

Position of the UN Special Rapporteur on violence against women, its causes and consequences, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the Independent Expert on the enjoyment of all human rights by older persons, and the Working Group on discrimination against women and girls on the UN Secretary-General’s Report, Our Common Agenda

The Special Rapporteur on violence against women, its causes and consequences, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the Independent Expert on the enjoyment of all human rights by older persons, and the Working Group on discrimination against women and girls participated in the consultations concerning the UN Secretary-General’s Report “Our Common Agenda” (hereafter Common Agenda), which corresponds to the September 2020 declaration on the commemoration of the UN’s 75th anniversary. In their capacities pursuant to Human Rights Council resolutions 42/22, 42/12, 41/17 and 41/6, the experts would like to make their views public on the way in which the Common Agenda addresses issues relating to the gender equality and ending gender-based violence committed against women and girls.

Mainstreaming gender responsiveness into the Secretary-General’s initiatives in a stronger manner

The experts welcome the Secretary-General’s intention to organize a biennial summit between members of the groups of 20 and ECOSOC, the Secretary-General, and International Financial Institutions (IFI), and recommends that future proposals chart out how IFIs could support the work on ending gender-based violence and advance gender equality. Similarly, the experts salute the proposal to establish a high-level advisory board to be led by former heads of State and Government to identify global public good and other areas of common interest where governance improvements are needed. Ending violence against women and girls as well as achieving gender equality should be included as an issue of public good to be in the agenda of the high-level advisory board. Furthermore, and to fully include a human rights-based approach, it would be important to ensure that all generations are included for the renewal of the solidarity act.

Putting women and girls at the center of all policies, including peacebuilding

The experts are encouraged by the Secretary-General’s commitment No. 5 to put women and girls at the center. The Common Agenda goes to elaborate that it will also specifically “put women and girls at the center of security policy” (p.6). The experts would recommend that women and girls are put at the center of all policies, including peacebuilding, and in this respect, also recommend that the UN carries out an evaluation of the gender-responsiveness of the peacebuilding fund and the peacebuilding commission, given the pivotal role that they play in several post-conflict settings around the world. As the Common Agenda calls for more funds for the peacebuilding fund, there is also a need to call on it to mainstream gender equality and the prevention of gender-based violence against women and girls more robustly into its work agenda and activities.

Ensuring that older women do not fall off the map

The experts welcome and appreciate the focus on including and empowering the younger generation, including women and girls. At the same time, it is important not to deprioritize older women, who are often marginalized and particularly vulnerable to exploitation and abuse. In the spirit of ‘leaving no one behind’, we must ensure that they too are protected and that they can continue to meaningfully participate in life. Integrating age as a disaggregation in our data collection will allow us to make them more visible and to better and more efficiently address issues relevant to older age groups.

Linking the intended emergency response plan to development

While the experts welcome the proposal of the Secretary-General to establish an emergency response plan, it would be important to link it early on to development to address the underlying causes of violence and ensure that interventions can be of medium- and long-term nature. Vital work needs to start as early as possible with regards to legal and institutional reform of legislation related to combatting gender-based violence and provision of services. Without a robust framework to prevent and respond to gender-based violence, States lack the capacity to assist victims during and after emergencies, and to adequately hold perpetrators to account. It is important to note that violence that takes place in conflict or emergency-settings is connected to and derives from the same causes as violence that takes place in “normal” times or times of “peace”.

Quantifying the impact of gender-based violence against women and girls on countries and societies

The experts appreciate the Secretary-General’s attempt to show that gender-based violence is not only a human rights issue, but also an issue linked to prosperity and development.

