

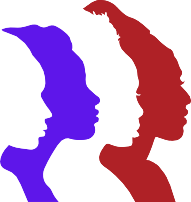
MEMORANDUM OF REASONS AND UNDERSTANDING

Submitted To: The Chairperson of the Technical Working Group on Gender Based Violence including Femicide

Submitted By: EndFemicideKE, Defenders Coalition & NiMamA Network

Date: 18th March 2024





**INTRODUCTION**

This memorandum lays bare the alarming state of gender-based violence (GBV) and femicide in Kenya—a crisis of such severity that it betrays the trust placed in our domestic institutions to protect vulnerable populations. Our submissions reveal the serious gaps in our laws and systems that have allowed this violence to persist, making it especially dangerous for marginalized groups, including young women, gender diverse women and female sex workers. The inaction of our state in protecting its most vulnerable is tantamount to a crime against humanity.

Femicide in Kenya is driven by deep-rooted patriarchal structures that resist women’s growing assertion of their rights and autonomy, and the right of every woman to make their own choices and live freely. As more women stand up against unfair gender roles and demand equality, the backlash manifests in aggravated forms of violence designed to silence, punish, and reassert control over them. The rise in incidences of Femicide in Kenya is not just random violence! is a dangerous pushback against progress, and it must be stopped to create a safer, more just society for everyone

Key findings reveal substantial deficiencies in the current legal framework, including inadequate definitions of GBV offenses, inconsistent implementation of protection orders, and limited provisions for victim support. Law enforcement and judicial processes demonstrate concerning shortfalls in evidence collection, case management, and gender-sensitive approaches to justice. These systemic failures particularly affect women from marginalized backgrounds, who face compounded discrimination and barriers to accessing justice.

We categorically call for radical, transformative reforms: an immediate recognition of femicide as an independent and heinous offense, the amendment of archaic laws that criminalize sex work, sexual and gender minorities and the establishment of a survivor-centered justice system. These recommendations are a clarion call for systemic overhaul. Moreover, the development and implementation of any policy or legal reform must be rooted in robust and continuous community consultation to ensure that the voices of those who have suffered the worst of these crimes are not only heard but are the guiding force behind every decision. Our proposals demand political courage, substantial resource allocation, and a commitment to accountability at every level.

This memorandum presents an analysis of gender-based violence (GBV) and femicide in Kenya, highlighting critical legal gaps, systemic failures, and their disproportionate impact on marginalized communities. The rising incidence of GBV and femicide in Kenya represents not only a profound violation of human rights but also a significant justice crisis and socioeconomic challenge. Despite existing legal frameworks, implementation gaps, cultural barriers, and institutional weaknesses continue to hamper effective prevention and response efforts.

The technical working group is urged to prioritize these recommendations in its review of legal, policy, and institutional frameworks to effectively combat the rising cases of GBV and femicide in Kenya.



# THE BRUTAL REALITY OF GBV & FEMICIDE IN KENYA: ISSUES AND GAPS

The silence surrounding gender-based violence and femicide in Kenya is an act of state betrayal - a calculated neglect that allows these atrocities to persist. Deeply entrenched patriarchal norms and cultural practices continue to condone violence against women, rendering existing laws completely toothless and institutions grossly ineffectual. The state’s persistent inaction perpetuates a cycle of impunity but also manifests as an assault on human dignity, leaving marginalized communities, par- ticularly young and marginalized women, to bear the brunt of systemic abuse.

Despite the existence of legal instruments like the Sexual Offences Act and the Protection Against Domestic Violence Act, cases routinely go unreported due to deep-seated fear, stigma, and a per- vasive distrust in law enforcement. Survivors are met with secondary victimization from institutions meant to protect them, while the absence of a centralized data system ensures that the true scale of femicide remains obscure, undermining any meaningful policy reform. This failure by the state to act is not merely a legal failing, but also a moral outrage as grave as crimes against humanity, exposing a blatant neglect of the state’s duty to protect its citizens. This radical failure demands immediate, transformative action that redefines our legal landscape, ensures robust community consultation in policy development, and holds our institutions accountable for protecting the lives and rights of Kenya’s most vulnerable.

