

**Gender Equality and the United Nations:  
Implementation of CEDAW in Nigeria and South  
Africa**

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## **ABSTRACT**

The focus of this study is on obstacles against the implementation of the international agreement; Convention on the Elimination of all Forms of Discrimination Against Women [CEDAW] by national institutions in Nigeria and South Africa. The researcher uses feminist-institutionalism as the theoretical framework within which she carries out the research. The main thesis the researcher tries to sustain is that; there are domestic institutional obstacles against the implementation of CEDAW in Nigeria and South Africa that must be overcome for effective implementation to take place. These obstacles include, cultural and religious imperatives, constitutional and legal system, inadequate funding and corruption, poverty, ignorance among others. The study critically examines and compares history, obligations of the two countries to women's rights stemming from Customary International Human Rights Law [CIHRL] and the law of treaties, current gender situation, institutions and processes involved in the implementation of CEDAW in both countries as well as the obstacles facing them. The researcher therefore adopts comparative analysis using both WebPages and hardcopy sources including books, journal articles, reports, and legal documents.

The main findings of this study reveal that obstacles to the successful implementation of CEDAW are mostly national rather than international. In other words, change the national institutions, and you eliminate all forms of discrimination against women. This therefore, is in line with expectation and in accordance with the hypothesis that states; changes in national institutions tend to improve implementation of CEDAW. Hence, changes to national institutions is important if

we are to overcome the obstacles, and if the efforts of the international institutions on gender equality and the rights of women will have meaningful impacts on the lives of women in Nigeria, South Africa, and the world at large. Therefore, the findings are based on the comparative analysis of the implementation of CEDAW in the two countries since return to democracy. Thus, based on theories on policy implementation, the cases studied help us to analyze how institutions serve to exclude women through political culture and other factors. Similarly, it discovers that the focus area should now be more on equality in education, and political representation and participation of women especially in the National Parliament. Thus, the researcher concludes by suggesting on the need to carry out further research on empirical evidence of cases where these obstacles do not exist or have been overcome, as well as in empirical evidence of practical contributions to the status of women, through equality in political representation and participation of women in Parliament.

**Keywords:** gender equality, discrimination, institutions, implementation, CEDAW, and obstacles.

## ÖZ

Bu çalışmada, bir uluslararası sözleşme olarak CEDAW (Kadınlara Karşı her Türlü Ayrımcılığın Önlenmesine dair Sözleşme) hükümlerinin ulusal kurumlar tarafından uygulanmasında karşılaşılan zorluklar ele alınmaktadır. Araştırmacı, kuramsal çerçeve olarak feminist-kurumsal yaklaşımı benimsemiştir. Araştırmacı bu çalışmada Nijerya ve Güney Afrika Cumhuriyeti'nde CEDAW hükümlerinin etkin bir şekilde uygulanmasını engelleyen belirli yerel faktörler olduğunu ileri sürmektedir. Bu engeller kültürel ve dinsel faktörleri, yasal ve anayasal sistemin özelliklerini, yetersiz mali olanakları, yolsuzluk, fakirlik ve cehalet gibi unsurları içermektedir. Araştırma, eleştirel bir bakış açısıyla bu iki devletin Geleneksel İnsan Hakları Hukuku'ndan kaynaklanan yükümlülüklerini, toplumsal cinsiyet durumunu, CEDAW'ın uygulanma süreçlerini ve bu süreçlerde işlev gören kurumları ve ortaya çıkan zorlukları incelemektedir. Dolayısıyla, araştırmacı karşılaştırmalı bir çerçeve kullanarak hem internet hem de kitap, makale ve rapor gibi yayımlanmış kaynaklara dayalı olarak bir araştırma yapmıştır.

