

**KENYA WOMEN JUDGES ASSOCIATION**

**2014 RETREAT**

**THEME: EMERGING ISSUES IN SEXUAL GENDER BASED VIOLENCE & GENDER JUSTICE**

**Panari Hotel, Nairobi  
17<sup>th</sup> – 19<sup>th</sup> October, 2014**



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## **Abbreviations**

AU	Africa Union
AGM	Annual General Meeting
CEDAW	Convention on the Elimination of Discrimination Against Women
CoK	Constitution of Kenya, 2010
CUC	Court Users Committee
DCJ	Deputy Chief Justice
FGM	Female Genital Mutilation
GBV	Gender Based Violence
IDLO	International Development Law Organization
IEC	Information Education and Communication
JEP	Jurisprudence of Equality
KNHRC	Kenya National Human Rights Commission
KWJA	Kenya Women Judges Association
ODPP	Office of the Director of Public Prosecution
PLWD	Persons Living With Disabilities
SGBV	Sex and Gender Based Violence
SOA	Sexual Offences Act
UDHR	Universal Declaration of Human Rights
UON	University of Nairobi
UN Women	United Nations Women Empowerment Programme

## 1.0 Background

Kenya continues to address the challenge of equality of the sexes through a wide spectrum of policies and laws. Currently the gender legal and policy environment is informed by instruments such as the Law of Succession, the National Land Commission Act No. 5 of 2012, Land Act No. 6 of 2012, Land Registration act No. 3 of 2012 and the matrimonial Property Act. Additionally, by virtue of the Articles 2(5) as well as Article 2(6) of the CoK, 2010 that envisage domestication of International Legal Instruments, this includes the Maputo Protocol. More recently the Anti-FGM Board and the Gender Directorate have been put constituted to guide the policy aspects. Nevertheless the challenges relating to gender justice are still unabated. In this regard, Kenya Women Judges Association (KWJA) with support from UN Women and Equality Now organized a one day exposure meeting on the emerging issues on Sexual Gender Based Violence and Gender Justice. The meeting was held on 18<sup>th</sup> October 2014 at the Panari Sky Hotel.

### 1.1 Objectives

*The objectives of the workshop were as follows*

- To interrogate the emerging challenges of the emerging legislation on women's rights and the practical realities in application during adjudication.
- To assess the challenges, share good practices and lessons learnt in the adjudication of cases pertaining women's rights.
- To discuss, learn, share experiences and good practices on the emerging trends and gaps in Sexual gender based violence cases
- To assess and evaluate the gains made as well as reflect on the experiences in implementation of the Sexual Offences Act and Matrimonial Property Act as judicial officers.
- Design ways of carrying on the Jurisprudence of Equality Program and Gender Based Violence conversations in future.
- Peer review and mentorship of KWJA members.
- To felicitate persons who have shown excellence in promoting and protecting women's rights.
- To build and extend networks.

### 1.2 Expected Workshop/Retreat Outputs

- a) Enhanced understanding of complementary rule of the Maputo protocol and other national human rights instruments.

- b) Introduction of the new judges and magistrates to the Maputo protocol and other new legislations (National Land Commission Act No. 5 of 2012, Land Act No. 6 of 2012, Land Registration act No. 3 of 2012 and the Matrimonial Property Act) and enhanced appreciation of the framework of the protocol and recent developments by all KWJA members.
- c) An understanding of the emerging challenges and trends in SGBV cases and proposed strategies to deal with challenges.
- d) Action plans/draft work-plan of how KWJA will take the Jurisprudence of Equality Program and SGBV conversations forward in future, as well as engage with other stakeholders to foresee amendments to the Matrimonial Property Act at both national and county level.

### ***1.3 Participants***

The dialogue brought together 100 participants and resource persons drawn from the Judiciary, legal practitioners, civil organizations and multi-sectoral agencies, Ministry of Planning and Devolution, the National Land Commission, the Law Society of Kenya and Academia. The full list of participants is annexed as part of this report.

### ***1.4 Methodology***

The workshop delivery involved session presenters as well as panelists who delved deeper to analyze particular topics. These panelists brought in a personal touch of experience from their respective fields of practice.