## FAILINGS OF STATE AUTHORITIES

***Law Enforcement***

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* **Inadequate Evidence Collection:** Police units repeatedly demonstrate a stark lack of specialized training and modern forensic tools essential for handling GBV cases. This shortcoming not only obstructs justice for survivors but also reinforces a system where impunity prevails.
* **Entrenched Gender Bias:** Law enforcement officers frequently perpetuate outdated gender stereotypes and engage in victim-blaming practices. Such conduct marginalizes survivors, undermining their dignity and effectively silencing their voices.
* **Insufficient Witness Protection:** The current mechanisms to protect survivors and witnesses from intimidation or retaliation are grossly inadequate. This neglect leaves individuals exposed, especially in cases involving intimate partner violence and femicide, and signals a systemic failure to uphold their rights.

***Legislative Oversight***

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* **Legislative Dereliction in Law-Making:** Parliament and the Senate have fallen short in enacting and amending laws to protect women and marginalized groups. Their tolerance of discriminatory statutes perpetuate injustice rather than driving the necessary reforms for gender equality.
* **Silence and inaction:** The Komesha Dhuluma campaign was launched with promises to tackle GBV and femicide, yet it has been nothing but empty rhetoric. Since January 2025, KEWOPA has remained silent as cases of femicide and GBV surge, showing a blatant disregard for the lives of women. No transparency on funding, no community engagement, no real action—just more performative politics while women continue to die.
* **Neglect in Oversight and Resource Allocation:** Elected representatives have inadequately scrutinized the performance of state institutions, leading to misdirected resources and poor protection outcomes. This lack of accountability betrays the public trust and fails to secure the safety and well-being of all citizens.



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#### Judicial Responsibilities

* **Delayed and Inconsistent Justice:** The judiciary has been characterized by sluggish case management, frequent adjournments, and overwhelming backlogs. These deficiencies prolong the justice process, discourage reporting, and ultimately deprive survivors of timely redress.
* **Biased Adjudication:** Persistent gender biases and a tendency towards victim-blaming among judicial officers compromise the impartiality of legal proceedings. Courts must do more than merely interpret the law—they have an obligation to actively protect and affirm the rights of survivors.

#### Executive Leadership

* **Executive Neglect in Public Protection:** As head of the executive and a member of multiple influential committees, the President has shockingly failed to leverage his authority to address the rising tide of femicide and gender-based violence in Kenya. His persistent inaction not only betrays the trust of the nation but also signifies a neglect of the state’s fundamental duty to protect its most vulnerable citizens.
* **Attorney General’s Inaction:** The Attorney General has not vigorously defended constitutional rights or held state actors accountable for violations of human rights. This passive stance has emboldened systemic abuses and allowed discriminatory practices to continue unchecked.

#### Government Accountability and Public Protection

* **Erosion of Public Trust:** The failures of state organs have severely eroded public trust. Taxpayers’ hard-earned money is wasted on ineffective systems that do not deliver on their promise of protection and justice. The discovery of bodies in Kware Swamp should have sparked urgent action, yet the situation worsened when the suspect allegedly escaped police custody. Authorities have neglected the swamp, leaving the possibility of more victims undiscovered. This failure reflects a system that devalues women’s lives, allowing gendered violence to persist while expecting women to feel safe in a society that continuously undermines their dignity and security.
* **Systemic Oversight Deficiencies:** The government’s inability to establish comprehensive oversight mechanisms has allowed discriminatory practices to thrive. This systemic neglect results in failure to provide the safety and support that survivors of violence urgently need.
* **Financial and Procedural Barriers:** The imposition of bureaucratic requirements, such as the continued mandatory purchase of a P3 form, despite there being a court order against the same, creates an additional, unjust financial barrier to accessing justice. Survivors of gender-based violence—often economically marginalized—should not be forced to bear the cost of procedures that obstruct their right to access to justice. This must be eradicated immediately.
* **Tourist Murders and Perpetrator Accountability:** In cases where tourists are implicated in the killing of women, there must be strict measures ensuring that these perpetrators are fully accountable under Kenyan law. The government must prevent any facilitation of their escape—such as allowing them to fly out of the country—until justice is served. This duty is non-negotiable and must be enforced without regard for nationality, addressing both the legal and racial dimensions of these crimes.