Bu çalışmanın temel bulgularının da ortaya koyduğu gibi CEDAW hükümlerinin başarılı bir biçimde uygulanmasının önündeki engeller uluslararası faktörlerden değil, büyük oranda, ulusal faktörlerden kaynaklanmaktadır. Bu engellerin üstesinden gelinmesi, tümünü ortadan kaldırmaya bile kadınlara karşı sürdürülen ayrımcılığı büyük oranda azaltacak ve kadının toplum içindeki statüsünde iyileşmeler sağlayacaktır. Böylece ulusal kurumlarda yapılacak değişiklikler ayrımcılığın ortadan kaldırılmasını sağlayacaktır. Bu bulgu, ulusal kurumlardaki değişimin CEDAW'ın uygulanmasını geliştireceğini öngören bu çalışmanın temel varsayımını

doğrular niteliktedir. Böylece ulusal kurumlardaki deęişim ve uluslararası kurumların kadın hakları ve toplumsal cinsiyet eşitliğini sağlamaya yönelik uğraşları Nijerya ve Güney Afrika Cumhuriyeti'nde ve tüm dünyada kadınların yaşam koşulları üzerinde anlamlı bir etkide bulunabilmesi için gereklidir. Bu çalışmanın ulaştığı bulguların kaynağı bu iki ülkede demokrasiye tekrar dönüşten sonra CEDAW hükümlerinin uygulanmasının karşılaştırılmalı olarak incelenmesidir. Böylece, siyasa uygulamasına ilişkin kuramlara dayalı olarak bu araştırmada incelenen ülkeler, siyasal kültür ve diğer faktörlerin etkisiyle kurumların kadının dışlanmasında nasıl etkili olduğunu anlamamıza yardımcı olmaktadır. Aynı şekilde bu çalışma, toplumsal cinsiyet eşitliği meselesinde, üzerinde odaklaşmamız gereken başlıca konuların eğitimde eşitlik, ve özellikle ulusal parlamentoda kadınların eşit temsiliyeti olmak üzere siyasal temsiliyette eşitlik olduğunu ortaya çıkarmıştır. Sonuç olarak, bu çalışma ampirik verilere dayalı olmak üzere bu konudaki araştırmaların derinleştirilmesinin gerekliliğini vurgulamakta ve özellikle yukarıda bahsedilen engellerin hiç olmadığı ya da üstesinden geldiği ülkelerin de araştırma kapsamına alınmasını ve bu gibi ülkelerde kadınların temsiliyetinde eşitlik düzeyine ve parlamentoya katılımına bakılarak kadının statüsündeki iyileşmelerin incelenmesini önermektedir.

**Anahtar Kelimeler:** cinsiyet eşitliği, ayrımcılık, kurumlar, uygulama, CEDAW ve engeller.

**To God Almighty**

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## LIST OF ACRONYMS

AU	African Union
CEDAW	Convention on the Elimination of All Forms of Discriminations Against Women
CEE	Commission for Employment Equality
CGE	Commission on Gender Equality
CIA	Central Intelligence Agency
CIRDDOC	Civil Resource Development and Documentation Center
CSW	Commission on the Status of Women
ECOWAS	Economic Community of West African States
FMWSD	Federal Ministry of Women Affairs and Social Development
GADA	Gender And Development Action
IMF	International Monetary Fund
LGA	Local Government Area
MDG	Millennium Development Goals
NASS	National Assembly
NCAA	National Coalition on Affirmative Action
NCOP	National Council of Provinces
NGOs	Non-Governmental Organizations
NGP	National Gender Policy
SA	South Africa
SAL	Structural Adjustment Loan
SAP	Structural Adjustment Program
SHA	States Houses of Assembly
UDHR	Universal Declaration on Human Rights
UN	United Nations

UNDP	United Nation Development Program
UNIFEM	United Nations International Funds for Women
UNSCR	United Nations Security Council Resolutions
WACOL	Women Aid Collective
WB	World Bank

# Chapter 1

## INTRODUCTION

### 1.1 Background to the Study

The basis for this study is the need to assess different obstacles confronting national institutions to improve the lives of women in Africa. The researcher thus uses implementation of CEDAW, Nigeria and South Africa since return to democracy in 1999 and 1994 as reference points in a comparative analysis, as well as suggesting ways to overcome them. However, before going into the details of the study, there is need to give a background account of what lead to the study including the gaps in the literature.