## **2.0 Opening of the dialogue Session**

### ***2.1 Welcome Remarks by Hon. Lady Justice Roseline Nambuye, Chairperson, KWJA***

The Hon. Lady Justice Roseline Nambuye welcomed all the participants to the workshop. In her remarks, She;

- Termed the meeting a milestone towards achieving KWJA’s mandate of promoting human rights and justice for the vulnerable.
- Opined that Gender Justice as an outward and forward looking opportunity for KWJA
- Acknowledged the partnership and collaboration of the UN Women and Equality Now
- Appreciated the support from the Judicial Administration
- Observed the centrality of stakeholder engagement in charting the way forward towards the fulfillment of the needs of Kenyan Women and Child and justice dispensation.



**Figure a: Hon Justice**

- Called on all members and those with interest to participate actively in the fight against women challenges. In conclusion, she
- Lauded the dialogue for providing a platform for increased learning and intellectual engagement by judicial officers and judiciary staff.
- Welcomed the DCJ. Lady Justice Kaplana Rawal to address the gathering.

*The Full speech is available from the KWJA Secretariat*

## **2.2. Key Note Remarks by Hon. Lady Justice Kaplana Rawal, DCJ, Kenya Judiciary**

The Hon. Lady Justice Kaplana Rawal in her address to the participants;

- Observed the need for such forums in the Judiciary because they provide a platform to address emerging issues in Sexual Gender Based Violence and Gender Justice.
- Challenged the KWJA to come up with a training curriculum that would guide the capacity development of all its members.
- Noted, the importance of the meeting as an eye opener to judicial staff especially on issues related to sexual harassment of the employees in the Judiciary and in the whole Republic.
- Urged development partners to continue providing financial support to the KWJA to enable it fulfill its mandate in the provision of justice for all and especially for the Kenyan Woman and Child.



**Figure b: DCJ Hon**

*The full speech is available on request*

## **2.3. Remarks by Ms. Zebib Kavuma, Country Director, UN Women**

Ms. Zebib's delivery;

- Acknowledged the work that women Judges and participants had continued to play in Kenya to ensure that justice prevails for women and children as well as vulnerable populations.
- Decried the rising cases of violence that have continued to drag in Courts causing anguish to affected families who unfortunately have to watch as the perpetrators are set free.
- Shared statistics by UN Women and Police Crime Reports which indicate rising incidences of sexual abuse.
- Emphasized on the need for implementation of the CoK, 2010 as well as the existing legal statutes and policy frameworks.

- Revealed that 45% of Kenyan Women experience social media abuse and with it expected that the on-going changes in the police sector will address such issues.
- Alluded to the high cost of accessing justice as negating the course of justice delivery for survivors of violence.
- Cited Article 48 of the CoK, 2010 that reinforces the right of access of justice without inhibitions.
- Mentioned that the UN Women is the voice of the voiceless women to make sure that equality and equity is realized.
- In closing Ms. Zebib noted ***“The law should be a shelter for the weak and powerless and not a club for the powerful”***

#### ***2.4. Remarks by Jane Serwanga, Equality***

Ms. Serwanga in her presentation outlined the genesis of the Maputo protocol as follows;

- Pointed out the inherent weaknesses of past instruments, notably CEDAW
- Identified the gaps relating to civil rife, cultural practices that galvanized women organizations to develop the Maputo protocol done and it was passed. Although,
- Appreciated that a lot had been done for ratification and domestication of the protocol including a call to pass the protocol was made to the 53 heads of states
- Acceded to the number of challenges still remaining in the way of implementation of the protocol.
- Lauded the dialogue as one of the platforms that would help address issues affecting the Kenyan woman and child.
- Called on the Women Judicial officers, to take active lead in ensuring easy access to justice by fellow women.

#### ***2.5. Remarks by Hon. Senator Judith Sijeny, Nominated***

Senator Judy Sijeny in her briefing;

- Took the participants on a journey on the struggle for the fight of women rights in the civil society in Kenya.



- Citing her own experience in the struggle put her in the limelight and attributed to her entry into politics.
- Elaborated on her reason for introducing the Reproductive Bill ‘condom bill’ in the August house as being driven to ensure that issues that affect the adolescents and the child would be addressed.

- Confirmed that there was goodwill from the members of the National Assembly, insisting there was need for all actors to play their roles actively.

