

FORUM: Social, Cultural, and Humanitarian Committee (GA3)

QUESTION OF: Addressing femicides in Kenya

STUDENT OFFICER: Christy Gnoth

POSITION: Co-Chair

INTRODUCTION

All across the globe females are strongly affected by divergent forms of violence and live in constant fear for their safety and wellbeing. According to the World Health Organization (WHO), about 1 in 3 females worldwide (around 736 million) have already experienced physical or sexual violence once in their lifetime, in most cases by their intimate partners (38%).¹ In the year 2022, the UN registered about 89.000 females falling prey to intentional murder on a global scale.²

It is of paramount importance to highlight that more than half of sexual assaults (63%) are never reported to the authorities. To be more specific, rape is the most underreported crime in modern society.³ The same also applies to femicides. UN Women state that roughly four in ten deliberate murders still go uncounted due to “national variation in criminal justice recording and investigation practices.”⁴

Especially African women are critically affected by Gender Based Violence (GBV) and femicide. The UN specifies that an estimated 20.000 females had been deliberately killed within Africa in the year 2022, the highest rate worldwide.⁵ Kenya has one of the highest

¹European Commission, commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/gender-equality/gender-based-violence/what-gender-based-violence_en.

²chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/<https://www.unwomen.org/sites/default/files/2023-11/gender-related-killings-of-women-and-girls-femicide-feminicide-global-estimates-2022-en.pdf>

³chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.nsvrc.org/sites/default/files/publications_nsvrc_factsheet_media_packet_statistics-about-sexual-violence_0.pdf

⁴ “Five Essential Facts to Know About Femicide | UN Women – Headquarters.” *UN Women – Headquarters*, 22 Nov. 2023, www.unwomen.org/en/news-stories/feature-story/2022/11/five-essential-facts-to-know-about-femicide.

⁵Mefor-Nwachukwu, C. (2023, November 23). Over 20,000 women, girls murdered in Africa, highest globally. *The Whistler Newspaper*. <https://thewhistler.ng/over-20000-women-girls-murdered-in-africa-highest-globally/>

rates of female homicide in sub-Saharan Africa. About 47 women get killed each week according to the WHO, indicating a 50% increase in femicide cases over the past decade.⁶

Femicide in Kenya often takes the form of domestic violence, sexual assault, rape, dowry-related deaths, and honor killings, with women and girls from marginalized communities being disproportionately affected. 80% of females are brutally murdered within their so-called home with the perpetrators being either an intimate family member or a partner.

DEFINITION OF KEY TERMS

Cultural Norms

“Cultural norms refer to shared beliefs, or values and the human behaviors that support these values within a given society, such as the standards of conduct that are met with social approval or disapproval.”⁷ It can perpetuate harmful attitudes towards females.

Domestic Abuse

“Domestic abuse, also called "domestic violence" or "intimate partner violence", can be defined as a pattern of behaviour in any relationship that is used to gain or maintain power and control over an intimate partner.”⁸

Femicide

Femicide refers to the gender-based, intentional killing of females, "but broader definitions include any killings of women or girls.”⁹

⁶ Bhattar, V. a. P. B. K. (2024, March 14). *Femicide in Kenya: a silent crisis – UAB Institute for Human Rights blog*. <https://sites.uab.edu/humanrights/2024/03/14/femicide-in-kenya-a-silent-crisis/>

⁷ <https://study.com/academy/lesson/cultural-norms-definition-values-quiz.html>

⁸ “What Is Domestic Abuse? | United Nations.” *United Nations*, www.un.org/en/coronavirus/what-is-domestic-abuse.