To start with, discrimination against women is part of gender issues which from a feminist perspectives, is a social construct and contest of meaning and interpretation ascribed to masculinity and femininity by society and how those meanings shape relations between men and women, between men and institutions, and between women and institutions.<sup>1</sup> Jacqui True, describes gender as “a relevant empirical category and analytical tool for understanding global power relations as well as a normative position from which to construct alternative world orders.”<sup>2</sup>

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<sup>1</sup> Enloe, C. “Feminism” in Griffith, M. [2007] International Relation Theories for the 21<sup>st</sup> Century, [London: Routledge Taylor and Francis Group], p.99

<sup>2</sup> True, J. “Feminism” in Burchill, S. et.al. [2005] Theories of International Relations Third edition [New York: Palgrave Macmillan], p.213



Institutions, can be according to Burchill those norms and values that have been established as acceptable ways of life that promote orderliness and peaceful coexistence among peoples and societies.<sup>3</sup> However, institutions are also structural i.e. organizations that are established and are responsible for determining what constitute those acceptable norms, values and customs for actors to follow in the society. Furthermore, Judith opines that despite the fact, that borders separate states, gender phenomena and the violations of the rights of women cut across boundaries though in various degree.<sup>4</sup>

Obviously, gender issues are becoming more and more of immense subjects of debate among academics and policy-makers around the world, though most of the concerns date back to before the two World Wars and the inception of the United Nations.<sup>5</sup> It is also attracting scholars from different theoretical and academic backgrounds in recent times. These include political science, sociology, and of course international relations among others. The theories are those of neo-liberalism, critical theories like feminism, social constructivism, Marxism, etc. Prominent among the gender and women's right issues of importance are inequality, discrimination, violence and harmful practices against women i.e. genital mutilation, degrading and humiliating widowhood practices etc. Others are trafficking in women and girls, sexual abuse i.e. rape, early and forced marriage to mention but a few.

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<sup>3</sup> Burchill, S. "Liberalism" in Burchill, S. et.al. [2005] *Theories of International Relations* Third edition [New York: Palgrave Macmillan], p.57

<sup>4</sup> Judith R. Comparative (in)equalities: CEDAW, the jurisdiction of gender, and the heterogeneity of transnational law production p.531

<http://icon.oxfordjournals.org/content/10/2/531.full.pdf#page=1&view=FitH>

<sup>5</sup> Gorman, Robert F. [2001] *Great debates at the United Nations: an encyclopedia of fifty key issues 1945-2000* [Westport: Greenwood Press], p.256

However, international agreements and institutions led by the United Nations have taken up the matter, and have done a lot since the establishment of the organization in fighting the menace of marginalization, oppression, exploitation, poverty and violations of the rights of women. Hence, that the contributions and impacts of the UN on gender both globally and particularly in Africa is enormous is an understatement. Beginning with the preamble to the Charter of the organization, it explicitly states that it is committed to “reaffirm faith in fundamental human rights, in the dignity and worth of human person, in equal rights of men and women and of nations large and small.”<sup>6</sup>

Moreover, one of the main goals of the United Nations as stated in the Preamble to the Charter is the protection and promotion of fundamental human rights and the freedom for both men and women without discriminations on the bases of race, sex, language or religion.<sup>7</sup> In addition, it is worth noting to point to the fact that the UN is actually leaving to the biddings in many respect, because even within the organization itself women are now featuring more in higher levels of authority. In other words, the UN is actually leading by example in reducing the gaps between men and women in positions of authority within its specialized bodies and agencies.

To this end, the UN has sponsored and convened many conferences and conventions in collaborations with international NGOs with other UN gender specific agencies in the past five decades with many declarations alongside General Assembly and Security Council Resolutions to improve the status of women worldwide.<sup>8</sup> Some of

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<sup>6</sup> <http://www.un.org/en/documents/charter/preamble.shtml> [accessed last on 20/04/2013]

<sup>7</sup> Gorman Robert, F. [2001] p. 257

<sup>8</sup> Ibid

the entities established by the UN specifically for gender matters include the Commission on the Status of Women 1946,<sup>9</sup> whose over thirty years work culminated in the instrument known as Convention on the Elimination of All Forms of Discrimination Against Women [CEDAW] and adopted by the UN General Assembly in 1979,<sup>10</sup> the UN Women 2010<sup>11</sup> among others.