### ***2.5 Remarks by Emily Opati, Ministry of Devolution and Planning***

Ms. Emily Opati

- Noted that the challenges being faced in the implementation of various laws and policies was as a result of two factors: culture and patriarchy. She also
- Acknowledged the need for the different stakeholders present to look at alternative methods of dispute resolution other than the court. She
- Emphasized the need for advocacy at the community level to ensure that the citizens understand the laws in place. In conclusion, she
- Pointed out that the war towards redemption of women and children is a collective responsibility where every stakeholder has a role to play in the fulfillment of the Maputo protocol.
- Appreciated the coming together of various stakeholders with the view of addressing the emerging issues in Sexual and Gender Based Violence



**Figure d:L to R Ms. Opati, Ms. Zebib, Ms. Serwanga, Hon. Kilimo**



### 3.0 Summary of the Expectations (Group Presentation)

The session provided participants present an opportunity to share their expectations on what they would expect from the dialogue.

- A roadmap on the implementation of the existing legal frameworks
- Formation of networks with other key actors in the administration of justice, police etc in the chain of evidence
- Ensuring that the bills being passed are in line with the Maputo protocol
- The forum was a platform for the magistrates and judges to share experiences and address some of the challenges they face in the line of their work
- Discuss emerging issues like sex-tortion and transgender
- The community protection of the boy child
- A deeper understanding of the emerging SGBV international instruments and their application in the Kenyan context
- Exploration of other dispute resolution engagements other than the court room



### **3.1 Session 1: National Constitutional And Human Rights Instruments: The Protocol To The African Charter On Human And People's Rights On The Rights Of Women In Africa**

Presentation By: Florence Jaoko, Lecturer, UoN, Former Chairperson, KNHRC

In her presentation she discussed

- Provided an overview of the place of women and children in the society that informed the genesis of the issues of GBV.
- Put into perspective the origin of international convention on human rights and other frameworks.
- Cited the adoption of Gender Equality by the AU in 2002, as a fundamental principle that led to the Maputo protocol.
- Noted that the Maputo protocol is Africa Woman centered but also captures global levels as presented in pegged on the international and regional human rights frameworks whose institutions are the UN agencies as well as laws like the UDHR.
- Specified the issues that the Maputo protocol had addressed which in the past and presently continue to affect women in Africa,
- Noted that although there been concerted efforts curb these challenges; there still exists gender discrimination.
- Called on judicial officers to take up their roles and ensure women issues are taken into account.
- Raised concerns regarding perceived failure by the Judiciary in asserting its role in applying the law and implementing the Constitution.
- Challenged judicial officers and those in various critical positions to take front line in ensuring an end to injustice.

### **3.2 Session 2: Emerging Issues in Sexual and Gender Based Violence (SGBV) and Female Genital Mutilation (FGM) By Nelly Maina World Vision**

The presenter gave an overview of the issues in Sexual and Gender Based Violence and FGM.

- Described the existing legal environment
- Cited the importance of research and especially generation of statistical data which influence where resources are invested
- Called for taskforce to relook at rules and guidelines on SOA to eliminate unseen gaps that hamper efficiency and effectiveness
- Highlighted the case of 67 girls violated by a single teacher
- Shared the South African court room experience in handling sexual offences involving minors
- Called for working groups that are community based to address matters of SGBV and FGM
- Appealed for the reduction of time between when cases are reported and conviction

The session Moderator wrapped up the presentations by highlighted the need for support from the Judiciary to be able to handle gender based violence issues that have continued to rise before asking each panelist to respond to the presentation.

### **3.3 Panel discussion on the Protocol, SGBV and FGM - Panelist: Mr. John Chigiti, Hon. Stephen Githinji, Hon. Jebiii Kilimo, Hon. Teresia Matheka and Hon. Christine Nanjala**

**Moderator;** Jane Serwanga

Prior to the responses by the panelist, the audience had a chance to view a video clip on FGM in Kenya. Reacting to matters to the presentations, the panelists made the following remarks;

#### **Hon. Jebii Kilimo**

- Termed FGM as a social issue
- Mentioned that the Anti-FGM board established through an Act of parliament has been mandated to fight the menace.
- Clarified that a false notion of culture fuels the FGM practice in most communities in Kenya.
- Urged that all sectors of justice ought to play active role in the FGM war.

#### **Christine Nanjala of Office of the Director of Public Prosecutions (ODPP)**

- Expressed concern that as long as FGM cases were not reported, it was difficult for the ODPP to take action.
- Urged the family institution and the society at large to front cases and speak against FGM instead of being conspirators in conducting FGM.

#### **George Chigiti**

- Shared insights and experiences that gender violence has taken center stage among gender violence cases in Kenya.
- Highlighted his role as a special prosecutor in propelling the rights and to access justice.

#### **Hon. Teresia Matheka**

- Gave an insight on the different sexes that exist in the society including among intersex community.
- Cited Article 127 of the Children Act which has a provision for a good framework to deal with FGM cases where children are victims. She
- Challenged that there is need to define and translate the acts constituting FGM in native languages.