⁹ “Femicide.” *Merriam-Webster Dictionary*, 15 July 2024, www.merriam-webster.com/dictionary/femicide

Gender-Based Violence (GBV)

“Gender-based violence is violence directed against a person because of that person's gender or violence that affects persons of a particular gender disproportionately.”¹⁰

Gender-related killings

“Gender-related killings are those killings that have as main motive or cause gender-based discrimination.”¹¹

Honor killing

“The traditional practice in some countries of killing a family member who is believed to have brought shame on the family.”¹²

Human Rights

“Human rights are rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. Human rights include the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education, and many more. Everyone is entitled to these rights, without discrimination.”¹³

Patriarchy

“Literally, it is a community of related families under the authority of a male head called a *patriarch*; applied more generally IS any form of social organisation in which men have predominant power”¹⁴

Social Norms

¹⁰ *What is gender-based violence?* (n.d.). European Commission. https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/gender-equality/gender-based-violence/what-gender-based-violence_en

¹¹https://www.ohchr.org/sites/default/files/Documents/Issues/Women/WRGS/OnePagers/Gender_motivated_killings.pdf

¹² “Honor Killing.” *Merriam-Webster Dictionary*, www.merriam-webster.com/dictionary/honor%20killing

¹³ United Nations. “Human Rights | United Nations.” *United Nations*, www.un.org/en/global-issues/human-rights

¹⁴ <https://www.oxfordreference.com/display/10.1093/oj/authority.20110803100310604>

“Common standards within a social group regarding socially acceptable or appropriate behaviour in particular social situations, the breach of which has social consequences.”¹⁵

BACKGROUND INFORMATION

The term femicide dates back to the year 1801, when it was first introduced in England by writer John Corry “to signify the killing of a woman”.¹⁶

Kenya’s femicide pandemic

Kenya undoubtedly holds the highest rate of femicide in Africa. Over the past decade, Kenya has experienced a concerning increase in femicide cases, namely 50%. From January of the year 2016 till December of 2023, in a span of 8 years, about 500 cases were reported to the Kenyan authorities.¹⁷ It is crucial to underline that these figures only represent the reported cases. In reality, according to the WHO, about 47 women were deliberately killed within a week, only in the year 2021.

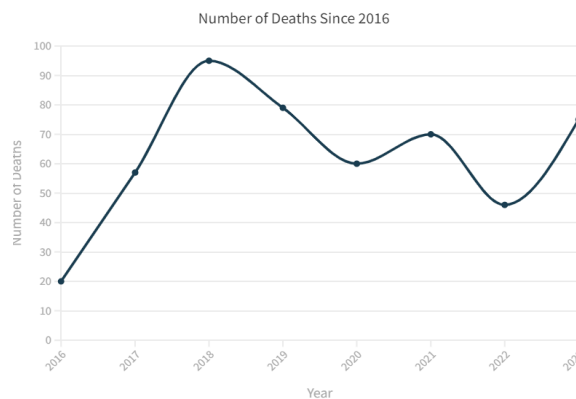


Figure 1: Reported deaths in Kenya caused by femicide since 2016¹⁸

In the early days of the year 2024, the killing of influencer Starlet Wahu made the headlines on an international level. The 26 year old was brutally murdered in an Airbnb

¹⁵ <https://www.oxfordreference.com/display/10.1093/oi/authority.20110803100515327>

¹⁶ Wikipedia contributors. (2024, August 19). Femicide. Wikipedia. <https://en.wikipedia.org/wiki/Femicide>

¹⁷ Femicide Kenya. (n.d.). <https://www.africadatahub.org/femicide-kenya>

¹⁸ Femicide Kenya. (n.d.). <https://www.africadatah>

apartment in Nairobi. This and many more horrific incidents sent shockwaves across the continent progressively encouraging women to protest against femicide and voice their anger. Hence, on January 27, one of the largest demonstrations took place in various cities of Kenya with thousands of women taking the streets and demanding an end to femicide and GBV. Hashtags such as #StopKillingUs, #EndFemicideKe, and #TotalShutDownKE were used to express their dissatisfaction with their society’s approach to this sensitive topic.¹⁹



Figure 2: Kenyan women protest against femicide²⁰

Financial Factors that perpetuate Femicide

Poverty is without a doubt the main reason femicide cases have alarmingly increased in the past years. Especially in African countries where money is inadequate, the majority of the female population depends on their intimate partners salary. In order to contribute to their household’s finances, women are forced to rely on precarious forms of employment, leaving them vulnerable to exploitation and abuse. Moreover, poverty limits women’s chances of leaving toxic and troubled households and leaves them with no other choice than to endure horrible living conditions.

