



# **CIVIL SOCIETY RESPONSES TO THE LIST OF ISSUES**

**IN RELATION TO THE EIGHTH REPORT OF KENYA TO  
THE COMMITTEE ON THE ELIMINATION OF DISCRIMINATION  
AGAINST WOMEN (CEDAW)**

**68<sup>th</sup> Session of the  
Committee on the Elimination of Discrimination against Women  
Geneva, 23 October – 17 November 2017**

**Submitted by:**

Franciscans International  
Edmund Rice International  
The Office of Justice Peace and Integrity of Creation Franciscans Africa

2 October 2017

## Introduction

1. This is a joint submission made by Franciscans International, Edmund Rice International and the Office of Justice Peace and Integrity of Creation Franciscans Africa. This submission seeks to assist the UN Committee on the Elimination of Discrimination against Women (hereafter “the Committee”) in carrying out a constructive review of Kenya’s compliance with the Convention on the Elimination of All Forms of Discrimination against Women during its 68<sup>th</sup> session (23 October – 17 November 2017).
2. Franciscans International (FI) is a faith-based international non-governmental organisation with General Consultative Status with the United Nations Economic and Social Council (ECOSOC). It was founded in 1982 to bring the concerns of the most marginalized and disadvantaged groups to the United Nations. FI relies on the expertise and first-hand information of Franciscans and other partners working at the local level to advocate at the United Nations for structural changes addressing the root causes of injustice.
3. Edmund Rice International (ERI) is an international non-governmental organization, founded in 2005 and with Special Consultative Status with ECOSOC since 2012. ERI is supported by two Catholic Religious Congregations, the Christian Brothers and the Presentation Brothers. It works with networks of like-minded organizations and in the countries where the two congregations are present. ERI has a special interest in the rights of the child, the right to education and in eco-justice.
4. The Office of Justice Peace and Integrity of Creation Franciscans Africa was established in 2007. Through coordination, communication, collaboration and formation, the office animates the Franciscans and the people they minister to within the Eastern African region to promote the values of justice, peace and integrity of creation.
5. The submission specifically addresses the Committees’ recommendations in the latest Concluding Observations to Kenya in 2011<sup>1</sup> and the questions in the List of Issues<sup>2</sup> for the current review in relation to gender-based violence against women and the situation of extreme poverty of women and girls living in urban slums and informal settlements. Our organisations are concerned about the failure of the Government of Kenya to comply with its obligations under the Convention and other international human rights instruments and processes to improve the situation of women in these areas and ensure gender equality and women’s empowerment.
6. The report focuses specifically on the situation in Mukuru which is one of Nairobi’s biggest slums. It is situated near the central business district and is divided in various settlements, such as Mukuru Kwa Njenga, Mukuru Kwa Reuben, Viwandani, and Mukuru Kayaba. Infrastructure in the slum is poor and the area lacks basic services that are required for an adequate standard of living. The situation is difficult for the community, particularly for women and girls as highlighted in the report.

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<sup>1</sup> CEDAW Committee, Concluding Observations: Kenya, CEDAW/C/KEN/CO/7, 5 April 2011.

<sup>2</sup> CEDAW Committee, List of issues and questions in relation to the eighth periodic report of Kenya, CEDAW/C/KEN/Q/8, 13 March 2017.

## List of Issues #10 - Gender-based violence against women

*Please state the measures that are being taken to prevent and punish all forms of sexual violence, including gender-based violence, in slums such as Kibera and in camps of internally displaced persons, especially the camps in Dadaab.*