Reviewing the UN’s capacity to deliver on gender equality as a core priority across all entities

The experts welcome the Secretary-General’s decision to review the UN system’s capacity to deliver on gender equality as a core priority across all entities, as well as his suggestion in paragraph 129 of the Common Agenda to make fuller use of the human rights system, including treaty bodies and the special procedures, to solve pressing social, economic, and political challenges, as well as to ensure that human rights mechanisms have financial sustainability. The experts hope that this extends to a strengthened engagement with the Special Procedures of the Human Rights Council and to using the recommendations they make through the thematic reports that are submitted to the Human Rights Council and the General Assembly, as well as through country visits, by all relevant stakeholders within the UN. The experts hope that this will lead to greater cooperation with the different mandates as well as a greater integration of their input into UN processes.

Efforts to improve the mainstreaming of gender into interventions that lie along the humanitarian-development continuum are confronted with structural limitations in the architecture of the UN Country Teams and Humanitarian Country Teams. Both do not have clearly spelled out roles and responsibilities on gender, nor defined and clear

accountabilities relating to them. These limitations are beyond the control of any one single agency or stakeholder and are not a feature of any context.

The undefined structure, policy, and responsibilities of the UN system on gender, including the humanitarian coordination system, posed a challenge when implementing a gender mainstreaming strategy. UN Women is not a member of the Inter-Agency Standing Committee (IASC). Furthermore, there is still no formal and specific inter-agency mechanism for coordinating Gender Equality and Empowerment of Women (GEEW) issues. Individual agencies are ultimately responsible for mainstreaming gender issues into their programmes and structures and need to include a life-cycle approach. While UN Women can try to guide and support, the latter's ability to play a more effective role is limited by the decisions that stakeholders take themselves on how to engage on gender-related issues. Ultimately, it is the humanitarian country team's leadership and commitment to gender mainstreaming that makes the difference, though it should not be this way.

This could include but is not limited to a) placing the responsibility overseeing gender responsiveness and inclusiveness in humanitarian action in his/her office; b) ensuring that the HCT compact –which is the framework of accountability¹– is translated into action on gender equality and gender responsiveness and reflects the responsibilities of different actors; c) strengthening the monitoring of gender-related commitments made by the HCT members, particularly those that have been ranked as gender responsive; d) including gender-responsiveness as a collective outcome when the UN Country Team begins to align their strategic planning exercises in 2022 (i.e., the Cooperation Framework and the Humanitarian Response Plan). In doing so, the UN Country Team should systematically apply a diversity and inclusion sensitive approach, collect disaggregated data and establish and use standardized procedures to for example refer survivors of gender-based violence to service providers for assistance and protection).

Furthermore, since accountability is primarily one that is owed to the affected population, including the extent to which they have been engaged in the design of an intervention, different evaluations, and existing literature show that insufficient progress has been made in that respect. While civil society organizations - particularly women organizations - have been more engaged and supported in the humanitarian response process and outreach, the participation of the affected population in the design and implementation of humanitarian action can still be improved. In addition, efforts to empower women and strengthen their ability to gain control over their lives could be improved. Humanitarian action needs to emphasize that beneficiary women are actors of change with agency rather than primarily victims.

On the occasion of the important review of the working methods of the Commission of the Status of Women (CSW), the Platform of independent expert mechanisms on the elimination of discrimination and violence against women (EDVAW Platform) has made some recommendations in this regard to the CSW. Essentially, it has

¹ In the Compact, "HCT members commit to ensure that gender equality and the empowerment of women and girls are at the very core of humanitarian action which promotes the equitable rights of affected people in the Occupied Palestinian Territory. To this end, an understanding of the specific needs, concerns, capacities and priorities of women, girls, boys, and men should inform emergency preparedness and the humanitarian programme cycle (humanitarian planning and response). It also means that the HCT must facilitate the active participation and leadership of women and girls in humanitarian action and beyond; and promote transformative change for more inclusive and equitable society in the oPt"

called for a better integration of the different international human rights mechanisms that work on gender equality and the prevention of gender-based violence against women and girls in the work of the CSW and a closer engagement with it.²

Recognizing that the problem online is not only of harassment of women but of gender-based violence

The experts welcome the Secretary-General's commitment No. 4 on abiding by international law and ensuring justice. In this regard, The experts welcome specifically his intention to ensure the application of human rights online as well as to "frontiers" issues and new technologies. In other parts of the document, the Secretary-General speaks of the need to counter hate speech online harassment including of women and girls. There is a need to expand the description of the problems and violations that women encounter online and naming them as gender-based violence against women and girls, which includes but is not limited to harassment.