Inadequate job opportunities in combination with gender inequality are another crucial aspect contributing to femicide. Like previously mentioned, women can not escape from violent environments if not financially independent. Females not being employed also

¹⁹ {"@type": "Person", "name": "Saskia Brechenmacher"}, {"@type": "Person", "name": "Francesca Nyakora"}. (n.d.). *Kenyan women are pushing for action on femicide. they have a road map*. Carnegie Endowment for International Peace. <https://carnegieendowment.org/emissary/2024/02/kenyan-women-are-pushing-for-action-on-femicide-they-have-a-road-map?lang=en>

<https://carnegieendowment.org/emissary/2024/02/kenyan-women-are-pushing-for-action-on-femicide-they-have-a-road-map?lang=en>

²⁰ Mwaura, B. W. (2024, February 4). *Kenya femicide: Why men fail to condemn deadly misogyny*. <https://www.bbc.com/news/world-africa-68178445>

suffer from feelings of depression and isolation, knowing that they are not able to provide for their household and escape if needed. Additionally, inequality maximises women's helpless situation. Being marginalised and restricted from economic power results in desperation and hopelessness.

In addition, the tremendous problem of educational absence among the female population is of paramount importance. With women not being aware of their fundamental human rights, they are incapable of reaching out for support and resources, thus aggravating their already powerless situation.

Social, Cultural Factors that perpetuate Femicide

GBV is without a question one of the main social and cultural factors that perpetuate femicide. As mentioned in the introduction, GBV is experienced in high numbers around the globe, with statistics showing that one in three females have already experienced GBV in their life before.²¹ GBV can have catastrophic consequences for anyone involved, such as individuals, families, and communities. It can inevitably trigger physical as well as mental trauma, such as post-traumatic stress disorder (PTSD), depression, serious injuries, and self-harm. In the worst cases, it can also result in fatality. GBV as well as femicide also perpetuates silence, fear, and vulnerability among women and girls, thus hindering them from opening up and fighting for their fundamental, human rights. Without doubt it is a persistent problem, being deeply rooted in gender roles, often based on harmful and oppressive social norms.

In many societies, especially those in African countries, women are prone to specific gender cliches. Females are portrayed as weak, incapable and inferior to the opposite sex. Due to these stereotypes, gender roles have been formed in communities. Women are seen as the homemakers, caregivers, nurturers and helpers that stand in the shadow of their partners. Men on the other hand are characterised by dominance, assertiveness, and strength. However, these traditional beliefs can inevitably lead to men showing aggression and using violence if they feel disrespected or if they simply want to assert their superiority.

Furthermore, traditions as well as traditional practices also contribute to femicide. In Kenya as well as other cultures, women are seen as less powerful and less influential than

²¹<https://www.who.int/news/item/09-03-2021-devastatingly-pervasive-1-in-3-women-globally-experience-violence>

men, resulting in the normalisation of horrible practices involving the female sex, such as female genital mutilation (FGM), child marriages and forced dowry.

The normalisation of violence in African countries is also a crucial factor that perpetuates femicide. Sadly, it is tolerated by communities and only little is done to change that point of view. What is even more devastating is that violence is being constantly justified with the excuse of being necessary to maintain order in society. In that way perpetrators feel no remorse at all, believing that they will not be punished for their unethical actions.

Inadequate Response from Authorities

Legal provisions of punishment for femicide vary across the world. In Kenya, the Sexual Offence Act, passed in 2006, criminalizes various forms of sexual violence, including femicide. In the Penal Code of Kenya, Chapter XXI, section 220, a perpetrator is sentenced to life imprisonment if having committed a murder.