#### **Hon. Stephen Githinji, Chief Magistrate**

- Raised the issue of practicality of justice dispensation of SGBV cases involving children.

### 3.5 Plenary Q/A and Reactions on Protocol, SGBV and FGM

The following questions and observations were raised during plenary

	Was the reservation on article 17 of the Maputo Protocol lifted?	Kenya ratified the Maputo protocol but with reservations
	<ul style="list-style-type: none"> <li>•</li> <li>• There is emphasis on taking action after the fact?</li> <li>• Witnesses are afraid when it comes to SGBV cases. Are there failures by parties to play their roles; Is it the question of communication breakdown among justice sectors?</li> </ul>	<ul style="list-style-type: none"> <li>• Place emphasis on SOA link with HIV/Violence</li> <li>• Article 38 of the SOA was deleted in 2012</li> <li>• There is need for other measures for handling child offences, in this regard the discretion of the court could do;</li> <li>• Place more focus on preventive measures as opposed to the use of conviction.</li> <li>• NGOs should educate the society on position of GBV and effects. There is really need to sensitize the justice sector and the society at large on issues of Children Offences Act.</li> </ul>
	<ul style="list-style-type: none"> <li>• Prior engagement has been on saving lives and not the cultural relevance of the practice. Are there programmes beyond protecting lives?</li> </ul>	<ul style="list-style-type: none"> <li>• There are measures the UN Women are taking including alternative rite of passage instead of the mutilation itself; it plans many programs; hopes to work with the civil society</li> <li>• Translate FGM in the local vernacular to create ownership of the campaign.</li> <li>• The FGM board should link its activities with those of other actors/sectors, for instance education.</li> </ul>



#### **4.0 Session Two: The New Land Laws, Emerging Issues on Emerging issues on Marriage Act, Matrimonial and Property Rights Disputes and their Impact on the Rights of Women and Children By Lady Justice Koome, Court of Appeal and Professor Paul Syagga, UoN**

##### ***Lady Justice Martha Koome in her presentation;***

- Noted that Kenyan women have faced many challenges in ownership or access to property which she hoped the forum and the implementation of the Constitution could cure.
- Decried that although the Constitution explicitly provides for measures to ensure rights of women are protected this was not always the case currently
- Observed that entrenchment is not enough to achieve the intentions of the law
- Raised concerns with regards to access to courts – especially in relation to the Court hierarchy and level of awareness
- Called for collaboration between the Judicial Officers and CSO's to raise awareness and give a face to women rights
- Traced the journey towards greater rights beginning with the Marriage property Act of England 1882 to the High Court declaration of 1976 (*Kivitu vs. Kivuitu*) that recognized a woman's contribution in Marriage as well as current provisions under Article 45 (3) and 27
- Recognized the need to have a working group for the implementation of the Marriage Property Act
- Opined that thresholds for magistrates court could be raised to expand their jurisdiction
- In closing, she emphasized the need for rules of procedure on adoption.

##### ***Professor Syagga in his delivery***

Provided an overview of the National Land Commission Act No. 5 of 2012, Land Act No. 6 of 2012, Land Registration act No. 3 of 2012, Environment and Land Court Act, 2011 and the Matrimonial Property Act that came to effect this year.

- Traced the genesis of land issues to the lack of land policies to guide the ownership and distribution of land in Kenya.
- Informed the meeting about the formulation of National Land Policy for Kenya that was
  - Guided by a number of principle that among other considerations included gender equity,
  - Identified the issues related to women, children, minorities and vulnerable groups
- Alluded to Chapter Four of CoK, 2010 on the Bill of Rights providing every person the right to either individually or in association with others to acquire land or own property of any description in any part of Kenya (article 40(1)).
- Brought to the fore provisions under Chapter Five of Kenya Constitution on Land and Environment.

- Article 60(1) (f) “elimination of gender discrimination in law, customs and practices related to land and property in land” (.
- With respect to women and children two specific provisions are made for legislation namely:
  - (a) Article 68(c)(iii) To regulate the recognition and protection of matrimonial property during and on termination of marriage
  - (b) Article 68(c)(vi) To protect the dependants of the deceased persons holding interests in any land, including the interests of spouses in actual occupation of land
- Noted the gains in matters land as being current measures to promote equitable access to ownership and use of land, elimination of gender discrimination in law,
- Lauded provisions for the entry of children’s names in the title held under trust by the guardian together with together with entry of a restriction by the Registrar as a milestone in the protection of children’s interests.
- Highlighted the Matrimonial Property Act for clarity in protecting women whose non-monetary contributions in the marriage and property interests of spouses in a polygamous marriage will be handled.
- Cited gaps as instances, where the Law of Succession Act, Chapter 160(Revised Edition 2012) negates the provisions of Article 40(1) by taking away from women the provisions of the law on intestacy (section 32 of Succession Act) in 12 counties.

