



## **Economic and Social Council**

Distr.: General  
29 November 2012

Original: English

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### **Commission on the Status of Women**

#### **Fifty-seventh session**

4-15 March 2013

**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 Centre for Human Rights, 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

The Centre for Human Rights at the University of Pretoria is an academic and non-governmental organization that works towards the realization of human rights in Africa through human rights education, research and advocacy. In line with our regional focus on Africa, we draw attention to the obligation of States in Africa under the Convention on the Elimination of All Forms of Discrimination against Women and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa to eliminate and prevent violence against women.

Violence against women is a prevalent phenomenon rooted in the historically unequal power relations between men and women. Justifications of the perpetuation of gender inequality frequently evolve from stereotyped gender norms on the roles and responsibilities of men and women. Violence against women manifests in many forms. In Africa, the most prevalent forms include domestic violence, marital rape, sexual assault, sexual harassment, sexual abuse of schoolgirls, trafficking of girls and women, harmful traditional practices, such as female genital mutilation, early and forced marriage, and widowhood rites.

Certain groups of women face multiple forms of discrimination and are particularly vulnerable to violence. These groups include sex workers, widows, disabled women, women living with HIV and lesbians. Further, violence, particularly sexual violence, places women at a greater risk for HIV infection which, in part, accounts for the high prevalence rate of HIV among women in sub-Saharan Africa. Women living with HIV are more likely to be subjected to violence exacerbated by prevailing high levels of HIV-related stigma, discrimination and other rights violations.

The right to a violence-free existence is guaranteed by States through their ratification of various international and regional treaty documents and the domestication of the principles they enshrine. All but two African States have ratified the Convention on the Elimination of All Forms of Discrimination against Women and therefore have an obligation to prevent violence against women as outlined in general recommendation No. 19 of the Committee on the Elimination of Violence against Women.

On a regional level, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa comprehensively addresses violence against women. The principle of State accountability for violence against women is provided for in the Protocol as it explicitly provides for, inter alia, the prohibition in law of all forms of violence against women whether the violence takes place in private or public, and calls upon States to adopt measures to ensure the prevention, punishment and eradication of all forms of violence against women. It further provides for the protection of women in armed conflicts, noting that perpetrators of all forms of violence against women during conflict are to be brought to justice before a competent criminal tribunal. Widows, the elderly and women with disabilities are also expressly protected from violence.

The duty of States to enact and implement legislation to prohibit violence against women and girls is recognized in international instruments, including the Convention on the Elimination of All Forms of Discrimination against Women and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa and is an important component of a multifaceted approach to the

prevention of violence against women. Laws need to reflect the intersection of variables affecting the nature and prevalence of violence against women, including gender discrimination, and those that result from parallel legal and informal community justice systems that may not treat women equally. States can therefore be held accountable for failing to prevent violence against women, as well as failing to protect women from violence, to prosecute acts of violence, to punish the perpetrators, and to provide redress to victims.

Some challenges in the region with respect to adequate legislative frameworks to eliminate and prevent violence against women include gaps in, or an absence of, legislation dealing with violence against women. For example, where laws relating to violence against women exist, they are often inadequate and discordant with human rights. As the former Secretary-General noted in his in-depth study on violence against women, the treaty bodies have expressed concerns about the scope and coverage of existing legislation. He referred in particular to definitions of rape and domestic violence; provisions allowing the mitigation of sentences in rape cases where the perpetrator marries the victim; inadequacy of protective measures for trafficked women, as well as their treatment as criminals rather than victims; termination of criminal proceedings upon the withdrawal of a case by the victim; penalization of abortion in rape cases; laws that allow early or forced marriage; inadequate penalties for acts of violence against women; and discriminatory penal laws.

Many countries in the region fail to legislate against all forms of violence against women, and certain harmful traditional practices such as marital rape have eluded legal sanctioning in many countries. Laws relating to trafficking in women and girls and to sexual harassment are uncommon in the region, and some laws are well-intentioned but fail to eliminate discrimination against women entirely. Another challenge is the inadequate allocation of budgetary resources needed for the implementation or enforcement of laws dealing with violence against women. Finally, there is a noted lack of evidence-based data relating to the prevalence and impact of violence against women, thus making it difficult to prove the necessity of laws relating to violence against women.

Finally, we would like to highlight the importance of State reporting with respect to promoting State accountability for the fulfilment of treaty obligations, in this instance, to eliminate and prevent violence against women. State reporting should be considered as an integral part of a continuous process geared towards the promotion and enhancement of respect for human rights rather than an isolated event meant merely to comply with the requirements of an international treaty. It is an opportunity for a Government to reaffirm its commitment to respect the human rights of its own citizens and to reassert that commitment in the domestic political forum. It is also an opportunity for stocktaking and for the adoption of measures to remedy any identified shortcomings. State reporting thus serves a variety of functions, including an avenue for constructive dialogue, monitoring and acknowledging problems in the drive towards the realization of human rights for all.

Many African States still fail to comply with their reporting obligations enshrined under the various treaties. Although most States have submitted reports under the Convention on the Elimination of All Forms of Discrimination against Women, they are often very late. None of the 35 States that have ratified the Protocol to the African Charter on Human and Peoples' Rights on the Rights of

Women in Africa have submitted a report to date. The failure of States parties to produce their reports or submit them on time undermines the functioning of the respective human rights mechanisms at the national and regional levels. Furthermore, an examination of the content of State reports suggests that in some instances, the approach taken to State reporting is not a self-critical assessment of the State's efforts to realize the rights in the treaties it has ratified, but rather a mere formality.

In order to improve compliance with international obligations to eliminate and prevent violence against women, the Centre for Human Rights recommends the following:

(a) That States that have not ratified the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa do so as a matter of urgency;

(b) That States be encouraged to respect their obligations under the Convention on the Elimination of All Forms of Discrimination against Women and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa to eliminate and prevent violence against women and to submit periodic reports in a timely manner;

(c) That States be encouraged to undertake comprehensive studies on the full extent and manifestations of violence against women in their countries;

(d) That appropriate law reform be undertaken by States parties to domesticate the Convention on the Elimination of All Forms of Discrimination against Women and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa into national law;

(e) That States undertake gender-sensitive budgeting to provide for the effective implementation of laws to prevent violence against women.

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