Rape is the most under reported crime, according to the National Sexual Violence Resource Center, with 63% of sexual assaults never reported to the authorities.²² Femicides are no different. Despite alarming statistics, especially in African countries, the government often fails to respond adequately, resulting in many cases going unnoticed and justice not being served.

The perpetrators often not being punished for their actions, is the result of a badly-managed judiciary system. Law enforcement agencies that have been entitled to investigating and preventing femicides are struggling with the complexities. They are not fully-equipped and lack the resources, the knowledge, the expertise, and needless to say, the necessary training. Hence, they are incapable of collecting and analysing data. Thus, many cases are overlooked and left unsolved.

Another major problem is the vulnerability of the juristical system to corruption. Many perpetrators try to manipulate verdicts by manipulating the procedures with the goal of escaping from any legal consequences. Sadly, some of them succeed and justice is not being served to the mourning families.

²²[chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.nsvrc.org/sites/default/files/publications_nsvrc_factsheet_media_packet_statistics-about-sexual-violence_0.pdf](https://www.nsvrc.org/sites/default/files/publications_nsvrc_factsheet_media_packet_statistics-about-sexual-violence_0.pdf)

COVID-19 and femicide

Beyond doubt, the COVID-19 pandemic has impacted both GBV and femicide. Before the COVID-19 outbreak, an estimated one in three women had experienced being sexually assaulted in their lifetime, according to the WHO.²³ Needless to say, in most cases the numbers only increased alarmingly during lockdown, especially in African countries. According to the Africa Renewal, “a third of all crimes reported since COVID-19 pandemic started in Kenya were related to sexual violence”.²⁴

Already experiencing massive challenges regarding the prevention of femicides, African Countries were now faced with the outbreak of a hazardous virus, COVID-19. During the COVID-19 lockdown, women were forced to stay inside their houses for their health's sake. Shut off from the outside world and prohibited from going out, made women feel trapped inside their own home. Thus, abusers were given the chance to perpetuate their crimes (GBV resulting in homicide) unconcerned about consequences. To be more specific, women's opportunities to seek help or flee in case of abuse decreased dramatically, leaving them vulnerable and unable to act. Studies also indicated that the lack of personal space during lockdown was a catalyst for domestic violence and femicide. For instance, if a conflict arose within a household, it would be far more demanding to resolve it on good terms. For many abusive husbands the effortless method would be asserting their dominance through violence. Specifically in Kenya though, the main problem triggering femicides and GBV during lockdown, was the financial hardship. Being a poverty-stricken country, the prevention of movement and curfews strongly affected the economic situation, “especially for those working in the informal sector”.²⁵ Households suffered from the fear and high levels of stress of losing what they had left, creating an insufferable environment within their walls, often leading to domestic abuse and femicides.

²³ Facts and figures: Ending violence against women. (n.d.). UN Women – Headquarters. <https://www.unwomen.org/en/what-we-do/ending-violence-against-women/facts-and-figures>

²⁴ Uzobo, E., & Ayinmoro, A. D. (2021). Trapped between two pandemics: Domestic violence cases under COVID-19 Pandemic Lockdown: A scoping review. *Community Health Equity Research & Policy*, 43(3), 319–328. <https://doi.org/10.1177/0272684x211022121>

²⁵ Uzobo, E., & Ayinmoro, A. D. (2021). Trapped between two pandemics: Domestic violence cases under COVID-19 Pandemic Lockdown: A scoping review. *Community Health Equity Research & Policy*, 43(3), 319–328. <https://doi.org/10.1177/0272684x211022121>

