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## ASSESSING ONGOING REFORMS FOR GENDER EQUALITY IN KENYA WITHIN THE CONTEXT OF CONSTITUTIONAL TRANSFORMATION

High-Level Panel Discussion with IDLO's Director-General, Irene Khan

May 5, 2017, 9:00 am – 1:00 pm

Villa Rosa Kempinski, Nairobi

The International Development Law Organization is the only intergovernmental organization exclusively devoted to promoting the rule of law. At the heart of IDLO's mission is the creation of a culture of justice and inclusion, where every individual regardless of gender be equal before the eyes of the law, and enjoy their human rights.

On the occasion of the visit to Kenya of its Director-General, Irene Khan, IDLO is hosting a high-level panel discussion “*Assessing Ongoing Reforms for Gender Equality in Kenya within the Context of Constitutional Transformation*” aimed at taking stock of developments, challenges and best practices related to gender equality.

Last year IDLO adopted its new [Strategic Plan](#) that will guide and inspire the work of the Organization for the coming years. The Plan – deeply grounded on the values of justice, equality and inclusion – has identified key external trends that will have a significant impact on the work of the Organization. Among those trends, growing inequality and exclusion were acknowledged as critical areas that require IDLO's attention and action. Discriminatory laws and policies aggravate inequality and exclusion, and women and girls are among those adversely affected. Sexual and gender-based violence is also a major barrier to sustainable development and impairs the agency of women and girls.

The high-level discussion will form part of the consultations IDLO is conducting on its new gender strategy that will be mainstreamed in the will inform IDLO's new gender strategy

### BACKGROUND

#### The Kenya context

From the national perspective, in Kenya, the [2010 Constitution](#) expanded the Bill of Rights and introduced extensive provisions on economic, social and cultural rights and enhanced institutional systems for the respect, protection and promotion of human rights, including right to equality and freedom from gender-based discrimination. Articles 27, 232 and 100 provide for equality and freedom from discrimination by guaranteeing equal treatment between women and men, including the right to equal opportunities in political, economic, cultural and social spheres. The Constitution further entrenches key independent Commissions under Article 59, particularly the Kenya National Commission on Human Rights and the National Gender and Equality Commission and a robust, more independent Judiciary under Chapter Ten to oversee protection of these rights and liberties.

Other articles in the Constitution that address gender equality and the empowerment of women include: Article 81, which indicates that not more than two-thirds of the members of elective public bodies shall be of the same gender. Article 97 reserves 47 seats for County Women Representatives while Article 98, indicates that the Senate consist of sixteen women members who shall be nominated by political parties. Article 177 states that county assembly consists of the number of special seat members necessary to ensure that no more than two-thirds of the membership of the assembly are of the same gender while Article 232 is on values and principles of public service, which provides for adequate and equal opportunities for appointment, training and advancement, at all levels of the public service of men and women.

Furthermore, Kenya's Vision 2030 envisions gender mainstreaming in all government policies, plans and programmes to ensure that the needs and interests of women and girls are addressed - which includes gender mainstreaming in policies, plans, budgets and programmes by government decision making organs. Vision 2030's social pillar has identified gender concerns, in particular, equity in resource distribution and power between the sexes as a priority and aims at increasing holistic opportunities among women and increasing the participation of women in all economic, social and political decision making processes The gender-mainstreaming theme for the Medium Term Plan I (2008-12) was promoting gender equity in power and resource distribution, while the Medium Term Plan II (2013-2017) has the theme of promoting equity in access, control and participation in resource distribution for improved livelihood for women.

## **2030 Agenda for Sustainable Development**

The [Sustainable Development Goals \(SDGs\)](#) were adopted by the United Nations on September 25, 2015 with the aim of ending poverty, protecting the planet and ensuring prosperity for all. Each goal has specific targets to be achieved over the next 15 years. Among the 17 SDGs, Goal 5 focuses on gender equality and empowerment of all women and girls. It addresses nine issues pertaining to gender equality that range from ending all forms of discrimination and violence against women and girls to ensuring women's full, effective and equal participation in decision-making processes; and from land and other forms of property rights. Furthermore, Goal 16, which looks at peace, [justice, rule of law](#) and institutions, ensures that the legal and policy frameworks recognize and protect women's rights.

