



The Institute for Social Accountability (TISA)

Review of MTP III Gender, Youth and Vulnerable Groups Sector plan in relation to SGBV

1. Introduction.

Sexual Gender Based Violence

Violence against women is perhaps the most widespread and socially tolerated of human rights violations, cutting across borders, race, class, ethnicity and religion. Sexual and gender-based violence (SGBV) is a particularly disturbing phenomenon which exists in all regions of the world. Kenya is not an exception to this form of brutality which mainly affects women and girls. The term refers to any harmful act that is perpetrated against one person's will and that is based on socially ascribed (gender) differences between males and females. It includes acts that inflict physical, mental, or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty, whether occurring in public or in private life.

SGBV entails widespread human rights violations, and is often linked to unequal gender relations within communities and abuses of power.

2. Legal framework for SGBV

2.1 International instruments

Internationally and regionally there exist a series of instruments meant to protect either gender against SGBV. These include; The Convention on the Elimination of all Forms of Discrimination Against Women (**CEDAW**) which establishes international standards for guaranteeing equality between women and men within the family as well as between the family and the state. The essence of this convention, as of the Universal Declaration of Human Rights (UDHR) is respect for human dignity and respect for the human capacity to make responsible choices. Declaration on the Elimination of Violence against Women (DEVAW) and Beijing Platform for Action (BPFA) further reinforce CEDAW principles which establish that states be held responsible for failing to demonstrate 'due diligence' in averting or punishing violence against women that occurs either in the public or the private sphere. As a result, these Conventions and Agreements have created space in which practices that were once considered as private issues like domestic violence, which is a form of SGBV, can now be understood as human rights violations of public concern.

2.2 The Kenyan Constitutional Framework on the Protection of Women against SGBV

The Bill of Rights in the Constitution of Kenya 2010 under Chapter 4 thus gives guarantees for a wide range of rights and fundamental freedoms. The Constitution further recognizes a number of important general principles that are of importance to gender equality and that have a general bearing on gender-based violence in the Country.

Article 10 (2) (b) sets out the national values and principles of governance to include, among others, human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized. Article 19 (2) states the purpose of recognizing and protecting human rights and fundamental freedoms as being to preserve the dignity of individuals and communities and to promote social justice and the realization of the potential of all human beings. This general proposition is important and relevant to women's struggle for gender equality and gender equity. Further, the Constitution imposes a positive duty on the State and all State organs to observe, respect, protect, promote and fulfil the rights and fundamental freedoms in the Bill of Rights. Also significant is Article 2 (5) and (6), which provides that the general rules of international law as well as any, treaty or convention ratified by Kenya form part of the law of Kenya. These two provisions may be interpreted to mean that international law becomes directly applicable by Kenyan courts, regardless of whether parliament has enacted specific implementing legislation to incorporate the international laws in question. Notable is Article 21 (4) which imposes on the State the obligation to enact and implement legislation to fulfil its international obligations in respect of human rights and fundamental freedoms.

Vision 2030

The Kenya Vision 2030 envisions reducing gender based violence as part of the strategies for reducing gender disparities. Under the social pillar on health sector envisions lowering the incidences of HIV/AIDs and to engage the health ministry in policy and research .Worldwide, half of all new HIV infections are among 15-24 year olds¹ who are viewed as the future generation. The relation between Sexual Gender based Violence and HIV/AIDS is irrefutable. It is imperative to note that acts of SGBV have resulted to increase in HIV/AIDs incidences to which must be treated as a serious component under the health sector in the realization of Vision 2030.

Policy & legislations

Several policies and legislations have been developed and enacted in the recent past geared at gender equality and protection. These include among others, the Sexual Offences Act; the Children's Act; National Policy on Prevention and Response to GBV (2014), Matrimonial Property Act 2013, Marriage Act 2014, Prevention against Domestic Violence Act 2015, National Equality Policy, Anti FGM Policy and National Gender and Development Policy

¹ Worldwide, half of all new HIV infections are among 15-24 year olds. Sex

Medium Term Plans

Implementation of the Kenya Vision 2030 is undertaken through the medium term plan which is a 5-year plan. To date, the implementation of two medium term plans that is: MTP I and MTP II have been done and preparation of the MTP III is underway. In so doing, it is imperative to assess the extent to which SGBV related issues have been incorporated into the MTP plans and provide recommendations to address on existing gaps.

MTP I & II trends

The situational analysis on MTP I and II revealed that Gender specific violence and vulnerabilities prevent particularly the female gender from enjoying a high quality of life and equal opportunities.

So far, the government has partnered with the United Nations Agencies in the Country on a joint programme aimed at reducing GBV cases and creating a society free from violence. The joint programme has the potential to provide a multi-pronged response, bringing comparative advantages from different actors to contribute towards the effective and efficient realization of National priorities to access GBV. The joint programme has five priority thematic areas which are: prevention, protection, prosecution, programming and partnership. During MTP II period, the National Policy for Prevention and response to GBV was also developed and its implementation is ongoing. However, little efforts towards addressing the challenge was adopted in both the MTP plans.

Review of MTP III in relation to SGBV

This review seeks to address how actions that derive from the draft MTP III Gender, Youth and Vulnerable Groups Sector plan are taking into consideration SGBV. This review has been prepared in reference to the existing policy framework on SGBV matters.

1. Prevention and Response to Gender Based Violence programme

The programme envisions enhancing favourable social norms, attitudes and behaviours at institutional, community and individual levels to the prevention and response of GBV leading to improved utilization of quality essential GBV services and strengthening the referral pathways. However, this statement is complex and does not provide specific details on how this would be achieved.

Proposal: We recommend a review of MTP III to expound on the strategy approach envisioned on programme to enhance favorable social norms, standards on Gender Based Violence.

2. Strengthening the capacity of actors to fully operationalize the Gender-Based Violence Information Management System (GBVIMS). The program envisions strengthening the capacity of actors with regard to operationalization of GBVIMS. This statement is ambiguous and lacks details on specifics to be undertaken under the program including mention of the actors envisioned.

Proposal: We recommend a review of MTP III to incorporate details on the Gender-Based Violence Information Management System (GBVIMS and also actors envisioned in this endeavor.

3. Strengthening collaboration

The National Government envisions implementing the **prevention and response to gender based Violence programme** in collaboration with the County Governments. Gender based violence is a multi-sectoral issue that involves a broad range of different stakeholders ranging from representatives from governmental, non-governmental organizations as well as specialised actors such as expert women's organizations who need to be incorporated/considered in the fight against Gender Based Violence (GBV).

Proposal: We propose a review of the collaboration information on implementation of Gender based Violence aspect to expounded to include the local, regional and international actors to ensure effective fight against Gender Based Violence in Kenya.

4. We note Gender, Youth and Vulnerable Groups MTP III Sector plan fails to factor in the aspect on infrastructural investment /development on Gender Based Violence. Notably, GBV is across cutting issue in all sectors more especially under Health, Education, Security and Trade.

Proposal: We recommend a review of the sector plan consider incorporating GBV infrastructural investment including gender offices across the aforementioned sectors and wider for enhanced fight against Gender Based Violence