MAJOR COUNTRIES AND ORGANISATIONS INVOLVED

Kenya

In recent years Kenya has been suffering from one of the most severe humanitarian crises in history, the drought of 2020-2023, critically worsening women's situation regarding gender based violence and femicide rates. According to the WHO, Kenya holds the highest rate of femicide cases in Africa. Only in the year 2020, 47 women were killed each week, showing a 50% increase in femicide cases in the past decade.²⁶ Being an LEDC, Kenya struggles a lot with femicide. Women are not educated enough upon the matter and are not aware of their fundamental, human rights. They are overpowered by men, who feel the need to assert their dominance and use violence if their partners do not obey. Hence, victims have an extremely hard time coming forward and reporting their abusers. In addition, many cases of femicide and GBV go unreported due to the fact that many LEDCs's governments, including Kenya's, respond inadequately to the alarming cases. However, Kenya has taken some vital measures to tackle femicides, such as the Sexual Offence Act. It was passed on the 14th of July 2006 and addresses sexual offences, including those causing harm or death to a woman. It also incorporates new penalties for perpetrators.

Cuba

Cuba has one of the lowest femicide rates in Latin America and globally, in comparison to Kenya. Per 100.000 women, less than one is a victim of femicide (0.3)²⁷, as of the year 2022. Sadly, just one year later, in 2023, 89 femicide cases were reported to the authorities, "nearly triple the number of each of the two years prior"²⁸. Undoubtedly, femicide rates alarmingly increase in every corner of the globe. As of the year 2023, there were no significant steps taken so as to tackle the rising phenomenon of femicides in Cuba. Though, in recent years significantly more awareness was raised regarding the sensitive

²⁶ Bhattar, V. a. P. B. K. (2024, March 14). Femicide in Kenya: a silent crisis – UAB Institute for Human Rights blog. <https://sites.uab.edu/humanrights/2024/03/14/femicide-in-kenya-a-silent-crisis/>

²⁷ Economic Commission for Latin America and the Caribbean. (n.d.). In 2022, at least 4,050 women were victims of femicide in Latin. <https://www.cepal.org/en/pressreleases/2022-least-4050-women-were-victims-femicide-latin-america-and-caribbean-eclac>

²⁸ Colomé, C. G., Colomé, C. G., & Colomé, C. G. (2024, June 22). Cuba, the 'safest country in the world' is getting less and less secure. *EL PAÍS English*. <https://english.elpais.com/international/2024-06-22/cuba-the-safest-country-in-the-world-is-getting-less-and-less-secure.html#>

topic, due to social media platforms and feminist activism. Hashtags such as #NiUnaMenos (Not One Less) and #FemicidioNoEsUnDelito (Femicide is Not a Crime) have been used to demand action from authorities. To be more specific, the Cuban women demand the law to protect them from violence and femicide. In response, authorities argue that the recently passed Family Code and Penal Code cover the topic fully, but activists want more. This initial reaction sparked from the female population as the Cuban law does not see femicide as an individual crime, they incorporate it with aggravated homicide, recognizing it as a distinct crime. During the Cuban Revolution, gender equality was once seen as the cornerstone of Fidel Castro's regime. Now that it is constantly neglected, females fall prey to the heinous crime of femicide and governments are unable to take effective action.

Türkiye

In Turkey, according to the “latest National Research on Violence against Women” from 2014, “38 percent of ever-married women have been subjected to physical and/or sexual violence in their lifetime.”²⁹ These statistics indicate that every year, hundreds of women become casualties to femicide. To be more specific, according to the “We Will Stop Femicide Platform”, a platform striving for terminating femicide and addressing women's rights violations, the number of femicide cases increased dramatically, six times to be exact, in the span of 14 years: from 66 cases in 2008 to 300 in 2022.³⁰ On March 20th 2021, a major decision was taken by the government of Turkey that only elevated the number of femicide cases. “Turkey terminated being a party to the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence.”³¹ The government blamed unnamed groups for hijacking the treaty with the goal of promoting homosexuality, an act considered intolerable in Turkey: hence, the withdrawal. The Istanbul convention was adopted by the Government of the Republic of Turkey in 2012 with the intention of safeguarding women from all types of violence as well as preventing,

²⁹ “UN Joint Statement in Response to Turkey’s Withdrawal From Istanbul Convention.” *Türkiye*, turkiye.un.org/en/122727-un-joint-statement-response-turkey%E2%80%99s-withdrawal-istanbul-convention.