7. In its concluding observations to the Government of Kenya in 2011, the Committee expressed its concern regarding the situation of women and girls living in urban slums and informal settlements who face serious threats of sexual violence and lack access to adequate sanitation facilities. The Committee therefore recommended the State party “to ensure effective policing in the slums and informal settlements and to address the issue of gender-based and other forms of violence, by *inter alia* urgently providing sanitation facilities in the immediate vicinity of each household.”<sup>3</sup>
8. Since that time, there have been some advancements in the legislative and policy frameworks in the State party’s efforts to tackle gender-based violence in all its forms, as also highlighted by the Government in its report to the Committee<sup>4</sup> and in its written replies to the List of Issues.<sup>5</sup> Our organisations welcome the recent initiatives, such as the launch of the National Policy on Prevention and Response to Gender-based Violence (2014), the enactment of the Protection against Domestic Violence Act (2015), and the launch of a gender-based violence hotline (March 2017), among others. In addition, Vision 2030 and its Second Medium-Term Plan (2013-2017) provide for the establishment of integrated one stop sexual and gender-based violence response centres in all healthcare facilities in Kenya, which are supposed to offer medical, legal and psychosocial support to victims of sexual and gender-based violence.<sup>6</sup>
9. However, as also recognised by the government, challenges continue to persist in terms of enforcement of these laws to ensure that perpetrators are brought to justice, which is mainly due to the lack of capacities of law enforcement officials to handle cases of gender-based violence.<sup>7</sup> In addition, more needs to be done in terms of prevention and to ensure that victims of gender-based violence benefit from adequate protection and assistance, which will also encourage the reporting of such cases.
10. As the reality shows, gender-based violence remains an issue of serious concern in Kenya. The government has recently affirmed that “high level of tolerance of Gender-based Violence in some communities persist as social-cultural norms on GBV thus significantly impairing prevention of GBV.”<sup>8</sup>
11. According to recent data from the Kenya Demographic and Health Survey (KDHS) on Sexual and Partner Violence, about 45 percent of women aged between 15 and 49 years have experienced sexual violence since age 15, while 14 percent of women of this age

<sup>3</sup> UN Committee on the Elimination of Discrimination against Women: Concluding Observations: Kenya, CEDAW/C/Ken/CO/7, 5 April 2011, para. 43-44.

<sup>4</sup> CEDAW/C/KEN/8, 1 June 2016, p. 15-16.

<sup>5</sup> CEDAW/C/KEN/Q/8/Add.1, 5 July 2017, p. 9, para. 32-33.

<sup>6</sup> Ministry of Devolution and Planning, “Second Medium-Term Plan (2013-2017) of Vision 2030, Transforming Kenya: Pathway to Devolution, Socio-Economic Development, Equity, and National Unity”, 2013, p. 92.

<sup>7</sup> CEDAW/C/KEN/Q/8/Add.1, op. cit. p. 9, para. 33.

<sup>8</sup> Ministry of Devolution and Planning, “Implementation of the Agenda 2030 for Sustainable Development in Kenya”, June 2017, p. 31.

group have endured sexual violence at least once in their lifetime. Moreover, 39 percent of ever-married women have experienced spousal violence (physical or sexual). Out of these cases, only 44 percent of women have sought assistance to stop the violence they have been enduring.<sup>9</sup> However, the KDHS data does not include all forms of gender-based violence and taking into consideration the fact that some cases are not reported, the real magnitude of the phenomenon is therefore difficult to determine.<sup>10</sup>

12. The situation continues to be more problematic in slums and informal settlements, where women and girls are constantly exposed to risks of sexual violence as they try to access essential services, such as sanitation facilities. As it has been previously reported, “violence against women is endemic in Nairobi’s slums and settlements, goes widely unpunished and significantly contributes to making and keeping women poor.”<sup>11</sup>
13. According to the testimonies that we could gather in Mukuru slum, acts of gender-based violence can include muggings, which occur daily, public stripping of women, for example on public transport, and there have even been cases of murder. Tradition and religion are often used as excuses for such treatment of women, demoralising them and providing a safeguard for their perpetrators. Women also fall victim to female genital mutilation and verbal abuse and are often beaten if they try to defend themselves. Children are also victims, facing abuse from their parents and sexual abuse from teachers. Girls are often heard being called “prostitute” by their own parents. As a result, women and girls often turn to prostitution in these conditions. Violence in Muruku occurs at an alarming frequency and has become part of the lived, daily, experience of women and girls in the slum.
14. In Kenya, as in many other countries, victims of gender-based violence, particularly sexual violence, suffer from stigma and discrimination. As a result, the incidences of gender-based violence remain highly underreported. This is also due to the fact that many survivors lack or have limited access to services, such as legal, medical and psychological assistance, as well as shelters, which contributes to the continuing culture of impunity for such crimes.<sup>12</sup> Moreover, it is reported that in some cases the police officers are reluctant to take up such cases, considering them as “private affairs.” Even when they do respond, the procedures often take long, which has led to a mistrust of survivors on state institutions’ response to resolve cases of gender-based violence.
15. In Mukuru, reported GBV cases were 270 from January to August in 2017, with domestic violence being the highest recorded.<sup>13</sup> Out of these cases, 39 are on-going and being heard in various courts. However, only 5 cases have been determined by the Kenyan courts and the perpetrators jailed. Most of these cases are reported by the help of gender defenders and community health workers. There is also a free SMS platform 21094 in Mukuru where people can report cases of gender-based violence through their mobile phones. So far, there have been over 100 cases reported since its launch last July. Unfortunately, many victims of GBV lack Post Rape Case (PRC) Forms needed in order to report their cases in time. Cases taken to police cannot be heard without these forms. The victims also rarely receive Post-Exposure Prophylaxis (PEP) or other medications from the government. Government dispensaries are few and operate with limited hours, from 8am to 4pm on weekdays only.