Some of the conventions in the 20<sup>th</sup> Century include the 1949 Convention on the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others, Convention on the Political Rights of Women 1952,<sup>12</sup> International Convention on the Nationality of Married Women 1957 to mention but few.<sup>13</sup>

Meanwhile, towards the end of the last Millennium, the UN General Assembly adopted the landmark Convention on the Elimination of All Forms of Discrimination Against Women [CEDAW] in 1979, it enter into force in September 1981.<sup>14</sup> The treaty is regarded as the international bill of rights for women, equivalent to the Universal Declarations of Human Rights of 1948.<sup>15</sup> In addition is the Beijing Declarations and Action Plan 1995 and its Follow-ups; Beijing + 5, Beijing +10 which stem out of the fourth World Conference on Women.<sup>16</sup> The important thing to

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<sup>9</sup> <http://www.un.org/womenwatch/daw/csw/index.html#about> [accessed last on 22/04/2013]

<sup>10</sup> <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx> [accessed last on 29/04/2013]

<sup>11</sup> <http://www.unwomen.org/about-us/about-un-women/> [accessed last on 22/04/2013]

<sup>12</sup> <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx> [accessed last on 29/04/2013]

<sup>13</sup> Gorman Robert, F. [2001] p. 257

<sup>14</sup> <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx> [accessed last on 29/04/2013]

<sup>15</sup> <http://www.un.org/womenwatch/daw/cedaw/> [Accessed last on 22/04/2013]

<sup>16</sup> <http://www.un.org/womenwatch/daw/beijing/beijingdeclaration.html> [Accessed last on 22/04/2013]

note here is that the UN with all these efforts along with other international organizations such as the ILO, AU, UNDP, IMF/World Bank etc have impacted in one way or the other to the advancement of women at both global and domestic level.

Nevertheless, despite the efforts so far, the situation of many women the world over especially in Sub-Saharan Africa particularly Nigeria and South Africa is of great concern to feminist scholars, gender interest groups and policy makers. However, from a recent report, almost half of workers in the world are women considering the fact that 4 out of every 10 workers are women in the last three decades, but they earn as low as 80 cent of every dollar their male counterpart earns despite laws on equal pay for equal job.<sup>17</sup> The same is the reports on collapse in the educational gaps between boys and girls in the last twenty years, yet an estimate of thirty-five [35] millions girls are said to be out of school most of whom are in Sub-Saharan Africa.<sup>18</sup> Nevertheless, the question remains; why are women unevenly represented in education, employment, politics etc in different parts of the world despite international covenants and agreements that promote inclusivity or inclusiveness. Hence, the need to assess different obstacles confronting various institutions in improving the lives of women especially in Africa using implementation of CEDAW in Nigeria and South Africa as reference points, as well as suggesting ways to overcome them is the bases for this study.

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<sup>17</sup> See Suchir S. in “ World Development Report 2012: Linking Findings to Actionable Gender Equality Policies in South Africa”  
<http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/AFRICAEXT/0,,contentMDK:23033289~menuPK:2246551~pagePK:2865106~piPK:2865128~theSitePK:258644,00.html> [accessed 7 July 2013]

<sup>18</sup> Ibid

## 1.2 Statement of the Problem

The fights against injustices to and violations of the rights of women in form of inequality in both private and public sphere as well as meeting the Millennium Development Goals [MDGs] especially 2, 3, 5 among others have been on for many decades. Goal 2 is on achieving universal primary education by 2015, with Target 2 A; is to ensure that both boys and girls everywhere will be able to complete primary education by 2015.<sup>19</sup> Goal 3 on the other hand is to promote gender equality and empower women, and Target 3 A; is to eliminate gender disparity in all levels of education by 2015<sup>20</sup>. Goal 5 especially deals with maternal health, which has to do with reducing maternal mortality as well as guaranteeing universal access to reproductive health for women<sup>21</sup>. Though some progress have been made in the area of education, reduction in maternal and child mortality, and political representation and participation, especially in South Africa, the rate and pace is however very slow in many other countries in Sub-Saharan Africa including Nigeria. Hence, implementation of CEDAW is very crucial to achieving gender equality in education, health, employment and overall improvement in the lives and status of women and those of their children and generations to come.

Therefore, the problem the researcher examines and suggests solutions to is that, there are underlying factors or obstacles militating against the successful implementation of CEDAW by national institutions saddled with the responsibilities on gender issues, especially in Nigeria and South Africa.