## LEGAL GAPS AND SYSTEMIC FAILURES

#### Barriers to Accessing Justice for Affected Populations

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* **Geographic Accessibility:** Limited police stations, healthcare facilities, and courts in rural and remote areas, coupled with the excessive distance to reach these services and the prevalence of kangaroo courts and inappropriate application of traditional justice mechanisms in GBV cases often prioritizes family reconciliation over survivor safety and justice resulting in survivors and witnesses growing weary and withdrawing from the justice process.
* **Economic Constraints:** The high costs associated with medical examinations, legal representation, transportation to courts, and the loss of income during lengthy court appearances deter many survivors from pursuing justice.
* **Documentation Requirements:** Strict documentation requirements, such as mandatory national identification cards, exclude undocumented individuals, refugees, and marginalized communities from accessing essential services.
* **Stigma and Revictimization:** Fear of community stigmatization, family rejection, and secondary victimization during the justice process discourages many from reporting incidents and participating in legal proceedings.

#### Current Gaps in GBV-Related Laws

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* **Definition Limitations:** Current legal frameworks inadequately define the full spectrum of GBV offenses, particularly psychological violence and technology-facilitated violence. The existing legal framework inadequately addresses femicide, with no specific law defining and criminalizing it separately from other forms of homicide. This absence prevents proper acknowledgment of gender-motivated killings and hampers targeted prevention efforts, data collection, and appropriate sentencing that reflects the severity and gender dimensions of these crimes.
* **Protection Order Deficiencies:** The implementation of protection orders under the Protection Against Domestic Violence Act remains inconsistent, with limited monitoring mechanisms and consequences for violations.
* **Evidentiary Requirements:** Stringent evidentiary standards in sexual violence cases create substantial barriers for survivors, particularly where physical evidence is limited or delayed reporting occurs.
* **Victim Support Provisions:** Inadequate statutory provisions for comprehensive victim support, including compensation, rehabilitation, and long-term assistance for survivors.
* **Online Violence:** Insufficient legal frameworks to address digital forms of GBV, including cyber harassment, non-consensual sharing of intimate images, and online stalking.
* **Weak Enforcement**: Weak enforcement of protective laws, such as the Sexual Offences Act and the Protection Against Domestic Violence Act, has resulted in continued impunity for perpetrators.

#### Challenges in Law Enforcement and Judicial Processes

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* **Evidence Collection:** Police units often lack specialized training and equipment for proper forensic evidence collection in GBV cases, resulting in case dismissals due to insufficient evidence.
* **Case Management:** Slow court proceedings, frequent adjournments, and case backlogs extend the justice process, sometimes for years, discouraging reporting and prosecution.
* **Gender Bias:** Persistent gender stereotypes and victim-blaming attitudes among law enforcement and judicial officers undermine impartial justice delivery.
* **Witness Protection:** Inadequate witness protection mechanisms expose survivors and witnesses to intimidation and retaliation, particularly in cases involving intimate partners or family members.