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<sup>9</sup> National Bureau of Statistics and al, “Demographic and Health Survey 2014”, p. xxiv.

<sup>10</sup> The SDGs Kenya Forum, “Submission of Civil Society Organisations to the Government of Kenya towards Voluntary National Review Report”, op. cit., p. 19.

<sup>11</sup> Amnesty International, “Insecurity and Dignity: Women’s Experiences in the Slums of Nairobi, Kenya, July 2010, p. 5.

<sup>12</sup> Independent Lens, “Discussion Guide: Girls’ education and gender-based violence in Kenya”, p. 10.

<sup>13</sup> Data from Wangu Kanja Foundation which is an organisation in the heart of Mukuru Reuben.

The dispensaries lack trained personnel and have inadequate resources, medical equipment and medication for gender-based violence victims. Social stigma against the victims is high, subsequently leading to many unreported cases. Poverty and concern of the future care of children continue to be causes of unreported cases, particularly for domestic sexual survivors, because women are forced to remain in the same relationship with the perpetrators for survival.

16. Additionally, the government's initiatives to establish gender desks in police stations as well as one stop recovery centres for survivors of gender-based violence have been poorly implemented in slums and informal settlements. The police gender desks often lack female officers and, when present, they are inadequately trained and ill-equipped to handle and support survivors of GBV in slums.<sup>14</sup> In Mukuru, the Wangu Kanja Foundation assists survivors in accessing medication to the nearest hospitals, provides counselling, but does not provide legal assistance to support their cases in courts, which is the biggest challenge.

### **Recommendations**

17. Our organisations would like to request the CEDAW Committee to urge the Government of Kenya to intensify its efforts towards the realization of target 5.2 of the Sustainable Development Goals, "to eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation" in line with the State Party's obligations under the Convention and the Committee's General Recommendation No. 19.
18. More specifically, we demand the Government of Kenya to effectively address the issue of gender-based violence in slums and informal settlements and, in this regard, would ask the Committee to make the following recommendations to the State Party:
  - Put more efforts in terms of sensitization and public awareness of the root causes of gender-based violence in slums and informal settlements and to combat stigmatization;
  - Take concrete measures to provide adequate access to sanitation facilities of people living in slums and informal settlements to prevent cases of gender-based violence;
  - Enhance its efforts in terms of properly investigating and prosecuting reported GBV cases and bringing the perpetrators to justice, including through providing adequate training to law enforcement officers and members of the judiciary to effectively handle cases of gender-based violence;
  - Reinforce measures to ensure adequate protection of survivors by providing access to legal, medical and physiological services, including through the creation of one stop recovery centres in slums and informal settlements where all these services could be provided in one place.

### **List of Issues #21 - Internally displaced and marginalized groups of women**

*Please provide information on the situation of women and girls living in urban slums and informal settlements, and the measures being taken to ensure access to safe drinking water, sanitation facilities and health services (CEDAW/C/KEN/CO/7, para.*

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<sup>14</sup> Interview with the Director of Wangu Kanja Foundation.

***43). In addition, please provide information on measures being taken to address the incidence of poverty among disadvantaged groups of women, in particular female-headed households (ibid., para. 35).***

