



STATEMENT BY EQUALITY NOW

(Observer Status No. 281)

ON THE OCCASION OF THE 71ST ORDINARY SESSION OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

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

Kenya's State Report on the Banjul Charter and Maputo Protocol

Honourable Chairperson, Equality Now would like to commend Kenya's submission of its first state report on the Maputo Protocol alongside its third state report on the Banjul Charter, reports that will be considered during the 71st Ordinary Session of the African Commission. We note, however, that only 17 out of 42 signatories to the Maputo Protocol so far have submitted state reports highlighting their efforts to implement the treaty. State reports on efforts taken to implement these treaties are an important opportunity to assess the status of women's rights in a particular jurisdiction, create meaningful opportunities for dialogue between governments and civil society organisations, and create pathways for state accountability through the intervention of the African Commission. **We therefore urge the Commission to take active steps, through cooperation with government representatives to the AU as well as National Human Rights Institutions (NHRIs) to encourage the submission of state reports under both the Banjul Charter and the Maputo Protocol.**

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") commend the Kenyan government for "significant policy, legislative and institutional measures" it has taken towards realisation of women's rights but notes with concern that many of these 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 provide a list of questions that may be helpful for the African Commission to raise with the Kenyan government during consideration of its reports, as well as recommendations to the Kenyan government aimed at bolstering its implementation of the Maputo Protocol in line with the Constitution, statute, and domestic policies. **We therefore urge the Commission to consider the Joint**

Stakeholders' Shadow Report in its consideration of Kenya's state report on the Banjul Charter and the Maputo Protocol. Further, we urge the Kenyan government to consider the Joint Stakeholder Shadow Report and take active steps to implement its recommendations and consider working closely with civil society organisations in this endeavour.

Need for Proper Funding and Political Goodwill Supporting Efforts to Domesticate and Implement the Maputo Protocol

Political goodwill and adequate budgetary allocations are central to successfully undertaking domestication and implementation of the Maputo Protocol. However, we note that among AU member states such as Kenya, Sierra Leone and Tanzania, paltry budgetary allocations and failure to sustain even these paltry allocations have hindered access to justice for women and girls survivors of sexual violence. For instance, in Kenya, despite recognition of the rights and welfare of victims (survivors) through Article 50 (9) of the Constitution, the enactment of the Victims Protection Act (VPA) of 2014 and its regulations in 2020, the trust fund for victims which would provide for reparation and compensation of victims including special protection for vulnerable victims such as women and girls is not yet funded. This state of affairs hampers effective implementation of other laws targeted to end violence against women. Without funding, the situation of women victims (survivors) of violence becomes even dire during emergencies.

In Sierra Leone, the work of the Family Support Unit of the police – a specialized unit present across the country with a mandate to investigate allegations of sexual and gender-based violence – is hampered by low budgetary allocation that limits this unit's efforts to respond and protect women and girls from violence.

We note that the government of Tanzania is yet to repeal the Education (Expulsion and Exclusion of Pupils from Schools) Regulations (2002), G.N. No.295 of 2002 (Tanz.). This regulation has led to expulsion of girls from schools which has rendered girls and risks rendering this group more economically disempowered in the long run. **We therefore request the Commission to urge member states to prioritize resource allocation and financing of government departments that carry out interventions to end violence against women to ensure effective implementation of laws and policies that domesticate the Protocol to the African charter on human and peoples rights on the rights of women in Africa.**

Need for Adoption and Enforcement of Specific Laws Prohibiting FGM

Equality Now calls the attention of the Commission to countries that have not adopted specific laws prohibiting FGM and by extension protecting their women and girls from this harmful practice. In December 2021, a 21-year old woman lost her life while a 15 year old girl was hospitalised following heavy blood loss after undergoing FGM in Sierra Leone. It is unacceptable that women and girls

should continue to lose their lives as a result of this human right violation. While Equality Now notes that countries could use existing criminal provisions to prosecute cases of FGM with offenses such as assault, causing greivous bodily harm, and manslaughter among other related provisions, efforts to do so have been impeded by the lack of strong witness protection regimes to protect victims and witnesses in FGM cases. In Liberia, intimidation of witnesses and survivors previously led to withdrawal of these criminal cases. We commend and welcome the announcement from Liberia banning FGM for three years made in February 2022. A ban was previously made in 2018, through Executive Order No 92 on Domestic Violence, outlawing FGM for one year for girls under 18 years. However, these prohibitions were ineffective as they were poorly publicised. **Equality Now calls on the Governments of Sierra Leone, Liberia, Mali, Egypt and Somalia to fulfil their obligation to protect women and girls from FGM by adopting and subsequently implementing specific legislation prohibiting FGM. As these governments work towards the adoption of this law, we urge them to strengthen their witness protection regimes and utilise their existing criminal laws to prosecute perpetrators in cases of death or grave injury resulting from FGM. Finally, Equality Now calls on the Government of Liberia to publicise the three-year ban on FGM and take all necessary measures to ensure compliance by its citizens as it works to make the ban permanent through the enactment of a specific law prohibiting FGM.**

Growing prevalence of technology facilitated sexual exploitation and abuse in Africa

Equality Now would also like to draw the Commission's attention to the high prevalence of sexual exploitation and abuse in Africa. Victims of all ages, especially young women and girls are rendered vulnerable due to poverty and other intersectional experiences of harm such as sex, gender, and structural discrimination inherent in our patriarchal society, resulting in them being targeted by perpetrators. Digitisation exacerbated by the COVID-19 pandemic has led perpetrators to migrate to the internet and exploit women and girls through the use of digital technologies. Although most States have a legal and policy framework in place for the protection of women and girls from various forms of exploitation and are signatories to various instruments, including the Maputo Protocol — which set standards on freedom from sexual exploitation — there remains a huge implementation gap, especially access to justice pathways and law enforcement for technology-facilitated sexual exploitation and abuse. Given the global nature and reach of the internet and digital technologies, women and girls across African countries are being abused and exploited by predators located within their own countries, and in others across the world, presenting jurisdictional challenges and requiring States to cooperate with each other to bring perpetrators to account. We encourage State Parties to ensure effective implementation of the AU Strategy and Plan of Action on Strengthening Regional and National Capacity and Action against Online Child Sexual Exploitation and Abuse in Africa (2020 – 2025), and to contribute to the development and implementation of global responses through the UN and initiatives such as WeProtect Global Alliance. Additionally, States should implement measures that address online sexual exploitation and abuse against women, accordingly, States parties should be reminded of their duty to report on measures taken to eliminate all forms of

exploitation as required under the African Charter on Human and Peoples' Rights and its Protocol on the Rights of Women in Africa.

Sexual and Gender Based Violence

Worldwide, around 15 million adolescent girls aged 15 to 19 have experienced sexual violence in their lifetime. According to UNFPA, the East and Southern Africa region has high rates of sexual violence against women and girls.. Sexual violence against early adolescents aged 15 years and below is highest in the conflict and post-conflict countries of the DRC, South Sudan, Mozambique, Uganda and Zimbabwe. Under its Ending Sexual Violence program in Africa, Equality Now advocates for laws and policies that protect women from violence and for justice systems that work. Equality Now has supported trainings for prosecutors and police on regional and international legal standards on investigating and prosecuting sexual violence cases. Unfortunately, we have noted low budgetary allocations for gender based violence police desks and unavailability of adequate forensic laboratories to aid in evidence analysis. **We therefore call upon the Commission to urge member states of the African Union to prioritize budgetary allocation for ending violence against women in line with the African Union campaign on ending violence against women and girls.**

Thank you.

Done in Nairobi on 26 April 2022