# DATA AND EVIDENCE: SUPPORTING OUR CLAIMS

Gender-based violence and femicide in Kenya have reached a critical and unbearable juncture. Recent data reveal that nearly half of Kenyan women have experienced physical or sexual violence at some point, with femicide cases escalating alarmingly. The COVID-19 pandemic exacerbated this situation, with a *36% increase in GBV cases reported during lockdown periods*. Femicide cases have also shown a disturbing upward trend, with over *500 women murdered between 2020-2024*, often by intimate partners or family members. High-profile tragedies—such as the brutal murder of Olympic runner Agnes Tirop and the targeted killing of non-binary activist Sheila Lumumba—are emblematic of a broader, systemic crisis. Equally harrowing are the cases of Pauline Wangare, Mercy Keino, and Sharon Atieno, among others, which underscore how intimate partner violence and state inaction have rendered women and gender-diverse individuals alarmingly vulnerable. These cases are not isolated incidents but reflect deeply entrenched patriarchal norms and institutional failures, leaving survivors and communities exposed to escalating violence.

According to the Kenya Police Annual Crime Report (2024), *there was a 35% increase in reported femicide cases compared to 2023*, with the majority of victims being intimate partner violence survivors. However, *conviction rates remain below 10%*, indicating systemic failures in law enforcement and the judiciary. In urban centers like Nairobi, Mombasa, and Kisumu—and equally insidiously in rural areas—these acts of violence are not random; they are a systematic betrayal of trust, perpetrated in settings that should be sanctuaries of care and security.

In 2024, it was reported that *a suspected serial killer admitted to luring, killing, and disposing of 42 women* after bodies were discovered in Kware Swamp, revealing a brutal crisis of femicide that devalues women’s lives. The situation was made worse when the suspect allegedly escaped police custody and the continued neglect of the Kware swamp, leaving the possibility of additional atrocities going unaddressed and the possibility that there are still more bodies in the swamp. Despite this, Kenyan women are still expected to feel safe when their rights to dignity and security are continuously undermined by a society that tolerates such gendered violence.The domestic sphere, once considered a haven, has become a breeding ground for violence, a fact that starkly underscores the urgent need for radical reform.

The socio-economic fallout from GBV and femicide is staggering. Beyond the immeasurable human cost, *these crimes impose an economic burden equivalent to approximately 1.2% of Kenya’s GDP each year.* The economic costs of GBV in Kenya are manifesting through:

* Healthcare Costs: Treatment of physical injuries, psychological trauma, sexual and reproductive health complications.
* Productivity Losses: Absenteeism, decreased work performance, and lost educational opportunities.
* Legal and Social Service Expenses: Police investigations, court proceedings, shelter operations, and counseling services.

They devastate communities by robbing families of breadwinners, perpetuating cycles of poverty, and inflicting long-term psychological and physical trauma on survivors and their dependents. The pervasive nature of this violence undermines social cohesion and hampers national development, making the need for immediate, radical intervention all the more imperative.

Beyond economic metrics, GBV perpetuates cycles of poverty, undermines educational attainment, and compromises community development. Children who witness violence often experience long-term psychological effects and may replicate violent behaviors in adulthood, perpetuating intergenerational cycles of violence.





Women across Kenya endure compounded discrimination and violence, with certain groups facing heightened vulnerability:

Female sex workers experience violence at rates exceeding 80%— intensified by criminalization, police harassment, and societal stigma. Their precarious legal status often prevents them from seeking help, as those meant to protect them frequently become perpetrators.

* + **Women in informal settlements** contend with additional vulnerabilities due to insecure housing, limited privacy, inadequate infrastructure, and minimal security presence. Dense living conditions and poverty create environments where violence flourishes with little accountability.
  + **Gender diverse persons** experience particularly severe forms of targeted violence fueled by entrenched prejudice and discriminatory legal frameworks. Transgender women and non-binary individuals face up to triple the rate of physical and sexual violence compared to cisgender populations, with police frequently refusing to investigate these cases. Their experiences of violence often involve extreme brutality motivated by hatred, yet are systematically excluded from official statistics.
  + **Refugee women** navigate trauma from displacement alongside new threats in unfamiliar environments. Language barriers, uncertain legal status, and cultural isolation complicate their ability to report violence or access support services.
  + **Older women** face age-specific vulnerabilities including economic dependence, physical frailty, and social isolation. Their experiences often remain invisible due to ageist assumptions, with elder abuse frequently unrecognized within the broader GBV spectrum.
  + **Young women and girls:** GBV and femicide has influenced their everyday realities, forcing them to navigate life in constant fear. The threat of violence limits their freedom of movement, dictating where they can go, how they dress, and who they trust. On campuses, cases of sexual harassment, assault, and intimate partner violence are widespread, yet reporting mechanisms remain weak, with many institutions prioritizing reputation over survivor protection. Online spaces, meant to foster learning and connection, have become sites of cyber harassment and digital abuse, further silencing young women.