*Presentation is available at the KWJA Secretariat*

The session Moderator wrapped up the presentations by asking each panelist to respond to the presentation on emerging issues and their impact as well as give their experience.

**4.1 Panel Discussion - Panelist Mr. George Onyore, Hon. Lady Justice Roseline Wendoh, Hon. Dora Chepkwony, Ms. Ann Mbugua, Hon. Lady Justice Hannah Okwengu**

**Moderator** Hon. Nafula Makungu

Reacting to matters to the presentations, the panelists made the following remarks;

**Hon. Lady Justice Hannah Okwengu:**

- Cited the need for judicial officers to develop jurisprudence
- Lauded the interpretation and definition of the matrimonial property and home
- Raised concerns over section 79 – requirement for spousal consent as a discouraging single gender ownership of property
- Observed that notion of contribution to property was within reason in monogamous relations and even promoted equality as opposed to polygamous unions.
- Regretted that in Succession matters the deceased wife contribution never considered

***Hon. Wendoh***

- Lauded the gains of the Matrimonial Property Act
- Cited provisions guarding against eviction from matrimonial property except by a court order as major victory for women especially in rural areas
- Reflected on the awareness levels in the villages and called upon CSO's to undertake sanitization on the MPA
- Called for the sensitization of all judicial officers on the Land Acts and Matrimonial Property Act

***Hon. Chepkwony***

- Made reference to the Land Act Sec 104 as progressive and protects women from being rendered homeless without having an alternative means
- Noted that Court orders were not respected when dealing with land issues which eventually impacts on criminal cases
- Cited succession by widows as still being a challenge

***Anne Mbugua:***

- Touched on past experience with women misunderstanding of section 45(3) of the CoK, 2010
- Drew attention to sections 7 & 17 regarding division of property
- Called for amendments to the MPA to take care of gaps such as property under Private liability companies
- Supported spousal consent for people in transition from marriage to divorce
- Disappointed that the Law of succession was yet to be aligned to the CoK, 2010 especially with regards to matters pertaining to the deceased wife.
- Called for the definition of the property of the deceased.
- Noted with concern the practice of by passing daughters in law in favor of grand children.

***Mr. George Onyore***

- Expressed the need for the issue of spousal consent to go beyond written consent and rather be based on informed consent where women seek independent legal opinion.
- Called for the distribution of property in lieu of contribution to marriage to be done more reasonably.
- Acknowledged the institutional weaknesses that hamper enforcement of court orders, underscoring the need to address the same.



## 4.2 Succession Laws in Kenya and the Common Woman-Child Land Rights and the Courts

### Panel – Panelist Hon Justice Sitati and Hon Justice Muchemi

#### Moderator Hon Justice Achode

##### *Hon Justice Sitati*

- Expressed concern with current trends where sexual harassment is escalating into murder
- Noted that FGM perpetrators are currently taking lead and speaking the loudest
- Highlighted the succession law flagging out section 29a as especially baring wife/wives who had left from returning and section 35 1b that bestows life interest to the widow
- Called for dissemination of information using social platforms

##### *Hon Justice Muchemi*

- Lauded the good provisions of the Maputo Protocol and Matrimonial Property Act in advancing the rights of women
- Noted that while CoK, 2010 outlaws discrimination the Law of Succession discriminates women in 12 counties by subjecting them to customary laws
- Queried the rationale regarding Rights of widows and children especially in polygamous situation where Widow is treated as a child
- Objected to the Widower having life interest in spousal property and not a Widow
- Advocated for the prohibition of customary acts such as widow inheritance
- Called for legislative measures to amend section 48 to expand the jurisdiction of Magistrate courts and adoption of proactive measures on public education to get to know their entitlement