On 18 December 2013, the General Assembly adopted resolution 68/167, in which it expressed deep concern at the negative impact that surveillance may have on the exercise and enjoyment of human rights. The Global Commission on HIV and the Law has raised concerns regarding expansive State surveillance and how online surveillance may undermine the trust needed in providing health information online.³ Despite global efforts to achieve gender equality and to eliminate all forms of violence against women and girls by 2030, gender-based violence persists in all regions of the world and has intensified worldwide since the outbreak of the COVID-19 pandemic.⁴

Notwithstanding the above-mentioned concerns, digital health and online interventions, when deemed safe and are trusted, offer important positive opportunities to actively address and overcome social inequalities by empowering women and marginalized groups and addressing their needs, accessing information via text messages, building trust and relationships with health providers, documenting rights violations and establishing peer networks for mutual support.

Ensuring that the access of women and girls to sexual and reproductive health is part of any initiative on the right to health

The experts welcome the Secretary-General's commitment No. 12 on preparedness. Given the deliberate, large-scale push back against women's sexual and reproductive rights, it would be vital for the Secretary-General to reassert the right of women and girls to access these. The right to health contains both freedoms and entitlements. Freedoms include the right to control one's health, including the right to be free from non-consensual medical treatment and experimentation. Entitlements include the right to a system of health protection (i.e. health care and the underlying social determinants of health) that provides equality of opportunity for people to enjoy the highest attainable standard of health.

² See the publication "EDVAW Platform and the Commission on the Status of Women: call for a human rights based approach in the implementation of strategies for the elimination of discrimination and violence against women", available at: https://www.ohchr.org/Documents/Issues/Women/SR/EDVAW_Booklets.pdf

³ Global Commission on HIV and the Law, Risks, Rights and Health, Supplement (July 2018), p. 23. Available at https://hivlawcommission.org/wp-content/uploads/2020/06/Hiv-and-the-Lawsupplement_EN_2020.pdf.

⁴ See issue-brief-covid-19-and-ending-violence-against-women-and-girls-en.pdf (unwomen.org).

The right to physical and mental health is a broad concept that can be broken down into more specific entitlements such as the rights to:

- maternal, child and reproductive health;
- informed consent, bodily integrity and freedom from torture, ill-treatment and harmful practices;
- healthy natural and workplace environments;
- the prevention, treatment and control of diseases, including access to essential medicines; and
- access to safe and potable water.⁵

Mistreatment, violence and obstetric violence directed against women in reproductive health services have been documented by human rights mechanisms.⁶ The Common Agenda could have been more assertive on the persistent gaps that exist in accessing sexual and reproductive health care services, commodities and information as experienced by the majority of women and girls across the world, notwithstanding that this is inherently discriminatory and a leading source of gender-based violence as well as cruel, inhuman and degrading treatment. To speak of universal health care without specifically acknowledging the additional barriers and risks associated with widespread gaps in accessing sexual and reproductive health is a regrettable omission that is antithetical to the essential nature of these services for women and girls and to the recognition of their right to live with dignity.

The experts recommend that States respect and protect key principles of non-discrimination, equality, and privacy, as well as the integrity, autonomy, dignity and well-being of individuals, especially in relation to sexual and reproductive health rights.⁷

Reasserting the centrality of human rights in the Common Agenda

The experts welcome the Secretary-General's intention to mobilize the whole UN system to assist countries in forging a renewed social contract, anchored in human rights. The experts would suggest that all other proposals also put human rights at their center.