³⁰ Akbaş, G. E., & Karataş, K. (2023). Femicide in Turkey: A Document Analysis of News from 2011 to 2019. *Journal of Social Service Research*, 50(1), 54–72. <https://doi.org/10.1080/01488376.2023.2271958>

³¹ “UN Joint Statement in Response to Turkey’s Withdrawal From Istanbul Convention.” *Türkiye*, turkiye.un.org/en/122727-un-joint-statement-response-turkey%E2%80%99s-withdrawal-istanbul-convention.

prosecuting and putting an end to domestic abuse/violence. Undoubtedly, it is the first and most comprehensive international agreement addressing these specific concerns. The withdrawal from the Istanbul convention endangered women's and girls' lives on a critical scale thus also jeopardising their fundamental human rights. Additionally, it is of paramount importance to underline the fact that Turkey was actually the first country to ratify the convention, taking emerge steps to align its national legislation with it. Now that the country has officially left the convention, concerns have arisen about the undermining of the remarkable efforts regarding the safety of women.

Coalition on Violence against Women (COVAW)

The Coalition on Violence against Women (COVAW) is a “national non-profit women’s rights organisation”³², established in the year 1995. Its purpose is to voice the silence of the african female population and address violence directed at the female sex, playing an exceptionally important role in combating femicides and abuses. It was initiated when a workshop by “Women in Law and Development in Africa” (WILDAF) was unable to form a coalition that would address the specific topic effectively. Their visions and main goals though remain the same. Striving to form a safe community in which women can enjoy their fundamental human rights and live freely without facing discrimination and getting murdered is of paramount significance to them. Moreover, they value women's economic empowerment by encouraging them and teaching them methods regarding the equal and greater share/ control of resources and financial opportunities. Another objective they actively try to achieve is the greater access of GBV victims and survivors to justice. Although there have been various steps taken in order to improve the legal system of Kenya, the alarming situation has not yet been tackled. By “collaborating and coordinating efforts of actors engaged in facilitating access to justice for survivors of VAWG and other violations”³³The COVAW wishes to improve the unacceptable situation as soon as possible. Over the years, the coalition has organised various, successful workshops and projects. Recently, the COVAW has been attempting to implement the “Maputo Protocol” in Kenya, aiming at serving as a tool in the case of women's rights violations. Although the government of Kenya has already expressed its dedication to the ratification of the protocol, many gaps

³² The Coalition on Violence Against Women (COVAW). (2024, July 19). *Home - Coalition on Violence against Women -COVAW*. Coalition on Violence Against Women -COVAW. <https://covaw.or.ke/>

³³ The Coalition on Violence Against Women (COVAW). (2023, July 17). *Access to Justice - Coalition on Violence against Women -COVAW*. Coalition on Violence Against Women -COVAW. <https://covaw.or.ke/who-we-are/strategic-areas-of-focus/access-to-justice/>

have been identified. This one-year long funded project aims at bridging those gaps and ensuring a safer and less problematic environment, mainly focusing on the prevention of femicides in Kenya.

TIMELINE OF EVENTS

Date	Description of Event
June 1981	African Charter on Human and Peoples' Rights adopted by the eighteenth Assembly of Heads of State and Government in Nairobi, Kenya
1984	Kenyan government acceded to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) first steps taken to protect rights of women, address gender inequality
1995	The Coalition On Violence Against Women (COVAW) is established, a national non-profit women's rights organisation whose goal is to respond to the silence of the Kenyan society ³⁴
July 2003	The Kenya National Commission on Human Rights (KNCHR) is established, investigate and reports on human rights violations, including those related to GBV
14 July 2006	Kenyan government passes Sexual Offence act that incorporates new penalties for perpetrators
July 2011	reestablishment of the name of the KNCHR, restructured the body, assigning the equality function to a new National Gender and Equality Commission ³⁵
14 May 2015	Kenyan government passes Protection against Domestic Violence Act that promotes legal protection for victims of gender-based violence
27 January 2024	Thousands of Kenyan women occupy streets and protest against femicide and GBV, one of the largest demonstrations regarding the topic