### 4.3 Plenary Q/A and Reactions Land, Property and Succession Laws,

The following questions and observations were raised during plenary

	<ul style="list-style-type: none"> <li>• How complex new land laws are especially to the supposed eventual beneficiary</li> <li>• There is need for enhanced jurisdiction; so that Magistrates are also allowed to practice succession law</li> <li>• There is need to appreciate the steps the justice sectors have taken</li> <li>• Status of adoption of children born out of wedlock and inheritance</li> <li>• Status of Land Control Act</li> <li>• Equality of representation wanting CSO's ought to bring out some issues - Amicus</li> <li>• There is a gap in education and knowledge of the succession law in Kenya among citizens.</li> <li>• There exist discrimination of women and girl child in inheritance of property and that several cultures of communities in Kenya favor the boy child.</li> </ul>	<ul style="list-style-type: none"> <li>• New laws should be translated in a language easily understood by parties;</li> <li>• There is need to have civil society working with lawyers to litigate issues so that they come out clearly</li> <li>• The succession act purposes to prohibit issues that are discriminatory to the members of the family especially sisters</li> <li>• Step children are liable for maintenance</li> <li>• Popularize pre-marital processes (pre-nups) –borrow from Rwanda</li> <li>• Encourage pre-marital classes</li> <li>• Section 7,8,9 protects property gained prior</li> <li>• Land Control Boards will die naturally</li> <li>• Environment and Land Court the successor to Environment and Land Tribunal</li> <li>• Courts have a platform to sensitize citizens</li> </ul>
	<ul style="list-style-type: none"> <li>• Practice of Consent in setting aside an exparte grant in succession cases</li> <li>• How protected are the rights of Persons Living With Disabilities (PLWDs)</li> <li>• Does Islamic law discriminate women</li> </ul>	<ul style="list-style-type: none"> <li>• Trouble makers common in succession cases and a sixth sense is required</li> <li>• Law applies to all equally</li> <li>• Islamic law supports women – during marriage Man has no right over gifts to women and Dowry is given to a woman</li> <li>• Matrimonial Property Act makes provision for Persons of Islamic faith</li> <li>• Illegitimate Children under Islamic law can be</li> </ul>

		disinherited
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## **DAY 2: Sunday 19<sup>th</sup> October, 2014**

### **5.0 Conversation On The Mentorship Programme by Njoki Muhoho, JTI**

In her presentation, the discussant

- Provided a definition of coaching drawing from her personal experience.
- Differentiated between mentoring and coaching.
- Termed coaching to be more of Abilities and performance.
- Described Mentoring as long term relationship based on advice and having a role model.

#### **Testimonial on Mentorship**

Ms. Diana Munyinge a student at Kenya School of Law narrated her life's journey from Karatina to Law school and the mentorship opportunity that Dr. Julie Oseko, a judicial officer at the Kenya Judiciary, had offered her. She appealed to the judicial officers at the bench to offer the model young people would require. Her confidence and poise moved the audience.

- The interactive session on coaching and mentoring continued drawing from personal experiences of mentoring and coaching young or those we lead.
- The participants were exposed to the GROW model for coaching;
  - **Goal setting**
  - **Reality check**
  - **Options**
  - **Way forward**
- The session revisited and reviewed some past Action Plans.
- In closing the participants were informed that KWJA is considering establishing a mentoring programme.
- Some elements of a good coaching programme were also elucidated upon.

*The full presentation is available at the KWJA Secretariat*

### **5.1 KWJA Mentorship Report by Eva Komba, Program Manager, KWJA**

Ms. Komba in her remarks;

- Reported to the participants on the proposed mentorship program to be carried out in collaboration with the International Development Law Organization (IDLO).
- Requested the participants to generate some practical action points to enrich the current proposal.

The following action points were captured during the Plenary Session:

- Form a task force on curriculum development of a program.
- The need to draw strategies on how to implement the mentorship programme.
- Mentorship program to be done wholesome by the KWJA as an organization.
- The young/new members of the KWJA and the judiciary need mentorship.
- Mentorship program should include young magistrates and judges and include in the curriculum.
- Develop strategies of where to roll out such a programme.
- Need to distinguish KWJA activities from that of the Parent Organization.
- Formulate proposals with institutions of higher learning (Law Schools) to get platforms.
- There is no need for a curriculum at this point.
- The need for a program or curriculum and the mentee and mentor should know each other.
- Dr. Oseko initiative could provide good practices to the organization.
- Borrow from JEP and include also male judicial officers in the proposed programme.