19. It's a well-known fact that the majority of the population in the capital of Nairobi lives in slums and informal settlements deprived from the full enjoyment of their rights to adequate housing, access to safe drinking water and sanitation facilities, as well as health care and other public services. Women and girls in these settlements continue to be particularly affected by the lack of access to these essential services, which makes them more vulnerable to poverty, discrimination and violence.
20. The UN Committee on Economic, Social and Cultural Rights (CESCR), during Kenya's last review in February 2016, expressed its concern about the huge disparities between formal and informal settlements in terms of access to safe drinking water and adequate sanitation facilities, and the high prices that people living in these areas had to pay for water. The Committee has therefore recommended the State Party to improve access to water and sanitation for people living in urban informal settlements and rural areas by increasing budget allocation and effectively regulating water prices.<sup>15</sup>
21. While the UN Special Rapporteur on the human rights to safe drinking water and sanitation, after her field visit in Kenya in July 2014, noted that the country still encounters significant challenges in terms of the realization of the human rights to safe drinking water and sanitation, especially with regard to people living in informal settlements and rural areas. The Rapporteur encouraged the Government of Kenya to further intensify efforts in this regard and to prioritise the most marginalised individuals and groups.<sup>16</sup>
22. Mukuru is a prime example of an informal settlement that is still impacted by lack of essential services, including safe drinking water, sanitation and health facilities. Access to clean drinking water and sanitation is limited in Mukuru, where half of residents share a toilet with 20 or more households.<sup>17</sup> The piped water is controlled by cartels, who sell water through middlemen water vendors for KES 10–25 per twenty litre jerry can. They also charge residents to use the few toilets that are available which costs between KES 5–10 per visit. This makes the cost of water and sanitation extremely expensive in the slums and forces families to forgo their basic rights, as they are unable to afford to buy food and water and to pay for several toilet visits for each family member.
23. Another issue affecting women using these toilets relates to the increased level of gender-based violence in the area, as previously explained. Using these shared toilets after dark can be dangerous for women, who are at risk of rape or assault. As a result, women resort to using containers underneath their beds as emergency toilets which only increase the lack of dignity for women.
24. As a consequence of lack of clean drinking water and proper hygiene facilities, there was an outbreak of cholera in Mukuru between April and August 2017. The outbreak put further stress on the already limited healthcare facilities available in the area. The Ruben Health

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<sup>15</sup> Concluding observations on the combined second to fifth periodic reports of Kenya, E/C.12/KEN/CO/2-5, 6 April 2016, p. 8, para. 49-50.

<sup>16</sup> Report of the Special Rapporteur on the human right to safe drinking water and sanitation, A/HRC/30/39/Add. 2, 6 July 2015, p. 19.

<sup>17</sup> UC Berkeley et al., "Mukuru Situational Analysis 2016" p. 54.

Facility run by the Congregation of Christian Brothers and supported by other agencies serves the entire Muruku slum. The combination of the outbreak and lack of healthcare aggravated gender-based violence in the area, further creating greater inequalities for women.

25. One of the measures taken in the framework of Vision 2030 is a project for the installation of physical and social infrastructure in slums in 20 urban areas. This year, the County Government of Nairobi declared the informal settlements of Mukuru Kwa Njenga, Kwa Reuben and Viwandani as Special Planning Areas (SPA),<sup>18</sup> which will allow for the development and implementation of upgrading plans. The declaration of a Special Planning Area by county governments is provided for in the Physical Planning Act. According to the Act, county governments may declare an area “with unique development potential or problems” as a SPA.<sup>19</sup> The County Governments should develop a physical development plan within two years upon declaring a settlement a SPA. So far, there has been limited involvement from community members in the SPA process. It is important that community members be adequately involved and put into the picture to share their views and contributions. Despite the challenges that face women in Mukuru, they play an integral role in the development of the community. Therefore, it is crucial that women play a part in determining the future of their area.

### **Recommendations**

26. Our organisations would like to request request the CEDAW Committee to make the following recommendations to the State Party, not only in compliance with its obligations under the CEDAW but also under the ICESCR and in line also with target 11.1 of the Sustainable Development Goals. according to which Kenya should “by 2030, ensure access for all to adequate, safe and affordable housing and basic services and upgrade slums”:
  - Take concrete measures to ensure safe drinking water and sanitation services are accessible and affordable to all its citizens, including those in informal settlements; in particular, implement the SPA and commitments that have been already made to ensure the security of tenure and to ensure the access of Mukuru’s inhabitants to services and infrastructures that are necessary to the enjoyment of their rights, notably, to housing, sanitation and water without discrimination;
  - Ensure the right to consultation and participation of the community, including women, in all phases of the Mukuru upgrading process.

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<sup>18</sup> It was gazetted on 1<sup>st</sup> August 2017, and appeared on Vol. CXIZ-NO\_.114 of 11<sup>th</sup> August 2017.

<sup>19</sup> The Physical Planning Act, No 6 of 1996, Article. 23.