



## **Submission to CEDAW General Discussion on “Access to Justice”**

### **From Widows for Peace through Democracy (WPD) Recommendations with reference to WIDOWS accessing justice.**

**WPD** applauds the decision of CEDAW at its 55<sup>th</sup> Session to work on developing a General Recommendation on women’s access to justice. However, it regrets that the Concept Note for the half-day discussion, while listing several categories of disadvantaged women, omitted any reference to WIDOWS.

In this submission, we focus on challenges faced by not only by widows and also by wives of ‘disappeared’ in accessing justice, particularly in developing and in post-conflict situations. This submission is based on reports carried out by WPD partners, particularly in South Asia and Africa.

#### **1. Widows as a disadvantaged group of women**

It is often assumed that widows are elderly women respected and looked after by their families. However, widows are of all ages, from child widows, to young widows to elderly grandmothers, who all face barriers to accessing justice. Due to the lack of recognition of widows as a disadvantaged group, there is little official data on widows and their voices are not heard in the national or international fora. However, widows have been acknowledged as a group under international law by the Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa (Article 21 and 22).

Given the huge unprecedented increase in the numbers of widows of all ages due to armed conflict, revolution, harmful traditional practices including child marriage, and women’s longer life expectancy, they have a desperate need to have access to justice. Often widows face stigma, negative traditional attitudes and stereotyping is widespread, (for example, widows may be accused, tortured and even killed as witches). Widows also encounter systematic abuse and discrimination even where substantive laws should guarantee equality. This is illustrated in the report submitted to CEDAW under the Optional Protocol by Women’s Legal Aid Centre (WLAC) of Tanzania. Therefore it is vital that States ensure they have access to the justice system, to obtain rights and remedies, and are protected from exploitation and violence.

In many developing countries, widows' lives are determined at the local level, in traditional or informal alternative dispute procedures, whether or not recognized by the State, often according to patriarchal, discriminatory interpretations of religion, tradition and customs. Although these interpretations may conflict with modern laws and with international conventions, such as CEDAW, millions of widows are denied their rights and remedies because decisions are made outside the formal legal system. Widows may be viewed not only as "inauspicious", but treated as "chattels", to be inherited as part of their dead husband's estate. 'Widow Inheritance' is often a forced remarriage, resulting in rape and forced pregnancy.

CEDAW's GR 19 on Violence to Women has not specifically protected widows from physical, sexual, economic and psychological violence within the family. Illiteracy, poverty, lack of knowledge of their rights, and fear of further violence should they take their complaints and demand for remedies outside the family effectively bars widows from accessing justice.

For example, while many UN Member States have reformed laws on succession and inheritance, so that widows are able to remain in their homes after the deaths of their husband, inherit land and property, keep custody of their children, and be free to remarry or reject a forced re-marriage (widow-inheritance), there is abundant evidence that such laws are not implemented. When widows dare attempt to take their cases to courts, due to corruption, gender bias, and bureaucratic obstacles, there are few successes. Or, even should a widow have her claim upheld in the courts, there may be no acceptance of such a decision by the local community and therefore she is unable to enforce her remedies.

## **2. Widows in Conflict or Post-Conflict**

As for the uncounted numbers of widows and wives of the "missing" in conflict and post conflict environments, there is ample evidence that, in spite of UN SCR Resolutions 1325, 1820, 1388, these women encounter huge barriers to getting due reparations, compensations, services, penal sanctions, civil remedies, protection as witnesses in war crimes prosecutions. The CEDAW Committee has emphasized in many instances that access to effective remedies, compensation and/or reparation be provided to women victims of discrimination.

WPD welcomes the recognition by CEDAW in the concept note that women and girls face particular challenges in conflict and post conflict situations. The plight of widows is worsened in conflict and transitional justice situations especially when they are displaced. As IDPs and refugees their numbers predominate in camps, where widows without an adult male to protect and negotiate for them, or to access services on their behalf, are particularly vulnerable to sexual exploitation, rape and other forms of gender violence.

In the post-conflict context, widows are least likely to be adequately rehabilitated and returned to their villages and lands as now required by SC Resolution 1325 because they cannot prove legal title to their husband's property. This was the case in Bosnia and Kosovo following the Balkan Wars of the 1990s.

Furthermore, the wives of those who are ‘missing’ or who have been forcibly disappeared face extreme barriers in accessing information about what happened to their husbands. These barriers are formal and informal, procedural and substantive in their nature. Without access information about what happened, widows are unable to rebuild their lives thus violating their right to truth under international law.

## **Conclusion**

Therefore, we ask the Committee in their General Discussion on access to justice to specifically recognize the plight of widows, in particular by requiring Governments to:

1. Fill the data gap: collect, analyse and use information on the inability of widow’s to effectively access justice.
2. Support and provide legal aid to widows, especially in rural areas, where widows are victims of violence, deprived of inheritance rights to land and property, and ‘chasing-off and property grabbing’ contrary to Article 21 and 22 of the Protocol to the African Charter.
3. Protect, respect and fulfill the rights of widows to access justice in order to obtain information about disappeared and missing persons, including in their capacity as witnesses to other international crimes.

WPD appreciates the opportunity to provide input to the General Discussion and the forthcoming General Recommendation and stands ready to assist with further information.

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