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**Follow-up to the Fourth World Conference on Women and
to the special session of the General Assembly entitled
“Women 2000: gender equality, development and peace for
the twenty-first century”: implementation of strategic
objectives and action in critical areas of concern and further
actions and initiatives**

Statement submitted by Federation of Women Lawyers in Kenya, a non-governmental organization in consultative status with the Economic and Social Council

The Secretary-General has received the following statement, which is being circulated in accordance with paragraphs 36 and 37 of Economic and Social Council resolution 1996/31.



Statement

Background

The Millennium Development Goals were universally accepted as the blueprint for development. They provided a vision of a much better future by 2015 within a framework of global partnership for development. The platform provided by the goals placed gender and women's empowerment at the centre of economic planning, thereby linking gender issues to core aspects of development and the mobilization of resources.

Despite some progress, gender equality and women's empowerment remain "unfinished business" in most countries. This statement addresses some of the key challenges in the implementation of the goals that touch on women's rights.

Goal 2: achieve universal primary education

The Government of Kenya had a target of eliminating gender disparity in primary and secondary education by 2005, and in all levels of education by 2015. This was done by mainstreaming gender issues in the education sector, implementing affirmative action in the admission of female students to public universities and allowing girls who dropped out of school owing to teenage pregnancies to be able to continue with their education. The Government also constructed girls' primary boarding facilities in marginalized and arid areas to increase the enrolment and completion rates for girls in those areas.

The free primary education programme was introduced to achieve universal primary education. However, the programme has been criticized for failing to provide quality education owing to the lack of sufficient facilities to meet the students' needs.

Goal 3: promote gender equality and empower women

The Government has ratified international human rights conventions, such as the Convention on the Elimination of All Forms of Discrimination against Women, and revised the National Gender and Development Policy 2000 to be in line with the Constitution 2010. It has committed itself to promoting gender equality and the empowerment of women as an effective way of combating poverty, hunger and disease and to stimulate development that is truly sustainable.

Despite the policies, legislative reforms, plans and programmes, gender disparities still exist in social, economic and political spheres of Kenyan society. While women and girls bear the largest and most direct costs of the inequalities, the costs cut broadly across society, ultimately hindering development and poverty reduction. The implementation of the Constitution 2010, which contains substantial gains for women, provided the Government with an opportunity to redress the persisting gender gaps.

Affirmative action provisions are included in the Constitution to ensure the inclusion of women in leadership in all aspects of national development. While the provision was applauded by all, the Supreme Court decision of 2012 declared that the two-thirds provision provided for in the Constitution is progressive and should be achieved by 2015. As a result, the representation of women in Parliament is below the 30 per cent threshold stipulated in the Constitution. Contradictions still

exist between general constitutional provisions that “guarantee” gender equality and other more specific laws, where specific instances of gender discrimination might emerge.

The Political Parties Act allowed the Office of the Registrar of Political Parties to only register political parties that complied with the gender rule. However, as seen in the general election of 2013, the Office failed to ensure that the threshold was met, impeding women’s effective political participation. The Office needs to implement its mandate so as to give life to the provision.

The Constitution further provided for the enactment of laws that will revise, consolidate and rationalize land laws. The new laws entrench principles of gender equality in access to land. They provide a framework for ensuring that land reform initiatives guarantee the equal rights of women to possess, inherit, access and transfer their land to persons of their choice. The impact of the new laws remains to be seen. It is important to build the capacity of the National Land Commission to monitor implementation of the new land laws.

The Constitution stipulates that “parties to a marriage are entitled to equal rights at the time of marriage, during the marriage and at the dissolution of the marriage”. The pre-existing laws and practices that govern matrimonial property discriminated against spouses whose contribution to the acquisition of such property was indirect and not capable of valuation in monetary terms. Furthermore, the courts have been inconsistent in determining the partner’s contribution, resulting in some spouses being unfairly denied their rights to matrimonial property. The foregoing notwithstanding, the Matrimonial Property Bill 2012 is yet to be debated in Parliament.

Although the enactment of the Family Bills, including the Marriage Bill, the Family Protection Bill and the Matrimonial Property Bill, have been indicated as a priority, the said bills are still pending within Parliament. There is currently no law in Kenya that specifically deals with domestic violence, which is a challenge, as domestic violence continues to be rampant. The Marriage Bill came up for review in 2012 and was tabled in Parliament in 2013, but is yet to be enacted.

The Government of Kenya has made strides to pass effective laws criminalizing sexual violence and has taken steps to criminalize harmful cultural practices that promote such violence. The Prohibition of Female Genital Mutilation Act 2011 seeks to prohibit the practice of female genital mutilation and to safeguard against the violation of a person’s mental or physical integrity through such practice. The Act was also meant to protect girls from early marriages. However, some communities continue to engage in the practice albeit in hushed tones.

The Treaty-Making and Ratification Act 2012 provides for the procedure for the making and ratification of treaties and connected purposes. This Act is envisaged as making the process of ratification of treaties clearer, thus ensuring the protection of the rights of women and children, as stipulated in international declarations and conventions.

The Women Enterprise Fund established by the Government and formally launched in 2007 has contributed to the economic empowerment of Kenyan women and their families. However, there have been numerous calls for better implementation of the Fund. Women in marginalized areas and communities are largely unaware of the Fund or how to access it and therefore have not been able to

benefit from it. In September 2013 the Government unveiled a new fund, the Uwezo Fund, which is envisaged to benefit women and youth. While the provision of the funds is a step in the right direction, there has to be sufficient goodwill to ensure that the funds are accessed by the intended beneficiaries.

The Constitution established new and independent constitutional institutions, including the National Gender and Equality Commission. While this is commendable, we submit that failure to provide them with sufficient resources has limited their ability to play their oversight role. We call upon the Government to ensure that these institutions are well funded and supported so as to effectively implement their mandate.

Goals 4 and 5: reduce child mortality and improve maternal health

The Government of Kenya has stepped up initiatives that offer room to improve women's reproductive health and rights by ratifying key international human rights treaties and promulgating the Constitution of Kenya 2010. In 2013 the Government announced free maternity services for women. The implementation of this declaration has proven problematic as hospitals received swelling numbers of patients, which overstretched available facilities to the breaking point. There is a need to provide necessary structures to ensure that services are available, accessible, affordable and of good quality.

General challenges

- Women remain underrepresented at the leadership and decision-making levels owing to poverty, lack of goodwill to promote women's participation in politics and gender-specific violence and vulnerabilities
- Resources allocated to agencies that coordinate the implementation of gender mainstreaming programmes are inadequate, thereby limiting their ability to function
- Harmful traditional and cultural practices continue to be deeply rooted in some communities. This continues to hinder girls' access to education
- Gender gaps exist in the control of and access to resources and socioeconomic opportunities, including access to credit facilities and the participation of women in modern sector employment

Recommendations

We urge the Government to take measures:

- To promote gender equality by enacting all pending Family Bills and aligning sector policies to legal and constitutional provisions that promote gender equality and empower women
- To build the capacity and knowledge of staff about gender mainstreaming
- To ensure that measures to empower women are well thought out and implemented. They should build the capacity of women and youth to be able to benefit from affirmative action measures, such as the Uwezo Fund
- To ensure the protection and promotion of economic, social and cultural rights, while at the same time leading campaigns against harmful cultural practices

- To ensure that constitutional bodies charged with oversight of implementation of gender equality and women's empowerment are provided with sufficient resources through increased budgetary allocations
 - To urgently ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, giving individuals the right to file complaints to the Monitoring Committee directly
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