditious.
- Physical infrastructure including accessibility of courts including Gender Based Violence specific courts
- Ensure that courts are friendly to Gender Based Violence victims and survivors
- Maintain and update pro bono lawyers register
- Develop compendium of laws and cases, digests.
- Provide effective sanctions and enforcement for example in event that protection order is breached
- Ensure legal aid e.g. presence of pro bono lawyers for victims and survivors

- Ensure access Sexual Offenders registers by judges and magistrates
- Ensure the establishment of Gender Based Violence internal policies

#### **Accountability profile/Assessment**

- Number of cases heard and determined
- Nature of judgments made in upholding the law and levels of impartiality
- Time taken to hear cases and deliver judgment(s)
- Number of judicial officers trained on Gender Based Violence
- Number of researchers aiding judicial officers on Gender Based Violence
- Establishment of specialized Gender Based Violence courts
- Number of pro bono lawyers registers
- Number of simplified versions of Gender Based Violence legislations
- Number of new courts established
- Number of judiciary open days on which the issue of Gender Based Violence is addressed
- Number of stations with open registers on Gender Based Violence cases/registers for convicted Gender Based Violence offenders
- Established internal policies addressing Gender Based Violence
- Service charters in place and operational.

### **7.1.11 Independent Offices**

#### **Office of the Attorney General (AG)**

##### **Obligation/Roles**

- To draft timely Bills to enable Parliament to enact legislation addressing Gender Based Violence.
- Institute review of laws to be in line with the Constitution and be gender responsive.
- Advise Government on its duties relative to Gender Based Violence  
Seek direction from Judiciary on gender laws
- Dissemination of Bills and Laws

##### **Responsibility profile/Assessment**

- Numbers of gender-responsive laws reviewed and developed.
- Numbers of Sessional Papers on Gender Based Violence
- Numbers of implementation reports disseminated.

## Office of the Director of Public Prosecution (ODPP)

### Obligation/Roles

- Undertake public prosecution of Gender Based Violence cases forwarded by investigative agencies
- Representing the State in all Gender Based trials, applications and appeals
- Directing and supervising the conduct of criminal investigations
- Advising the police and other investigative and prosecutorial agencies on the institution of criminal charges and reviewing prosecutions to ensure that the correct charges are preferred
- Formulating, reviewing and disseminating Gender Based Violence manuals, policies and guidelines
- Meeting and preparing victims and witnesses for the court process
- Presenting evidence in court
- Ensure timely investigation
- Examining and cross-examining witnessing in courts
- Making relevant applications in court for instance, through appeal of cases in court, protection of vulnerable witnesses, counseling of survivors, assessing the survivor and prosecuting the accused
- Monitoring, training, appointing and gazetting of Gender Based Violence prosecutors
- Addressing complaints raised by institutions and by the public
- Providing support for the survivors and witnesses of Gender Based Violence offences

### Responsibility profile/Assessment

- Number of Gender Based Violence cases prosecuted
- Number of prosecutors trained to prosecute Gender Based Violence cases
- Adherence to Gender Based Violence laws and policies on prosecution
- Operational Witness protection mechanism in place
- Numbers of prosecutors trained
- Numbers of appealed cases
- Reduction in Gender Based Violence
- Number of complaints addressed satisfactorily
- Number of policies and guidelines on Gender Based Violence formulated and operationalized

## Controller of Budget (CoB)

### Obligation/Roles

- Setting budget ceiling with regards to Gender Based Violence prevention and response
- Monitor adherence to the budget
- Ensure gender participation in County Budget and Economic Forums (CBEFs)
- Report on the use of Budget for Gender Based Violence prevention and response.

