



## **Economic and Social Council**

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

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

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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 Widows Rights International, 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**

### **Promoting a better and fairer future for widows**

#### **Background**

Article 1 of the Declaration on the Elimination of Violence against Women defines violence against women as any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.

However, one category of women, namely widows, continues to suffer high levels of discrimination, irrespective of culture, religion, ethnicity, economic status or education. They are excluded from communities, forced to marry a relative of the dead husband and may have to endure harmful mourning rites. Between 15 and 20 per cent of widows are under the age of 45 have young families to look after or are caring for elderly parents; the violence experienced by such widows affects the whole family.

According to Article 4 of the Declaration on the Elimination of Violence against Women, States should condemn violence against women and should not invoke any custom, tradition or religious consideration to avoid their obligations with respect to its elimination.

The Commonwealth Plan of Action for Gender Equality 2005-2015 recognized that approaches to gender-based violence have often failed to recognize the special predicament of widows who may be especially vulnerable due to their economic and social circumstances. There is evidence that widows of all ages are abused through traditional practices, which include discrimination in inheritance and property ownership. Integrated approaches undertaken by all relevant agencies are required, underpinned by comprehensive laws and policies, monitoring and enforcement systems and mechanisms to ensure accountability for implementation.

Only one of the general recommendations of the Committee on the Elimination of Discrimination Against Women mentions widows (General Recommendation No. 19, article 16(1)(h)). It states that often inheritance rights for widows do not reflect the principles of equal ownership of property acquired during marriage, and observes that such provisions contravene the Convention on the Elimination of All Forms of Discrimination against Women and should be abolished.

Article 20 of the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa makes specific reference to widows' rights, stating that States parties should take appropriate legal measures to ensure that widows enjoy all human rights through the implementation of the following provisions:

- (a) That widows are not subjected to inhuman, humiliating or degrading treatment;
- (b) That a widow shall automatically become the guardian and custodian of her children, after the death of her husband, unless this is contrary to the interests and the welfare of the children;

(c) That a widow shall have the right to remarry, and in that event, to marry the person of her choice.

### **The challenges**

- Despite numerous provisions in international instruments protecting the rights of women, in many communities the rights of widows are disregarded. For instance: Widows cannot inherit land and property, as male inheritance laws still prevail. Widows are often violently evicted from their homes and land by clan members or husband's relatives. These unequal property rights hinder development by contributing to low agricultural production, food shortages, underemployment, and rural poverty
- Widows can be stripped of their homes and belongings
- Widows may lose the right to remain unmarried or protect themselves from forced marriage to a close relative of the husband
- Widows may lose custody of their children
- Widows may lose their place in society; they are denied access to medical care or protection as they become socially and financially isolated

### **1. Impact of HIV/AIDS**

The HIV/AIDS pandemic has contributed to the increased numbers of widows worldwide, particularly young widows and child widows. HIV-positive widows face discrimination and those free of HIV/AIDS but whose husbands died of the disease are forced to leave the marital home. Current inheritance laws leave most widows without the economic means to support themselves and their children.

In Africa widows are forced to undergo humiliating and life-threatening cleansing rites from which they can contract HIV and other sexually transmitted infections. These rites traditionally involve having sexual relations with a male relative to cleanse them of the shade of their dead husband and to protect the village. A new and worrying phenomenon is the use of professional cleansers — men who do this either out of duty (for example, as village headman) or for payment.

### **2. Land, property and inheritance challenges**

In 2005, the Commission on Human Rights adopted a resolution on women's equal ownership of, access to and control over land, and on equal rights to own property and adequate housing. The resolution urged States to ensure women are given equal rights to own and inherit land and to adequate housing, and urged States to reform the law so that women are given access to the economic and technological means to improve access to markets. However, discrimination persists, as the law is not put into practice. Widows continue to be excluded, subjected to violent abuse by their in-laws who force them to leave the marital home. Even in communities that do recognize inheritance rights, widows are threatened with violence, ostracized and disowned by their families if they do not sign over their rights.

### **3. Forced marriage**

Article 1 of the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery states that States should take all measures, including legislation, to abolish, inter alia, any institution or practice whereby:

(a) A woman, without the right to refuse, is promised or given in marriage on payment of a consideration in money or in kind to her parents, guardian, family or any other person or group;

(b) The husband of a woman, his family or his clan has the right to transfer her to another person for value received or otherwise;

(c) A woman on the death of her husband is liable to be inherited by another person.

However, in many countries forced marriage continues to be the norm, especially for young widows. Widows who refuse to be inherited by a male relative of the deceased are persecuted (regularly beaten, emotionally blackmailed or expelled from the community). Agreement brings other traumas. The widow becomes little more than a slave for the rest of the family, especially in polygamous households.

### **4. Impact on family**

The children of widows also experience social exclusion, having to assist their mother financially. They are withdrawn from education, have to work at early ages (sometimes as street children) and sometimes, in the case of girls, are forced into early marriage, prostitution or worse so the family can make ends meet.

### **5. Inhumane and degrading practices**

In addition to their rights being disregarded, widows in many traditional communities may suffer inhumane, humiliating and life-threatening mourning practices such as:

- Being forced to undergo horrific cleansing rites
- Being forced to drink water used to wash the husband's body
- Being forcibly shaved
- Being obliged to spend up to a month without bathing or changing their clothes; eating food placed on the floor for them
- Living in isolation, their freedom of movement curtailed for long periods, which means they cannot support their children either emotionally or economically
- Being accused of causing their husband's death (especially if the husband died of HIV/AIDS); and this may lead them to be accused of witchcraft

## Recommendations

1. Widows Rights International recommends that the Commission on the Status of Women develop a protocol on the rights of widows. This could draw on General Recommendation No. 19 of the Committee on the Elimination of Discrimination Against Women and the above-mentioned Protocol to the African Charter.

Such a protocol:

- Must encourage community leaders and civil society groups to engage with Government to improve the situation of widows
- Must provide for criminal penalties for inhuman, degrading and life-threatening mourning rites and for any traditional or cultural practices which restrict the liberty, mobility and financial independence of widows
- Must also safeguard the families and dependants of widows and ensure their rights are protected

2. Widows Rights International recommends that the Commission on the Status of Women and the Human Rights Council should require that all States submit information on the status of widows' rights when presenting their country reports.

3. Widows Rights International recommends that clauses promoting the rights of widows be included in all human rights protocols and that all instruments relating to gender-based violence include specific provisions relating to violence against widows of all ages.

4. Widows Rights International recommends that national Governments be encouraged, when developing legislation and in particular women's rights legislation, to engage with widows as part of any consultative process.

5. Widows Rights International recommends that all national Governments be required to record statistics on widows when they provide population statistics to the General Assembly, the Economic and Social Council and the Commission on Population and Development.

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*Note:* The statement is endorsed by the following non-governmental organizations in consultative status with the Council: International Federation of Women Lawyers, National Alliance of Women's Organizations and World Young Women's Christian Association.