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Statement submitted by MenEngage Global Alliance and Sonke Gender Justice Network, non-governmental organizations 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

Challenges and opportunities in achieving gender equality and the empowerment of rural women and girls

Gender equality remains a major challenge across the globe as no country can claim to have attained it. Women continue to experience discrimination in different spheres of their lives from access to information, land, technology, health, education as well as justice. This is more so for women and girls living in rural areas who tend to experience higher rates of discrimination and violence, including sexual violence and harmful practices, compared to women and girls living in urban areas.

The high levels of violence and discrimination for rural women and girls are compounded by lack of access to justice and legal remedies. Harmful norms and customary practices serve as a further inhibiting factor in this regard. This is further compounded by contradictions that often exist in the application of customary and common law where plural legal systems exist. For instance, common law may provide for a minimum age of majority where one can be eligible for marriage as 18 years, whilst in practice customary law may permit minors to be married with consent from their parents/guardians. This results in discriminatory application of the laws, where minors, who are protected under common law from early child marriages become victims due to customary practice. Other discriminations that women face relate to access to land, as customarily land is male-owned, and women can only have access to it through affiliation with male figures in their lives. A combination of poor land tenure systems and a lack of appropriate legal redress/remedies often leave many women in rural areas economically vulnerable.

Other instances where women and girls in rural areas struggle with access to justice relates to promulgations of laws that submit rural communities to traditional/customary courts and systems prior to being able to access other channels of justice. It is undeniable that customary law is the oldest system of law in most African societies. Therefore, it has a significant role on personal lives of many African people. However, its application has often been embedded on patriarchal norms which tend to discriminate against women and girls. Compelling rural communities to be bound by such laws often further entrenches discrimination against women. For example, in South Africa, on the 8th of September 2022 the South African Parliament passed the Traditional Courts Bill, and it is currently awaiting presidential signature for it to become fully promulgated law. The removal of the “opt out” provision that enables a party to choose whether they wish for their matter to be adjudicated via the Traditional Court structures or not is highly problematic. It leaves vulnerable groups especially women and girls in the rural communities more exposed to the continued enlisting of traditionally entrenched patriarchal systems which in and of themselves are structural drivers of gender-based violence.

Unfortunately, many are unaware of the existence and significance of the Traditional Courts in South Africa’s plural legal system and the impact these structures may have on the estimated 17 million South Africans who live in the former homeland areas whose present constituents still subscribe to customary laws. 52% of South Africa’s population are women and of these almost 47% live in non-urban or rural areas. The Passing of the Bill in its current form serves to demonstrate there is still limited understanding of the structural drivers of gender-based violence (GBV). On one hand, the South African government has expressed commitment to eradicate gender-based violence through the implementation of National Strategic Plan on Gender-Based Violence and Femicide (NSP GBVF) adopted in 2020. However, on the other, structural drivers that entrench the prevalence of violence against women continue to be sustained through legislation such as the Traditional Courts Bill.

In Kenya, under the country's constitution, Kenyan women have equal rights to inherit and own property, however in many communities, customary systems continue to deny widows their inheritance and their rights. Even if a woman wins a case in the formal courts, it may be very difficult for her to return to her home and community after challenging traditional norms. Our MenEngage Africa partners have been working with communities engaging men and boys whilst using gender transformative norms to challenge these harmful norms and practices.

Addressing gender inequality and the empowerment of women requires commitment to the eradication of laws, policies, systems, and structures that continue to enforce women's subjugations. It requires commitment by member states to take progressive measures to address discriminatory norms and practices such as skewed land tenure systems, harmful practices such as child marriages, virginity testing, female genital mutilation (FGM), etc. It also requires a commitment to avail resources to meaningfully advance women's empowerment and to strengthen their voices and agency.

Recommendations:

1. Member States eradicate laws, policies and legal provisions that perpetuate rural women's vulnerability and subjugation such as the South African Traditional Courts Bill which does not recognise the 'opt out' option
2. Harmonise customary and common law provisions to address legal 'conflicts' and repeal existing laws that violate women and girls' rights
3. Implement existing laws and legal frameworks that protect and promote the participation of women in leadership and decision-making bodies at all levels of society including in rural contexts
4. Avail resources to improve infrastructure development in rural areas for the benefit of all, particularly women and girls

Endorsed by:

MenEngage Global Alliance
