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Statement submitted by Humanist Institute for Co-operation with Developing Countries, 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.

* The present statement is issued without formal editing.



Statement

Women constitute over 50% of Kenya's population, but the majority of them are among the illiterate and poor. A large number of women are negatively impacted by customary laws and practices. Caregiving roles for women and girls limit their full participation in education, public life and development processes. Yet this role is neither recognized nor compensated for. Patriarchal structures in this region deny women control over resources, land ownership and decision making. Women are disproportionately represented in the informal work sector. Within the formal labour market, they are concentrated in lower waged jobs. The higher-paying jobs of the technology and science sectors will remain out of reach for many women until they have greater access to training and education in these spheres.

The Bill of Rights, as enshrined under the Constitution of Kenya, protects the rights of women equally as it does with the rights of men. Article 27 of the Constitution provides for freedoms from discrimination based on gender or sex among others. While progress has been made in women's empowerment and gender equality, important gaps remain. Education, access to resources, employment opportunities, and representation in decision-making levels are key areas that can transform the lives of women.

Empowering rural women is a pre-requisite in fulfilling the vision of the Sustainable Development Goals which address drivers of gender inequality. Gender equality is asserted as a fundamental human right, and as a driver of progress across all development goals. Reflecting this, it is both the sole focus of goal 5 and is also integrated into the other goals.

Recommendations

Getting more women into decision-making positions: a critical mass of women decision-makers is a matter of equity. It also makes a difference in bringing forward issues which previously went unaddressed.

Investing in women and girls as active agents of change: investments in gender equality and women's empowerment improve the lives of individual women and bring multiple dividends to families and societies.

Removing structural barriers to women's economic empowerment: women with equal rights as being able to own and inherit land and property, access credit, and open bank accounts can play an even greater role in the development of their societies. One of the most significant structural barriers to women's economic empowerment is the disproportionate burden of unpaid work carried by women, which impacts on their ability to pursue paid work and/or education.

Building strong partnerships across all segments of society, including civil society and the private sector: "Delivering as One" is an effective approach to help better coordinate efforts and increase effectiveness of service delivery related to social and economic development.

Address discriminatory laws and promote public support towards women: governments need to change attitudes and policies towards women and girls, and strengthen political commitment to change laws and policies that discriminate against them.

Review theme: Ending Technology Assisted Violence Against Women

According to UN Women, one in three women is likely to experience physical and sexual violence at some point in her lifetime and 35% of women worldwide have

experienced either physical or sexual violence at some point in their lives. Rapid developments in technology and new media in Kenya have given rise to digital spaces and tools that facilitate such violence online. Technology-Assisted Violence Against Women has become part of women's experience of violence and their online interactions. Women and girls face specific dangers and risks such as online harassment, cyber stalking, privacy invasions with the threat of blackmail, viral 'rape videos' and, for young women in particular, the distribution of 'sex videos' that force survivors to relive the trauma of sexual assault every time it is reposted online or distributed in other ways.

Despite increasing recognition and appreciation international instruments, the domestic legal remedies present limited responses to Technology Assisted Violence Against Women. The Constitution of Kenya recognizes and requires the protection and promotion of the right to privacy, dignity and bodily integrity. The Evidence Act at its Article 78A allows for admissibility of electronic and digital evidence. But stringent conditions — include reliability of the manner in which evidence is generated, stored or communicated, maintained and identified — are to be satisfied before such evidence can be admitted. The court has a wide discretion to determine whether electronic evidence meets the conditions for admissibility, which consequently disadvantages evidence. The Penal Code (chapter 63) fails to classify offences resulting from Technology Assisted Violence Against Women and does not attach criminal sanctions to address such cases. Other domestic laws that address other forms of violations including the Sexual Offences Act, the Protection against Domestic Violence Act, the Prohibition against Female Genital Mutilation Act and the National Policy on the Prevention and Response to Gender Based Violence (2014) also do not contemplate Technology Assisted Violence Against Women. Kenya's National Cyber Security Strategy and the National ICT Master Plan identifies cyber-security as a national priority but fails to recognize Technology Assisted Violence Against Women as a priority area of violence. The non-efficacy of domestic laws to address the issue and the lack of government action is aggravated by gender insensitivity and lack of knowledge of duty bearers, including arresting and investigating officers, law enforcement agents, who play a critical role on the reporting, preservation of evidence and prosecution of cases that ensures that perpetrators are held accountable and victims access justice for these violations.

Domestic remedies do not provide for regulation of policies of internet service providers, or place limitations on the anonymity in communication policies by tech companies to protecting victims of violence. A culture of impunity is created by the failure of internet intermediaries, institutions, legislation, law enforcement agencies and the judiciary to adequately address cases of Technology Assisted Violence Against Women including failures in exercising due diligence to prevent, investigate and punish such acts.

These is a general lack of information by consumers of internet services, including recognition of what forms Technology Assisted Violence Against Women, clarity on what legal framework be used to address cases, processes and access to justice available to victims.

Recommendations

- Reform of the domestic legal framework on technology assisted violence against women in Kenya

Law reform to ensure clarity, new offences & frameworks. Revision of laws to provide for cybercrimes and other online offences constituting Technology Assisted Violence Against Women. Provide for stiffer penalties for online offences. Legislation should provide for prohibition of contact, to restrain perpetrators especially where

children are involved, and where necessary, supervised contact, during meetings when family is involved. The Legal Aid Bill and the Privacy and Data Protection Bill should be updated and enacted to ensure the comprehensive protection of the rights to legal aid and privacy respectively. Regulations should be revised to ensure that mobile phones in use by children are identified and content to such numbers filtered.

- Strengthened prevention and response mechanisms to technology assisted violence against women
- Government should strengthen coordination and collaboration between law enforcement agencies, including the police, children department, service providers, prosecution and regulators both locally and within the region, for information sharing and evidence collection
- Service providers responsible for the various platforms should provide tools to users for reporting, and at the same time for law enforcement to aid investigations
- Relevant institutions should be provided with adequate budgetary allocations to ensure support for victims, investigations and key programmes to tackle violence against women.
- The government should adopt a comprehensive strategy and action plan to reform aspects of the criminal justice system that hinders access to justice for victims of crime.
- The Police and other law enforcement organs should actively collect data on complaints received, cases filed and convictions obtained to enable proper monitoring and evaluation of crime trends.
- Improved capacity and technical competence of duty bearers on substantive investigation, collection and presentation of evidence and prosecution of perpetrators of Technology Assisted Violence Against Women
- Enhanced awareness of members of the public on Technology Assisted Violence Against Women in Kenya

Cyber-awareness programs on online safety and protection, cyber offences & digital security are necessary for the public, including for young children and parents. Programmes should also include training of police, judiciary, prosecutors and other law enforcement agencies on emerging cyber threats to enable them to appreciate the nature of the crimes and respond effectively to complaints when filed and enforce existing laws. Businesses should be encouraged to provide training to their staff on human rights in general, including specific issues affecting the rights of women.