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<sup>19</sup> <http://www.un.org/millenniumgoals/education.shtml> [accessed last on 6 September 2013]

<sup>20</sup> <http://www.un.org/millenniumgoals/gender.shtml> [accessed last on 6 September 2013]

<sup>21</sup> <http://www.un.org/millenniumgoals/maternal.shtml> [accessed last on 6 September 2013]

### **1.3 Objectives of the Study**

The aims and objectives of this study are linked to the research question, and it is to reveal the fact that there are fundamental obstacles, and suggest ways through which we must tackle them to achieve success on gender equality in education, employment, political representation and participation among others in line with and through the implementation of CEDAW. It also includes suggesting changes to national institutions to improve policy implementation by showing different ways of introducing principles of CEDAW into national law, i.e. getting more female candidates to the National Parliaments through party quotas, enacting new national gender policies in particularly in Nigeria.

### **1.4 Research Question**

The main research question of this thesis is that; what are the different obstacles against implementation of CEDAW in Nigeria and South Africa? This is important because from the literatures reviewed for this study, there is little or no mentioning of obstacles or underlying factors militating against achieving gender equality and effective implementation of CEDAW globally and especially in less developed countries. Therefore, the reason for selecting these two countries base on the scope and limitations of this study that make it impossible to conduct cross-sectional study of all countries in the world, which is also acknowledged as part of the weaknesses is that, policy implementation by national institutions in these two countries as anywhere else is generally problematic. Another reason is that, Nigeria has the Islamic law [Sharia] as part of its mixed legal system, but in South Africa it is not, this further makes the two countries most different even in legal system. Hence, the model provides for in this thesis is that; change the institutions and you get different result as far as eliminating discrimination against women is concern. This of course

leads to series of other minor questions that includes; Do Nigeria and South Africa have obligation from customary international human rights law and the law of treaties to respect and protect human and women's rights? Which national institutions in both countries are responsible for and are important in the implementation of international treaties on gender? Other questions include; what are the similarities and differences in the system of government and legal system between the two countries? In addition, how do implement international treaties in these two countries, in accordance with their constitution? is the percentage of women in the National Assembly important to this process especially to treaties such as CEDAW? To what extent is the development of the new National Gender Policy in Nigeria, and Commission on Gender Equality in South Africa represents implementation of CEDAW? Lastly, can changes to institutions responsible for implementation of CEDAW in both countries bring about better results on women and gender issues? The researcher tries as much as possible to answer these entire questions one after the other, as we will find out later in this thesis.

### **1.5 Hypothesis**

The hypothesis the researcher proposes to test, evaluate or sustain is that; overcoming domestic obstacles against the implementation of CEDAW by national institutions, means elimination of all discrimination against women, gender inequality and will improve the lives and status of women especially in Nigeria and South Africa. In other words, the hypothesis is that; changes in domestic institutions tend to improve the implementation of CEDAW.

### **1.6 Justification for the Study**

This study is useful to both scholars and policy-makers for the fact that, it affords them the opportunity of clearly identifying important factors that are necessary but

are not adequately addressed in the debates so far on discrimination against women and gender inequality. While those involved in policy-making especially interest groups i.e. gender entrepreneurs will be able to use the findings and recommendation to come up with new ideas to fast track implementation of CEDAW even if there are difficulties in enacting the convention as a whole into law in many ratifying states. Moreover, the inference of the findings as we will see is applicable to other related cases elsewhere in Africa and around the globe. The academic justification is that the proper policy implementation i.e. CEDAW especially in South Africa in this context is measurable and evidence through the improvement on gender situations that we can see and prove that it all happen be because of the implementation. Hence, as the findings from this study reveal the obstacles and suggest ways to overcome them, then the improvement in the lives and status of women in both countries and relevant cases will be obvious and can be improved upon by relevant authorities on regular basis.

Furthermore, this study is important to NGOs, women activist groups working for the advancement of women nationally and internationally. This is because, they can use the findings to change their approach and direct their attention more on lobbying those identified institutions especially the executive arms of government, the judiciary, the National Assembly and political parties so as to overcome the obstacles. The empirical evidence on the impact of equal political representation in parliament in bringing about gender sensitive legal instruments, policies and programmes and how it really improve women's life and men's alike will therefore be an interesting topic for another comprehensive and comparative research, therefore it is outside the scope of this study.



