STATEMENT BY EQUALITY NOW

(Observer Status No. 281)

ON AGENDA ITEM 6 OF THE 71ST ORDINARY SESSION OF THE ACHPR

STATEMENT ON THE ACTIVITY REPORT OF THE SPECIAL RAPPORTEUR ON
THE RIGHTS OF WOMEN IN AFRICA

Honourable Chairperson of the ACHPR, Commissioners, State-Party Representatives, Fellow Civil Society Representatives, honoured participants.


In our Shadow Report on Kenya’s Initial Report on the Implementation of the Maputo Protocol, Equality Now and 17 organisations (referred to in the shadow report as “Joint Stakeholders”) note with concern that many of the policies, laws and institutions in place have been “ineffective in ensuring women’s rights” on account of the Kenyan government’s “disobedience of the letter and spirit” of its own Constitution and international human rights standards it has bound itself to, including the Maputo Protocol. The Joint Stakeholders make observations, provide questions, and make recommendations to the Kenyan government on issues related to equality and non-discrimination, the right to participate in the political and decision-making process, protection of women from sexual and gender-based violence, female genital mutilation, child marriage, technology-assisted violence against women, rights relating to marriage, health and reproductive rights, maternal healthcare, rights of women in need of special protection, women with disabilities, and indigenous women. **We urge the Commission, and the Special Rapporteur on the Rights of Women in Africa specifically, to consider the Joint Stakeholders’ Shadow Report in its consideration of Kenya’s state report on the Banjul Charter and the Maputo Protocol.**

In consideration of Kenya’s State Report, we urge the Commission to remain cognizant of Kenya’s own treaty commitments under international, continental, and domestic law. Of particular concern to the Joint Stakeholders is the Government of Kenya’s failure to respond effectively and in a gender-sensitive way to the unique challenges and disproportionate
impact of the COVID-19 pandemic on the rights of Kenyan women and girls. Considering the long-lasting effects of the COVID-19 pandemic, the Joint Stakeholders believe that the full implementation of the Maputo Protocol, in complementarity with other international, continental, and domestic laws and policies, would fundamentally address the unique challenges and disproportionate impact of the COVID-19 pandemic on the rights of women and girls.

The rule of law is a key pillar of women’s access to justice and for the enforcement of human rights obligations under international, continental, regional, and domestic laws. In the Joint Stakeholder’s Shadow Report, we note Kenya’s continued failure to implement and enforce important decisions by the country’s judiciary as well as the ACHPR on key issues such as women’s political participation and representation in public office, reproductive rights, maternal health, indigenous women’s rights, and Female Genital Mutilation (FGM). In certain instances, as noted in the Shadow Report, the Kenyan government has made overtures in the direction of implementing key decisions (particularly Communication 276 by the Commission) only for these efforts to amount to “window dressing.” The Government of Kenya’s lack of adherence to these decisions, despite commitments to do so, undercuts its own commitments to promote and protect the rights of women and girls, and relegates its core treaty law, constitutional and statutory obligations. We urge the Commission to specifically refer to Kenya’s continued lack of implementation of key women’s rights decisions as discussed in the report. We further urge the Commission to recommend that Kenya takes steps to implement outstanding decisions on women’s political participation and representation in public office, reproductive rights, maternal health, and FGM. We also urge the Commission to recommend that Kenya reinvigorate efforts to implement the decision in Communication 276, taking care to ensure the participation of key actors, including indigenous women’s groups.

Lastly, considering the upcoming Kenya General Elections, we urge the Commission to make specific recommendations on the question of women’s political participation and representation in public office as well as the unique vulnerabilities and risks facing Kenyan women and girls during the election season. These vulnerabilities and risks are particularly salient since the election season in Kenya has previously been marked by political violence, the use of SGBV as a tool in this conflict, the breakdown of the rule of law and access to justice and care mechanisms, as well as an increase in opportunistic forms of Sexual Gender-Based Violence (SGBV) against women and girls by law enforcement, criminals and criminal groups. Our recommendations are particularly salient considering the Kenyan government’s continued failure to enforce constitutional provisions that seek to enhance women’s representation in elective and appointive bodies, as well as decisions directing the government to address its own role and accountability in preventing and redressing election related SGBV.

Thank you.

Done in Nairobi on 26 April 2022.
STATEMENT BY EQUALITY NOW

(Observer Status No. 281)

ON AGENDA ITEM 6 OF THE 71ST ORDINARY SESSION OF THE ACHPR

STATEMENT ON THE ACTIVITY REPORT OF THE CHAIRPERSON OF THE WORKING GROUP ON THE RIGHTS OF OLDER PERSONS AND PERSONS WITH DISABILITIES IN AFRICA

Honourable Chairperson of the ACHPR, Commissioners, State-Party Representatives, Fellow Civil Society Representatives, honoured participants.


While the Joint Stakeholders welcome the adoption of the National Policy on Older Persons and Ageing, no statutes have been enacted to provide more specific protections for elderly women. Elderly women in some parts of Kenya are particularly susceptible to attacks by mobs or individuals on accusations of practicing witchcraft. The need for the Kenyan government to take active steps to address the practice of systematised killings of elderly women falsely accused of witchcraft has been given new urgency in the wake of the murder of three elderly women and one elderly man in Kisii County in late 2021. We urge the Commission to make recommendations to the Government of Kenya aimed at ensuring criminal accountability for all those involved in these killings as well as take active steps in addressing the root societal causes, as well as legal and policy gaps, that contribute to these killings.

In the Shadow Report, the Joint Stakeholders express concern that is yet to enact legislation domesticating the Convention on the Rights of Persons with Disabilities which includes
specific provisions covering women with disabilities. We wish to highlight the pernicious practice of the sterilisation of women with disabilities, without their free and informed consent, often without their knowledge. Pregnant women with certain types of disabilities have been sterilised with the pretext of “protecting” them from future pregnancies. **We urge the Commission to make recommendations to the Government of Kenya urging it to domesticate and implement the Convention on the Rights of Persons with Disabilities as well as take all steps to eliminate the practice of forced sterilisation of women with disabilities.**

Thank you.

Done in Nairobi on 26 April 2022.
STATEMENT BY EQUALITY NOW

(Observer Status No. 281)

ON AGENDA ITEM 6 OF THE 71ST ORDINARY SESSION OF THE ACHPR

STATEMENT ON THE ACTIVITY REPORT OF THE CHAIRPERSON OF THE COMMITTEE ON THE PROTECTION OF THE RIGHTS OF PEOPLE LIVING WITH HIV AND THOSE AT RISK, VULNERABLE TO AND AFFECTED BY HIV

Honourable Chairperson of the ACHPR, Commissioners, State-Party Representatives, Fellow Civil Society Representatives, honoured participants.


In the Shadow Report, the Joint Stakeholders express concern on the continued practice of the sterilisation of HIV-positive women without their free and informed consent, often without their knowledge. We urge the Commission to make recommendations to the Government of Kenya urging it to take all steps necessary to eliminate the practice of forced sterilisation of women with disabilities.

Done in Nairobi on 26 April 2022.