The lived experiences of survivors demand radical accountability. These acts of violence are not isolated incidents but manifestations of broader, systemic abuse mirroring historical atrocities committed in other contexts of institutional betrayal.



### Policy Changes

1. **Immediate inclusion of a Femicide into our legislative framework:** Formulate and pass legislation that unequivocally defines, recognizes and criminalizes femicide as a distinct, heinous offense, borrowing from the UNODC definition:

Femicide to be defined as the killing of women and girls because of their gender. It can take the form of, inter alia the 1) murder of women as a result of intimate partner violence;

2) torture and misogynist slaying of women 3) killing of women and girls in the name of “honour”; 5) targeted killing of women and girls in the context of armed conflict; 5) dowry- related killings of women; 6) killing of women and girls because of their sexual orientation and gender identity; 7) killing of aboriginal and indigenous women and girls because of their gender; 8) female infanticide and gender-based sex selection foeticide; 9) genital mutilation related deaths; 10) accusations of witchcraft and 11) other gender-based murders connected with gangs, organized crime, drug dealers, human trafficking.

1. **Develop Comprehensive Legislation on Technology-Facilitated Violence:** Immediate development and enactment of robust legislation that explicitly addresses technology- facilitated violence. This may be done by including the existing Cyber Crimes Act and should criminalize all forms of digital abuse—including cyber harassment, online stalking, revenge porn, and the non-consensual sharing of intimate images—ensuring that these acts are treated with the same severity as their physical counterparts.

The legislation must impose stringent penalties on perpetrators and mandate that digital platforms cooperate fully with law enforcement to identify and prevent such abuses.

Additionally, it should incorporate provisions for victim support, including access to legal aid, counseling, and protection measures, and require regular review and updating to keep pace with evolving technological threats. Crucially, the law must be developed through extensive consultation with affected communities and experts to ensure it reflects the realities of digital abuse and effectively protects vulnerable populations.

1. **Review existing GBV Laws:** An extensive and community-driven review and amendment of existing legal instruments, including the Sexual Offences Act and the Protection Against Domestic Violence Act, by incorporate mandatory aggravating factors in existing offences

—such as strangulation, mutilation, or the killing of a woman by an intimate partner or family member—that trigger significantly enhanced sentences of life imprisonment without parole and instituting robust monitoring and enforcement mechanisms. The law must prioritize survivor safety and establish clear, immediate consequences for perpetrators.

1. **Address definition gaps:** While discussing issues of gender, we urge the TWG to adopt definitions from the African Commission on Human and Peoples’ Rights which defined gender as the roles, behaviors, activities, and traits associated with societal expectations for women and men, extending to include transgender, gender non-conforming, and non-binary identities. Gender identity refers to a person’s internal sense of their own gender, while gender expression is the outward presentation through social, behavioral, or physical cues.

### Service Improvements

1. **Revolutionize Service Delivery:** Channel significant national and county-level budget allocations toward comprehensive GBV response services, including emergency shelters, medical and psychological care, and legal aid. Establish a dedicated survivor compensation fund to cover essential services such as healthcare, relocation, and rehabilitation.
2. **Judicial and Law Enforcement Overhaul:** Establish a maximum investigation timeline of no more than 30 days for all femicide cases and ensure suspects are presented before court no later than 72 hours after a report has been filed.