## **1.7 Methodology**

This study uses comparative analysis as the methodology to carry out this research. It uses Nigeria and South Africa as samples. It examines the differences and similarities in the system of government, legal system, gender situation and implementation of CEDAW and the obstacles in both countries. The cases selection are base on the criteria that Nigeria has not been able to get even 15% women elected to National Assembly or 33% in the Executive since return to democracy in 1999. However, South Africa has moved from at least over 20% women representation at the National Parliament since return to democracy in 1994, to 43% and 44% in both the Parliament and the Executive. In addition, Nigerian mixed legal system includes Islamic law, while South Africa did not have this, similarly, there are differences in the constitutional provisions on treaties between the two countries. Moreover, both the Executive and the Parliament plays crucial role in ratification and implementation of international treaties, this further influences the decision to adopt comparative analysis of the two countries selected in this study. The researcher focuses on these factors especially the percentage of women in the Parliament, the Sharia law, and the constitutional provisions because these are the areas that distinguish the two countries as most-different cases in line with some of the expected outcomes i.e. dependent variables. The two countries are however, similar in other focus areas that includes cultural, legal, and political, as we will see later in this thesis. Furthermore, the researcher uses mostly secondary sources and primary sources where available to collect data for this study. The sources include books, journal articles, reports, official WebPages among others. She also uses qualitative analysis to present and analyze the findings.

## **1.8 Theoretical Framework**

This study involves the use and discussion of three theoretical approaches from available literatures. These include neo-liberal capitalism, Marxism, and feminist-institutionalism theories and worldviews, but the preferred one upon which this report is based is that of feminist-institutionalism. The reason why the researcher takes side with the feminist-institutionalism is that from the various debates by theories mentioned above and reviewed in the literature review section of this thesis, is that, it is the one that provides clear reasons that changes in institutions tend to affect positively policy implementation especially as it affect women and gender issues.

## **1.9 Scope and Limitation**

The extent of this study is within the bounds of efforts of international institutions especially the United Nations and its international law instruments such as treaties, resolutions, conventions etc on discrimination, gender equality among others. Including what they have done to influence national institutions to come up with policies and measures to improve gender equality in general, and particularly in education, and representation and participation in power and decision-making. Thus, the study focuses on the Convention on Eradication of All Forms of Discriminations Against Women [CEDAW], and the obstacles confronting national institutions in achieving the goals of CEDAW, including greater percentage of women in the National Assemblies. However, there are various difficulties encounter while carrying out the study, which also limits the extent and richness of the thesis. This include, scarcity of current and relevant material i.e. books, journals and articles on Africa in general and on Nigeria in particular in the University library, as well as lack of adequate, relevant, accurate and up-to-date information and data especially

from WebPages of Nigerian institutions. However, the situation is better in the case of South Africa.

Time and fund are other limiting factors to the study, resulting in inability of the researcher to have cross-sectional study of all countries in the world, or travel to the two countries to obtain primary data and information from relevant personnel and officials through schedule interviews. Cultural, attitudinal and poor technological development i.e. poor internet coverage also add to the challenges, as primary information that could have been collected via e-mails, phone calls etc were impossible due to these factors particularly in Nigeria. However, South Africa is essentially far ahead in terms of infrastructural and technological development. In addition, the scope of the research does not include detail study on the impact of increase or equal representation of women and men in power and decision-making on the overall improvement on the lives of women, the researcher therefore suggest this as an interesting area for further research. Nevertheless, any claim in this document is purely the opinion of the researcher and does not represent the general views in the academics arena, and the claims can only be generalized to the extent of cases that are closely related to the ones in this study and not applicable to every countries in the world that are party to CEDAW.

### **1.10 Thesis Outline**

This thesis consists of six sections or chapters. The first chapter gives general introduction, explains the statement of the problem, research questions, hypothesis, significance and objective of the study, methodology, theoretical framework, scope and limitations, as well as this outline.