### Accountability profile/Assessment

- Quarterly reports on the budget utilization
- User-friendly factsheets for budget
- Content on the report on the use of budget in prevention and response to Gender Based Violence

## 7.1.12 Constitutional Commissions

### Obligation/Roles

- Conduct audits on the status of special interest groups including minorities, marginalized groups, persons with disability, women, youth and children in an effort to promote human rights and elimination of Gender Based Violence

### Accountability profile/Assessment

- Periodic reports for national, regional and international reporting on progress in the realization of equality and freedom from discrimination (encompasses GBV)

## Teachers Service Commission

### Obligation/Roles

- Ensure proper distribution of properly trained teachers on Gender Based Violence counselling
- The Ministry of Education, Science & Technology and TSC to refer disciplinary cases for legal action
- Capacity building of teachers and students on Gender Based Violence prevention and response

### Responsibility Profile/Assessment

- The number of disciplinary cases dealt with.
- The number of board of management and field officers trained.
- Number and nature of Gender Based Violence cases referred.
- Ratification of safety and security criteria for schools by the teachers, school administration and Board of Management.
- The number of teachers and students trained on Gender Based Violence prevention and response.

### National Gender and Equality Commission (NGEC)

#### Obligation/Roles

- Oversee, co ordinate, advice, audit and monitor the implementation of gender responsive legislation
- Advise government on gender responsive measures that will aid the government in the promotion of human rights and elimination of Gender Based Violence
- Facilitation of the mainstreaming gender equality and inclusion with attention to Special Interest Groups.
- Conduct audits on the status of special interest groups including minorities, marginalized groups, persons with disability, women, youth and children in an effort to promote human rights and elimination of Gender Based Violence
- Establish databank on issues relating to equality and freedom from discrimination (which includes elimination of Gender Based Violence) for different affected interest groups
- Ensure compliance with national and international treaties that Kenya is a signatory to with regards to Gender Based Violence.
- Coordination of the National Gender Based Violence Sub Cluster working group
- Working with state and non-state actors advocate to develop measures for prevention and response of Gender Based violence
- Enhancing coordination, collaboration and networking between different state and non-state stakeholders to address Gender Based Violence.
- Undertake Monitoring and Evaluation.

### **Responsibility profile/Assessment**

- Extent of mainstreaming and inclusion with attention to Special Interest Groups.
- Number of coordination meetings held of the National GBV Sub Cluster working group
- Numbers of advisories issued.
- Development of monitoring and evaluation framework with regard to response to GBV.
- Establishment of databases to track GBV cases
- Periodic reports for national, regional and international reporting on progress in the realization of equality and freedom from discrimination (encompasses GBV)

#### **7.1.13 County Governments**

##### **Obligation/Roles**

- Public Participation Bill
- Establish budgetary advisory Council
- Ensure budget allocation of GBV response and prevention
- Civic Education

##### **Accountability profile/Assessment**

- Public Participation Law in place
- Budgetary advisory Council establish and working
- Amount of budget allocation for GBV response and prevention
- Number and quality of Civic Education fora

#### **7.1.14 County Executive**

##### **Obligation/Roles**

- Implementation of GBV programmes through resource allocation; awareness creation; planning for shelters; accessibility to services for survivors and social safety nets
- Set up recognition and awards schemes
- Establish fully functional county departments in charge of GBV issues

##### **Accountability profile/Assessment**

- Amount of funds allocated for GBV services

- Number of forensic labs set up
- Evidence based data and fact sheets
- County departments in charge of GBV issues established and operational
- Monitoring and Evaluation programs

### 7.1.15 County Assembly

#### Obligation/Roles

- Ensure the mainstreaming of GBV issues in County Integrated Development Plan
- Cascade national laws and develop gender responsive county legislation
- Allocate sufficient funding to gender responsive initiatives
- Ensure Public participation
- Build capacity of Members of County Assemblies on gender issues
- Offer overall legislative oversight on GBV issues

#### Accountability profile/Assessment

- Number of legislations passed on GBV
- Percentage of budget allocation for prevention and response to GBV in the county
- Number of public participation fora held on GBV
- Number of gender issues identified in fora