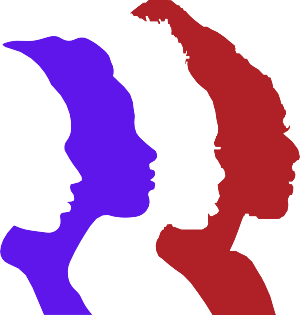
1. **Review of Bail and Bond Considerations:** Ensure bail and bond procedures take into account the circumstances of femicide and GBV cases so that any suspect in a femicide case face minimal possibility of pre-trial release and/or are issued with strict terms including freezing of bank accounts, confiscation of ID and/or Passport, restriction of movement orders and bi-weekly reporting of the suspect to a police station.
2. **Establish a Specialized Femicide Court System:** Restructure the newly established GBV- courts to ensure they are dedicated and equipped with specially trained judges/magistrates and prosecutors focused exclusively on GBV and femicide cases, mandating fast-track procedures that guarantee case completion within no more than six months. This system should operate independently from the regular judicial structure, with dedicated resources to overcome Kenya’s existing case backlogs.
3. **Establish Specialized Units:** Urgently mandate the establishment of one-stop GBV Centres in all sub-counties within designated counties across Kenya. These integrated hubs should fast- track investigations, provide immediate support to survivors, and ensure timely prosecutions. In addition, require annual reporting on GBV case handling by law enforcement to enhance transparency and accountability, thereby driving systemic reforms.
4. **Implement Gender-Motivated Sentencing Guidelines:** Introduce mandatory minimum sentences for convicted femicide perpetrators, eliminating lenient sentencing. This approach would remove traditional mitigating factors from consideration and establish femicide as among the most severely punished crimes in Kenya.

### Service Improvements

1. **Institutionalize Community Consultation:** Mandate that all future legal and policy reforms related to GBV and femicide incorporate extensive, continuos consultations with affected communities; including having GBV community champions at grassroots level. This must include feminist organizations, female sex worker-led groups, gender diverse women and other grassroots stakeholders to ensure policies are truly reflective of lived realities and needs.
2. **Empower Community-Driven Initiatives:** Prioritize vulnerable women for government empowerment programs, digital literacy campaigns, and localized prevention strategies that mobilize community action. This participatory approach is vital to dismantle harmful cultural norms and promote enduring societal change.

### Resource Allocation

1. **Create Dedicated Funding Streams:** Establish dedicated funding channels for GBV prevention and response, ensuring that resources are efficiently allocated to shelters, psychosocial support services, and economic empowerment initiatives for survivors.
2. **Implement Comprehensive Data Systems:** Develop and deploy a robust, centralized data collection system to monitor GBV and femicide trends. This system should be designed in consultation with affected communities to ensure accurate, disaggregated data that informs responsive and accountable policymaking.





# CALL TO ACTION

The current state of gender-based violence and femicide in Kenya is nothing short of a national crisis—a betrayal of the state’s duty to protect its citizens that echoes the darkest chapters of human history. This memorandum’s recommendations are not mere proposals; they are an urgent call to action to transform our legal and social systems. Recognizing femicide as a distinct crime, dismantling discriminatory legal provisions, and ensuring comprehensive community consultation are imperatives that demand immediate, resolute action. The National Technical Working Group must act decisively, drawing on the voices of survivors and the lived experiences of those most affected, to establish a just and equitable society. Failure to do so is tantamount to condoning these egregious violations of human dignity, and history will judge us harshly if we do not rise to this challenge with the courage and commitment it demands.

This is not a call for incremental change; it is a demand for radical, systemic overhaul. The lives and futures of countless women and marginalized individuals depend on our courage to act now. The state’s continued inaction is tantamount to complicity in these crimes against humanity. The time for political bravery, resource mobilization, and unwavering accountability is now.

**Submitted on behalf of: -**

**EndFemicideKe Movement**

**Defenders Coalition**

**Ni Mama Network**

**Kamau Ngugi**

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