## 6.0 Recommendations and Way Forward

**Hon. Daffeline Sure** provided the emerging recommendations and way forward as follows;

### **The Judiciary;**

- Establish a working group to address the existing legal frameworks in Kenya.
- There was need for interpretation and definition of some terms in the legal aspects.
- There was need for translation of the new land laws in Swahili.
- Provisions to be amended in the succession Act.
- Sensitization of judicial officers on the new land and property laws.
- Incorporation of the Maputo Protocol into judgments to serve the women and children in Kenya.
- Amendments to expand the jurisdiction of Magistrates Courts to handle succession.
- Develop a Gender policy for the Judiciary.
- Establishment of a working group to develop rules and procedures for the Matrimonial Property Act.
- Interpretation of the definition of matrimonial property/home.
- The need to agree on a format of public engagement through CUCs.

### **Civil Society Organizations;**

- Sensitization forum for communities on land laws, FGM and SGBV to create awareness.
- Push for the SOA to operationalize the provisions dealing with young offenders.
- Develop the synergy between the witness protection agency and the ODPP.
- On matters of 'Spousal interest' engage with stakeholders.
- Advocate for the amendment of section 29a and section 35b on succession.
- The need to file test case under Maputo protocol.
- Re-engineering of the FGM debate to define the wording and localize the FGM campaign to give it a local face.
- Engagement with CS for Health on medicalization of FGM.
- Advocate for the operationalization of Special Prosecutors by ODPP.

## 7.0 Updates and Meeting Closing

Updates on the Judicial Taskforces

- 1. Head of stations allowances: Hon. Stephen Githinji**
  - 9 members of the Task Force shall determine best strategies
  - Allowance is not an entitlement for HoS rather attached to the role
- 2. Disability Policy and Sexual Harassment (SH) By Hon. Teresia Matheka**
  - Retreat held in Ngulia Lodge, Voi
  - Development of visual illustrations on SH
  - Sexual Harassment Policy now ready and is awaiting communication from the DCJ
  - Sensitization on Information Education and Communication (IEC) materials on SH will be done
  - Policy on PLWD developed
  - Insensitive infrastructure for PLWD working in the Judiciary
- 3. Bail Bond task force By Katra Sambili**
  - Formed an all inclusive committee with membership from the judiciary, prisons, CUC and Police
  - Training is set to be rolled out soon
  - Currently accepting memorandum from stakeholders
  - Final Report will be shared broadly
- 4. Sentencing taskforce By Lady Justice Lesiit**
  - Currently drawing work plan and strategies
  - Key Stakeholders have been identified who include IDLO, LRF, LSK, Probation Police and Universities
  - Objectives and purpose of the assignment articulated
  - Notices have been placed in the media requesting for contributions and inputs from stakeholders

## **KWJA activities: By Lady Justice Hannah Okwengu**

- The retreat was supposed to be AGM;
- Secretary's and Audit Reports not ready;
- It was proposed that the AGM be held in December together with prayer meeting

### **Activities**

- The executive chair had a meeting with the Judiciary Training Institute regarding the active mandate of the association
- Mentorship programs in Riara School done
- Visit of Langata Prisoners
- day ToT workshop July at Boma Hotel, Nairobi

### **Closing Remarks**

In closing Justice Okwengu

- Called on the members of KWJA to support the organization through making timely subscriptions.
- Intimated that the organization was going to partner with many organizations and involve in outreach, regional or international activities.
- Thanked all the participants and facilitators who she described as very knowledgeable on their areas of presentation.

### **Vote of Thanks**

- Hon. Dr. Oseko,
  - Introduced and thanked all members of the secretariat
  - Challenged participants to go out and create awareness
  - With the support from the Chief Justice; urged all members to utilize their positions to bring change to the society.
  -
- Hon. Lilian Arika; thanked all the participants for coming
- A Closing Prayer was then offered by Justice Wendoh