Chapter two reviews and discusses relevant literatures from different theoretical perspectives. It also identified the preferred and most convincing of these theories, which informs the decision on the topic and especially the research question.

Chapter three discusses the research design. It spelt out the model; dependent and independent variables, hypothesis, method and sources of information and data used, as well as method of presenting and analyzing the data gathered, It also explains the findings and evaluate the hypothesis. The model therefore is that; change the institutions → get different result.

Chapter four gives details of the study, which involves comparative analysis of Nigeria and South Africa, tracing Nigeria's and South Africa's obligations to human rights stemming from customary international human rights law and the law of treaties, the processes involved in implementation of CEDAW in both countries according to their Constitutional provisions and legal systems. It also examines the similarities and differences between the two, and reveals institutions involve in the process since return to democracy, how far it has gone, what it has achieved, and most importantly the obstacles against the achievement of the gender equality and implementation of CEDAW.

Chapter five is the data presentation and analysis section, it analyzes and discusses the findings in relations to the topic and the research question. It also reveals how far or otherwise the hypothesis is sustained with the findings. Furthermore, it explains how the findings fit in the existing literatures, and how the inference is applicable to similar countries that have acceded to CEDAW particularly in Africa

The chapter also gives the tools or measures set by the researcher to evaluate the

implementation and the hypothesis, as we will see later in this thesis. It summarizes the research work and the findings in reference to the topic and the research question.

Chapter six gives conclusion, stating the contributions of the research to policy implementation, weaknesses and limitation as well as suggestions and recommendations on areas for further research on the subject matter given the scope and limitations of this present work and finally accepts responsibilities for any error of omission or commission and generalisation.

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## **Chapter 2**

### **LITERATURE REVIEW**

#### **2.1 Introduction**

In recent decades, gender and gender issues is a topical discussion among scholars from diverse academic and theoretical background, of special interest is the issue of gender [in] equality or parity between men and women, as well as discrimination against women and the girl-child. The discussions involve not just the above, but it also involves the extent to which different approaches and areas of focus by different programs initiated by various institutions on the subject matter affect the outcomes. Furthermore, it involves role and importance of international and domestic institutions, development, adoption and implementation of international law on gender equality, non-discrimination and the advancement of the status of women in general.

For the purpose of this thesis, we can divide scholars who write on these issues into two main categories; those that write or debate on it at two different levels of analysis i.e. global/international, and domestic or state level focusing on development and implementation of policies and or institutions on gender matters. Furthermore, there emerged four different theoretical or schools of thought among these writers, some of them debate from the neoliberal capitalist, some Marxism, some liberal feminism and some from feminist-institutionalism worldview. All the debates are relevant and widen our understanding on gender equality and discrimination against women as well as efforts to tackle them so far, but the debate

of the feminist-institutionalism based on international and domestic level of analysis is more convincing, and promising as far as this thesis is concerned. However, we will discuss them under different subheadings of relevance to this study.

Nevertheless, there exist some gaps or some critical issues that attract little or no attention within the scholarly works reviewed in this study. These include the extent of the influence of international institutions and international laws such as the UN and CEDAW, and critical roles of national institutions such as political parties among others. Of immense importance also is the issue of ideas, values, norms and identity of individual actors with decision-making power in an institution. However, the critical gap this study tries to fill is that of underlying obstacles to gender equality and implementation of CEDAW in many ratifying states. Thus, this thesis will address all these issues later in this report.

## **2.2 Gender and gender inequality**

Gender from a feminist perspectives, is a social construct and contestation of meaning and interpretation ascribed to masculinity and femininity by society and how those meaning shape relations between men and women, between men and institutions, and between women and institutions.<sup>22</sup> Jacqui True describes gender as “a relevant empirical category and analytical tool for understanding global power relations as well as a normative position from which to construct alternative world orders.”<sup>23</sup> Elizabeth Prugl, from her own perspective, simply puts gender as a way of allocating power in international system based on classified differences and

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<sup>22</sup> Enloe, C. “Feminism” in Griffith, M. [2007] *International Relation Theories for the 21<sup>st</sup> Century*, [London: Routledge Taylor and Francis Group], p.99