It is also positive that the Secretary-General wishes to commemorate the 75th anniversary of the Universal Declaration on Human Rights and the 30th anniversary of the Vienna Declaration and Program of Action. In this respect, the experts would recommend that there is a moment on reflection on how "national and regional particularities and various historical, cultural and religious backgrounds" can be born in mind in such a way as to help States fulfil their duty to "promote and protect all human rights and fundamental freedoms" (Article 5).

Furthermore, the experts wish to draw the attention of the Secretary-General to the importance of reasserting the centrality of human rights of older persons, including older women. The global population of older persons is rising rapidly, including of older

⁵ See Substantive Issues Arising In The Implementation Of The International Covenant On Economic, Social And Cultural Rights General Comment No. 14 (2000)

⁶ See A/74/137; and decision adopted by the Committee on the Elimination of All Forms of Discrimination against Women under article 4 (2) (c) of the Optional Protocol, concerning communication No. 138/2018 (CEDAW/C/75/D/138/2018).

⁷ See A/76/172 report by UN Special Rapporteur on the Right to Health: "Sexual and reproductive health rights: challenges and opportunities during the COVID-19 pandemic" (<https://www.undocs.org/en/A/76/172>)

women. This transition to longer lives is due to better health care and living conditions, which is a very positive development and should not be labelled as a challenge for the world. Future generations of older persons, especially older women who should participate in the development of the Secretary-General's Common Agenda and should not be left behind. Older persons deserve to enjoy their human rights, which are increasingly threatened, especially since the beginning of the COVID-19 pandemic. Older women are at particular risk of suffering intersectional discrimination during their lifetime. Ageism and sexism accelerate inequalities in older age, which are visible in discriminatory provisions like age limits on access to healthcare and support, education, social protection, and adequate standards of living. Older women are often not considered in emergency plans. All these issues need to be considered if we are to renew the solidarity between generations. The next generation of youth is the next generation of older persons, and this is an important investment in all our future.

Covering gender-based violence against women and girls in the global code of conduct relating to public information

Disinformation has been used as a deliberate strategy by those pushing back against gender equality, particularly in relation to the sexual and reproductive health rights of women and girls. They employ a combination of tactics that involve disinformation and harmful stereotypes with the intention to discriminate and keep women and girls in a state of oppression, notwithstanding the violence and injustice that ensues. This so-called "infodemic" is not only linked to a "war on science" but the war on women and a source of gender-based violence. The experts would suggest that the global code of conduct be expanded to take this reality into account.

Addressing social norms in an effective and meaningful manner

The experts have taken note of the Secretary-General's intention to carry out a global campaign to eliminate social norms that tolerate, excuse, or overlook violence against women and girls. While a campaign can certainly contribute, it will need to be complemented by a range of other short, medium, and long-term interventions to achieve its goals. Furthermore, it will require the sustained engagement and work with religious leaders, faith-based organizations, community leaders, and men and boys in general.

Casting light on the problem of statelessness

The experts thank the Secretary-General for wishing to prioritize the issue of statelessness, including through adopting measures to prove the legal identity of individuals, and improving disaggregated data by age, gender, and diversity. Women can experience discrimination in their ability to access citizenship after marriage and to confer nationality to their children. Furthermore, gender inequality in nationality laws can create statelessness where their children, both boys and girls, cannot acquire nationality from their fathers. Their statelessness can lead to further discrimination, both in law and in practice. Given difficulties in accessing legal documents, many stateless persons are unable to access basic rights and services. These disadvantages can expose them to be taken advantage of, and to exploitation and abuse.⁸ There is insufficient data on the way in which statelessness acts as a catalyst of violence against stateless women and girls; producing such data should therefore be prioritized. There is also the need to better

⁸ UNHCR, This is our home: Stateless minorities and their search for citizenship, <https://www.refworld.org/docid/59e4a6534.html>, p. 2

understand that relationship and call for measures to address the vulnerability of stateless women and girls to violence and to adopt measures to respond to these.