³⁴ The Coalition on Violence Against Women (COVAW). (2024, July 19). Home - Coalition on Violence against Women -COVAW. Coalition on Violence Against Women -COVAW. <https://covaw.or.ke/>

³⁵ Wikipedia contributors. (2022, October 1). Kenya National Commission on Human Rights. Wikipedia. https://en.wikipedia.org/wiki/Kenya_National_Commission_on_Human_Rights

UN INVOLVEMENT: RELEVANT RESOLUTIONS, TREATIES AND EVENTS

Convention on the Elimination of All Forms of Discrimination against Women

In the year 1984, the Kenyan government acceded to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) without reservations. The treaty's goal is to protect the rights of women and address gender inequality, so as to combat the rising issue of femicide and GBV. In Kenya, the CEDAW serves as the cornerstone for women's rights, with its 30 articles defining them and establishing procedures for compliance. CEDAW does not focus on a single nation, instead it extends jurisdiction even beyond borders. It is the Kenyan courts, according to the author that have made positive contributions to the protection of human rights and law within the country. In this respect, some examples of biased opinions form part of evidence of such gender inequality in courts. There are some verdicts issued in courts that tend to violate the rights of women. Although there have been effective court orders, at the same time, there have been backlashes .

The Sixty-eighth session Agenda item 108 Resolution

The Sixty-eighth session Agenda item 108 Resolution “taking action against gender-related killing of women and girls”³⁶ was adopted by the General Assembly on the 18th December 2013 [on the report of the Third Committee (A/68/457)]. Its purpose is to tackle the pervasive issue of femicide.

³⁶

https://www.unodc.org/documents/commissions/CCPCJ/Crime_Resolutions/2010-2019/2013/General_Assembly/A-RES-68-191.pdf

PREVIOUS ATTEMPTS TO SOLVE THE ISSUE

Sexual Offence Act

On the 14th of July 2006, the Kenyan government passed the Sexual Offence Act under the presidency of Mwai Kibaki. Although there are some sections in the Penal Code and the Criminal Law Amendment Act of 2003 that incorporate sexual offences, they were unable to cease the alarming increase. Given the augmentation of femicide cases and the perpetrators' fierce development into committing these heinous crimes, the need for a new law was voiced.

Its aim is to address and combat femicide and GBV on a larger scale, having harsher and more severe punishment for criminals. It also includes some sections that were overlooked in the Kenyan law, increasing the overall chances of combating the issue as well as in marginalised sectors. The Sexual Offence Act featured many significant and innovative changes in comparison to the previously mentioned Acts. For instance, it offers comprehensive explanations of which offence is considered a sexual one and the various punishments criminals could face. Moreover, it looks at various cases of femicide, including those committed by people in possession of power and trust. It also takes disabled victims into consideration who are “ recognized as persons who need special protection”.³⁷ Most importantly, it provides a minimum sentence of 20 years, the first in Kenyan law making history. To be more specific, it means that the Court is obliged to sentence the defendant to 20 years in prison and not less.