## **Annex 1: Workshop Programme**





**KENYA WOMEN JUDGES ASSOCIATION**

**PROGRAMME FOR KWJA 2014 RETREAT**

17<sup>TH</sup>- 19<sup>TH</sup> OCT, 2014

**THEME: EMERGING ISSUES IN SEXUAL GENDER BASED VIOLENCE & GENDER JUSTICE**

TIME	PRESENTATION	PRESENTER
<b>DAY 1- FRIDAY, 17<sup>TH</sup> OCT 2014</b>		
<b>ARRIVAL AND CHECK-IN FROM 03.00 PM</b>		
03.00-06.00pm	Personal time	
06.00-10.00pm	Dinner	
<b>DAY 2- SATURDAY, 18<sup>TH</sup> OCT 2014</b>		
<b>OPENING CEREMONY</b>		
08.00-08.30am	Registration	KWJA Secretariat
08.30-09.00am	Opening Prayers Introductions Climate Setting and Housekeeping	Hon. Lady Justice Jessie Leaiti
09.00-09.10am	Setting out objectives for the retreat	Hon. Lady Justice Hannah Okwengu
09.10-09.20am	Welcome Remarks from the Chair KWJA	Hon. Lady Justice Rose Nambuye
09.20-09.40am	Remarks from Partners <ul style="list-style-type: none"> <li>• Senate</li> <li>• Gender Directorate</li> <li>• UN Women</li> <li>• Equality Now</li> </ul>	Hon. Judith Sijeny Ms. Emily Opati Ms. Zebb Kavuma Ms. Jane Serwanga
09.40-10.00am	Official Opening of the KWJA Dialogue	Hon. Lady Justice Kalpana Rawal, The Deputy Chief Justice and Vice President of the Supreme Court
<b>10.00 - 10.30AM HEALTH BREAK &amp; GROUP PHOTO</b>		
<b>SESSION ONE CHAIR: MS. JANE SERWANGA</b>		
10.30 -10.45am	National, Constitutional and Human Rights Instruments: The Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa	Ms. Florence Jaoko

10.45 -11.00am	Emerging Issues in Sexual and Gender Based Violence (SGBV) and Female Genital Mutilation	Ms. Nelly Maina
11.00-11.20am	Panelists on the Protocol, SGBV and FGM	Mr. John Chigiti Hon. Stephen Githinji Hon. Jabii Kilimo Hon. Terezia Matheka
11.20-11.50am	Plenary	Ms. Jane Serwanga
<b>SESSION TWO CHAIR: HON. MARGARET NAFULA</b>		
11.50-12.05pm	The New Land Laws, Emerging Issues on Matrimonial and Property Rights Disputes and their impact on the Rights of Women and Children	Mr. Paul Syagga
12.05-12.30pm	Panelists	Mr. George Onyore Hon. Lady Justice Roseline Wendo Hon. Dora Chepkwony Ms. Ann Mbugua Hon. Lady Justice Hannah Okwengu
12.30-01.00pm	Plenary	Hon. Rose Makungu
<b>01.00 - 2.00 PM LUNCH BREAK</b>		
<b>SESSION THREE CHAIR: HON. CAROLINE KENDAGOR</b>		
02.00-02.15pm	Succession Laws in Kenya and the Common Woman-Child Land Rights and the Courts	Hon. Lady Justice Martha Koome
02.15-02.30pm	Panelists	Hon. Lady Justice Florence Muchemi Hon. Lady Justice Ruth Sitati
02.30-03.00pm	Plenary	Lady Justice Lydia Achode
03.00-04.30pm	Recommendations and Way Forward	Hon. Daffine Sure
<b>04.30 -05.00PM HEALTH BREAK</b>		

05.00-06.00pm	Personal Time	
06.00-07.30pm	Supper	
<b>SESSION FOUR CHAIR: HON. LILLIAN ARIKA</b>		
07.30-09.30pm	3 Massive Mistakes that Most People Make that Keep Them Anxious About Meeting Their Family's Financial Obligations In Case of Sudden Loss of Regular Salary or Income and How to Avoid These Mistakes	Peak Performance
<b>DAY 3: SUNDAY, 19<sup>TH</sup> OCT 2014</b>		
<b>SESSION FIVE CHAIR: HON. EUNICE NYUTU</b>		
08.30-09.00am	Registration	KWJA Secretariat
09.00-09.30am	Thanksgiving	
09.30-10.45am	Conversation on the Mentorship Programme	Hon. Judy Omenge Ms. Njold Muhoho
<b>10.45 - 11.00AM HEALTH BREAK</b>		
<b>SESSION SIX: BEYOND OCTOBER 2014</b>		
11.00-11.15am	Update on our Association	Hon. Lady Justice Hannah Okwengu
11.15-11.45am	News on the Arusha Trip and Various Task Forces in the Judiciary 2013-2014	Members
11.45-12.15pm	Re-awakening our Zones: Challenges and Best Practices	Members
12.15-12.30pm	Official Closure of the 2014 Retreat	Hon. Lady Justice Hannah Okwengu
<b>12.30 - 01.30PM LUNCH BREAK</b>		
<b>DEPARTURE AFTER LUNCH</b>		

## **Annex 2. List of Participants**

*KWJA Secretariat to insert*