Encouraging the development of international law and its codification on new forms of gender-based violence against women and girls

The experts support the Secretary-General's drive to promote the role of the International Law Commission and his intention for it to promote its role in the development of international law and its codification. The experts would recommend that the Commission addresses – among the issues it will be charged with – new or less visible forms of violence such as psychological forms of violence.

While many countries have developed advanced legal frameworks on violence against women, psychological violence against women is still not duly defined in most of them, nor applied by the criminal justice system.⁹ Definitions of threats in legal provisions on psychological violence are often very narrow (focusing only on threats to life, health or property), when psychological violence will often target a victim's reputation and standing in a community. Likewise, coercion is often seen only as physical, whereas a more comprehensive definition should include psychological coercion as well.

While the development of international law to meet gaps is important, it is equally important to reassert and reaffirm strong legal frameworks, in order not to erode the established rights that these frameworks protect. One such framework is the Convention on the Elimination of All Forms of Discrimination Against Women, which protects against all forms of discrimination of women. The Convention has been interpreted by the CEDAW Committee in the sense that violence is a form of discrimination present throughout women's lives. It is one of the most widely ratified human rights treaties globally.

Inadequate recognition of gender-based discrimination as a root cause of inequality and violence worldwide

The experts regret the inadequate recognition of gender-based discrimination as a root cause of inequality and violence in the public and private spheres, of the cumulative impact of multiple forms of discrimination as a persistent source of systemic disadvantage, vulnerability, marginalization, and oppression of specific populations of women, girls, and non-binary persons and, of the systemic and structural nature of discrimination. Discrimination is not a stand-alone concern, but a cross-cutting issue and its elimination is a core human rights obligation of States which, regrettably, is not adequately reflected in the Common Agenda.

The experts welcome that the Common Agenda, acknowledges the constraints imposed on half of humanity, i.e. women and girls, because of gender discrimination and the call to ensure their active and equal participation as a part of a social contract. The experts further welcome the proposal to “place women and girls at the center” which includes a call to repeal gender discriminatory laws and to ensure gender parity. Similarly, the experts appreciate the call to facilitate women's economic inclusion including by investment in the care economy and supporting women's entrepreneurs is noteworthy.

⁹ Sweden was cited as a good practice, for its legislation on domestic violence defining it as a continuum which includes psychological violence.

However, the elimination of gender discrimination will require more profound transformative measures and the reorientation of systems based on core human rights principles and values, including the recognition that human rights are universal, indivisible, interdependent and inter-related, which is not adequately reflected in the Common Agenda. Such recognition is needed more so today, given the serious risk that women's hard-fought achievements be reversed – some of which are justified at times by religious, cultural or social norms and beliefs.

For example, women's economic inclusion will require a combination of actions that address deep rooted discrimination in multiple spheres and include measures to recognize, reduce and redistribute their burden of unpaid care work while ensuring their autonomy over their body and universal access to sexual and reproductive health services. For the goals of the Common Agenda to be met, it must be operationalized through a holistic, coherent, and concerted approach that recognizes the pervasive nature and scope of gender discrimination across the private and public spheres and in more than one realm. This approach must involve explicitly naming and tackling the concerns of women and girls that are essential to their survival and well-being, such as those related to their sexual and reproductive health, instead of remaining silent about them and generating stigma. Women and girls cannot be part of a common agenda unless their specific challenges and needs are fully recognized and addressed.

The Common Agenda is a key instrument that can guide the UN in the fulfillment of the goals of its charter and support Member States in the implementation of their human rights obligations, particularly when it comes to the elimination of discrimination of gender-based violence against women and girls. The experts hope that these comments contribute to strengthen the Common Agenda, and ensure that it can counter the push backs on women's rights and advance gender equality.