Gender equality and the rule of law are complementary and mutually-reinforcing. These intertwined principles are cross-cutting throughout the entire set of Goals enshrined in the new development paradigm. The 2030 Agenda's vision of leaving no one behind is ambitious and only if women and girls are at the heart of the development efforts the international community is to move the SDGs from paper to reality.

## PROGRAM

### \*U shape or square

The discussion will be structured as follows:

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|---------------------|--|
| 8:30 am – 9:00 am   | Arrival & Registration   |
| 9:00 am - 9:45 am   | Introductions & Film – 100 Years of Kenyan Women’s Journey Towards Equality (introduced by Professor Kabira) (facilitated by IDLO’s Africa Regional Director, Enid Muthoni)  |
| 9:45 am – 11:00 am  | Discussion 1: Perspectives from Key Public Sector Offices on the Journey to Equality and Ongoing Reform Processes, chaired by DG Irene Khan<br><i>Panelists:</i> <ul style="list-style-type: none"><li>• <i>Hon. Sicily Kariuki, Cabinet Secretary, Ministry of Public Service, Youth and Gender Affairs – pending confirmation</i></li><li>• Hon. Deputy Chief Justice Philomena Mwilu</li><li>• Hon. Winfred Lichuma, Chair, National Gender and Equality Commission</li><li>• Hon. Judge Lesit – Vice Chair, Kenya Women Judges Association (KWJA)</li><li>• Millie Luang'a, Member, Political Parties Disputes Tribunal</li></ul>  |
| 11:15 am - 11:30 am | Tea Break  |
| 11:30 am - 12:45pm  | Discussion 2: Role of Development Partners, Civil Society Partners and Academia in Achieving Sustainable Development Goal 5 on Gender Equality, chaired by DG Irene Khan<br><i>Panelists:</i> <ul style="list-style-type: none"><li>• Dr. Maria Nzomo, Director, Institute of Diplomacy and International Studies at the University of Nairobi</li><li>• Prof. Wanjiku Kabira, Director African Women Studies Center and Prof. of Literature at University of Nairobi</li><li>• Dr. Linda Musumba, Founding Dean and Senior Lecturer at Kenyatta University School of Law</li><li>• Dr. Ruth Aura, Former Chair, FIDA-Kenya, and senior lecturer at Egerton University</li></ul> |
| 12:45 pm            | Closing Remarks  |
| 1:00 pm             | Lunch  |

## ABOUT IDLO

IDLO works to enable governments and empower people to reform laws and strengthen institutions to promote peace, justice, sustainable development and economic opportunity. Its programs, research and policy advocacy cover the spectrum of rule of law from peace and institution building to social development and economic recovery in countries emerging from conflict and striving towards democracy. IDLO has its Headquarters in Rome, a Branch Office in The Hague, Liaison Offices for the United Nations in New York and Geneva, and Country Offices in Afghanistan, Honduras, Indonesia, Jordan, Kenya, Kyrgyzstan, Liberia, Mali, Mongolia, Myanmar, Somalia, South Sudan, Tajikistan, the Philippines, Tunisia and Ukraine.

Kenya has been a Member Party of IDLO since 2012. The Organization has provided technical assistance to the Committee of Experts in Constitutional Review during the process to design the Constitution of Kenya, and subsequently to the Commission of the Implementation of the Constitution in constitutional implementation monitoring and oversight. Currently, IDLO is providing technical support to the Office of the Attorney General and Department of Justice, the Kenya Law Reform Commission, the Judiciary, the Ministry of Devolution and Planning, the Council of Governors, the Kenya National Commission on Human Rights, the National Gender and Equality Commission, the State Department of Gender and the Ministry of Mining in implementing the Constitution of Kenya 2010 through strategic policy development, critical legislative review, expert technical advice, institutional strengthening and capacity building.

Since 2012, IDLO has partnered with the Government of Kenya, in particular with the Ministry of Public Service, Youth and Gender Affairs, State Department of Gender Affairs to enhance its capacity to mainstream gender at both the national and county levels. IDLO's support included strategic policy development, critical legislative review, expert technical advice and institutional strengthening. More recently, IDLO has been providing technical support to the National Gender and Equality Commission to develop model legislation and policy, and tools that can ensure gender equality and non-discrimination is entrenched at both the national and county level. IDLO is also working with the Office of the Attorney General and the Department of Justice on several key legislative reforms related to gender equality.

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