### County Executive Member for Health / County Director of Health

#### Obligation/Roles

- Ensure GBV-related policies and guidelines are made and implemented at county level
- Ensure Timely comprehensive services (medical and Psychosocial) to GBV services
- Ensure capacity building of health workers on GBV prevention and response
- Ensure adequate resources allocated to address GBV
- Ensure Compliance and enforcement of polices and regulations

- Infuse GBV into the CHSSIP – County Health Sector Strategic Investment Plan) and county integrated development plan (CIDP)
- Ensure implementation of free GBV services at county facilities (Medical superintendent)
- Ensure Referral of survivors to relevant Service delivery (SDP's) e.g Shelters (Medical superintendent)

### **Accountability profile/Assessment**

- Numbers of GBV related policies and guidelines implemented
- Numbers of GBV survivors attended to
- Numbers of County Health workers trained on GBV prevention and response
- Proportion of resources allocated to GBV services
- Quarterly M&E reports submitted on the progress made on prevention and response to GBV
- Presence of Anti- GBV strategies
- Presence of service charter indicating free GBV services
- Numbers of cases referred to various SDP's

## **7.1.16 The Media**

### **Obligation/Roles**

- Engage in advocacy messages to address myths, rumors and misconceptions about Gender Based Violence
- Educate the local communities about gender based violence including raising awareness on Gender Based Violence as a crime
- Influence shaping of positive behavior through deliberate reporting on gender based violence
- Adhere to media guidelines for reporting on Gender Based Violence which encompasses sensitive reporting on Gender Based Violence cases including protecting the privacy/confidentiality of the survivors
- Through the Media Council of Kenya put in place appropriate sanctions for misreporting on gender based violence and also put in place recognition and award scheme for reporting on Gender Based Violence.

### **Responsibility profile/Assessment**

- Evidence of gender sensitive reporting of GBV cases
- Amount of airtime availed for programs on GBV
- No of media trained on gender responsive reporting
- Adherence to media standards and media guidelines for reporting on GBV

#### **7.1.17 Community Level**

##### **The Chief and the Assistant Chief**

##### **Obligation/Roles**

- Report GBV cases to the police
- Advocate against GBV
- Assistance in reintegration and support of survivor in the community
- Creation of community mechanisms to prevent and protect against GBV
- Educate communities to report GBV cases.

##### **Responsibility profile/Assessment**

- Number of GBV cases reported to the police
- Number of sensitization forums held to the community on GBV

## GLOSSARY<sup>4</sup>

**Duty bearer:** Duty bearers are those actors who have a particular obligation or responsibility to respect, promote and realize human rights and to abstain from human rights violations. The term is most commonly used to refer to State actors, but non-State actors can also be considered duty bearers. Depending on the context, individuals (e.g. parents), local organizations, private companies, aid donors and international institutions can also be duty-bearers.

**Rights-holders:** Rights -holders are individuals or social groups that have particular entitlements in relation to specific duty-bearers. In general terms, all human beings are rights-holders under the Universal Declaration of Human Rights. In particular contexts, there are often specific social groups whose human rights are not fully realized, respected or protected. More often than not, these groups tend to include women/girls, ethnic minorities, indigenous peoples, migrants and youth, for example.

**Gender:** Gender is a social and cultural construct, which distinguishes differences in the attributes of men and women, girls and boys, and accordingly refers to the roles and responsibilities of men and women. Gender based roles and other attributes, therefore, change over time and vary with different cultural contexts. The concept of gender includes the expectations held about the characteristics, aptitudes and likely behaviors of both women and men (femininity and masculinity). This concept is also useful in analyzing how commonly shared practices legitimize discrepancies between sexes

**Sex Disaggregated Data:** Sex- disaggregated data is data that is cross-classified by sex, presenting information separately for men and women, boys and girls. When data is not disaggregated by sex, it is more difficult to identify real and potential inequalities. Sex-disaggregated data is necessary for effective gender analysis.

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<sup>5</sup> Glossary Definitions E-Z UNICEF <http://www.unicef.org/gender/training/content/resources/Glossary.pdf>

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