Undoubtedly, this Act represents a major step taken towards combating sexual offences. Although there have been many positive outcomes, the act still faces challenges. They may be categorised into two groups: institutional and legislative. According to a report by Amboko Angela on combating sexual offences in Kenya, institutional challenges prevented the implementation of the Sexual Offence Act. To be more specific, the Act was seen as “a product of political compromise”³⁸, leading to many controversies and debates. Furthermore, the law has been perceived as unclear, leading to misconceptions and inconsistent application. As previously mentioned, the report also refers to legislative challenges. Section

³⁷chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.law.berkeley.edu/wp-content/uploads/2015/10/Kenya_Sexual-Offences-Act_2006-Simplified-Version.pdf

³⁸chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/http://erepository.uonbi.ac.ke/bitstream/handle/11295/105623/Amboko%20Angela_Combating%20Sexual%20Offences%20in%20Kenya-%20an%20Appraisal%20of%20the%20Implementation%20of%20the%20Sexual%20Offences%20Act.pdf?sequence=1&isAllowed=y

38 (Offence to make false allegation) of the Sexual Offence Act has sparked dispute, especially from gender rights activists. This provision states that if a victim or witness provides false testimony, they will be punished with the same sentence as the guilty defendant. Undoubtedly, activists argue that potential observers and casualties are filled with fear to testify against a criminal, due to the fact that they could lose a case or be charged with “false testimony” due to a minor detail for instance.

Protection Against Domestic Violence Act

On the 14th of May 2015, the Protection Against Domestic Violence Act (PADVA) was adopted by the Uhuru Kenyatta regime. “It promotes legal protection for victims of gender-based violence”.³⁹ One of the key provisions of the Protection Against Domestic Violence Act is the definition of domestic violence, physical, emotional, psychological and sexual abuse.

POSSIBLE SOLUTIONS

Enhancing education

In order to tackle the pervasive issue of femicide, the prime root cause ought to be diminished, namely the lack of knowledge (sex education, behavioural matters) from a young age . Especially in Less Economically Developed Countries (LEDC’s), where “the average child is expected to attend 2.8 fewer years of school compared with the world average”⁴⁰. This phenomenon has to be dealt with immediately. Comprehensive, age-appropriate school programs ought to be implemented. Thus, gender-stereotypes, harmful attitudes towards the feminine sex and deceptive, social beliefs ought to be done away with. Furthermore, both boys and girls learn how to treat each other with respect. Mutual understanding and empathy can be increased. In that way, violence can be significantly reduced. Moreover this initiative provides women and girls with the opportunity to stand for their fundamental, human rights and make the right decisions. Nevertheless it is crucial to underline that resources are inadequate. In many cases, money is insufficient,

³⁹ Africapractice. (2024, April 10). *Femicide in Kenya and the resounding call for accountability - Africa Practice*. Africa Practice. <https://africapractice.com/femicide-in-kenya-and-the-resounding-call-for-accountability/>

⁴⁰ Least developed countries lag behind in expected years of schooling. (n.d.). UNCTAD. <https://unctad.org/topic/least-developed-countries/chart-june-2021>

meaning that the necessary equipment can not be provided. Additionally, the personnel might not be trained enough to teach children all about femicide and GBV.

Seeking awareness

In LEDC's, such as Kenya, seeking awareness is vital. By protesting for instance, change can be brought around. It enables governments to implement more and improved policies that punish perpetrators for their actions, promote gender equality and prevent violence. To achieve this, workshops and events ought to be organised so as to educate people upon the matter. Though, it is of paramount importance to underline that in many LEDC's, data and research are inadequate. Due to that fact, governments face an inevitable challenge when developing policies.

Healthcare services

Another critical aspect in need for consideration when tackling femicide is the implementation of healthcare services. Professionals and experts in that particular field are of paramount importance when identifying and aiding victims of GBV, often leading to femicide. By receiving the necessary knowledge and expertise, healthcare workers are able to easily recognize and determine when a person has been subjected to violence and can provide victims with resources at hand. Thus, many lives could be saved due to the early intervention. To achieve this goal, healthcare services ought to collaborate in confidence with social workers and community organisations so as to ensure the provision of the compulsory supplies. Nevertheless, victims of GBV could be hindered to seek help, due to fear of what would happen to them if their abuser gets to know about that. That's why it is essential for every healthcare facility to have a protocol for every victim coming forward.

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