<sup>23</sup> True, J. “Feminism” in Burchill, S. et.al. [2005] *Theories of International Relations Third edition* [New York: Palgrave Macmillan], p.213

idiosyncrasy attributed to men and women by the society.<sup>24</sup> In other words, gender is the meaning, attributes and interpretation given to the two genders to differentiate them in terms of behavior, character, duties and attitudes expected from either of the two. However, it is detrimental and derogative to the personality and person of the female gender due to excess burden and responsibilities this place on women and the girl-child in the society. Yet, from international law perspectives, Judith argues that despite the fact, that borders separate states, these gender phenomena and the violations of the rights of women cut across boundaries though in various degree.<sup>25</sup> Consequently, gender inequality is in different forms and means different things to different people according to some writers that I associate with the Marxism perspective. First, Joan Acker posits that inequality originates primarily from institutions and or work organizations based on class, race and gender.<sup>26</sup> She also argues that inequality regimes includes all those interconnected system and procedures as well as course of actions that bring about continuing inequalities in all work organizations.<sup>27</sup> Thus, it is logical to infer that effects of structural adjustment policies and programs of organizations such as the World Bank and the International Monetary Fund [IMF] in developing countries decades ago are parts of what the author is referring to here as inequality regimes especially against women. The following few reviews from Marxist perspective also alluded to this fact in their criticism.

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<sup>24</sup> Elizabeth Prugl “International Institutions and Feminist Politics” *Brown Journal of World Affairs* Winter/Spring 2004 Vol. x, Issue 2 p.69

<sup>25</sup> Judith R. Comparative (in)equalities: CEDAW, the jurisdiction of gender, and the heterogeneity of transnational law production p.531

<http://icon.oxfordjournals.org/content/10/2/531.full.pdf#page=1&view=FitH>

<sup>26</sup> Acker J. [2006] “Inequality Regimes Gender, Class and Race in Organizations” in *Gender and Society* Vol. 20 No. 4 pp. 441-464 [accessed last 14/04/2013]

<sup>27</sup> *Ibid* p.441



Rosa Luxemburg for instance argues that the intentions [achieved anyway] of the Bretton Woods institutions [World Bank and IMF] is not to help the less developed economies in every sense of it. It is to continue the accumulation of capitals by the capitalist nations in collaboration with state actors by craftily dispossess individuals in developing nations around the world of their possessions with the economic reforms of the 1980s.<sup>28</sup> However, they always put on an appearance of benevolent big brothers of the world with their rhetoric of assistance, aid or donor agencies.<sup>29</sup>

Thus, with farmlands, houses, and their little means of livelihood taken over by capitals, there emerged the so-called ‘industrial reserve army’. These are the peasants rendered unemployed through the above mentioned means, they now become readily available cheap labour in the hands of capital reproduction, majority of whom were women and young girls.<sup>30</sup> It results in complicating already disadvantaged positions of the female gender in the society at the time and the negative impact is still with us today.

Similarly, Bacchus critique the structural adjustment program/loan [SAP/SAL] staged managed by both the World Bank and the International Monetary Fund to the developing world in the 1980s and 1990s did nothing than to kill the local industries for multinational corporations [MNCs] to gain ground and maximize profit.<sup>31</sup> The result is the same as posits by Rosa Luxemburg above, thus women are the worst hit

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<sup>28</sup> Luxemburg, Rosa “Accumulation by Dispossession” in David Harvey’s book: *The New Imperialism* Oxford University Press. p.151

<sup>29</sup> *ibid*

<sup>30</sup> *ibid*

<sup>31</sup> Bacchus, N “The Effects of Globalization on Women in Developing Nations” [http://digitalcommons.pace.edu/honorscollege\\_theses/2](http://digitalcommons.pace.edu/honorscollege_theses/2) [last accessed 13/03/2013]

in every sense of it from poor healthcare, lack of access to education and economic opportunity and so on.<sup>32</sup>

In the same vein, from Marxists perspectives, the primitive accumulation of the earlier centuries is still in the present globalization and free trade policies and programs.<sup>33</sup> This means in essence that women bear more burden than the male gender in this system of accumulation than the male gender, because lands and other resources taken by capital has made more men to be less responsible for their family. It is also worth noting that the proletariat created by this system of privatization, deregulation, liberalization, and commercialization of public assets and firms' means that more women are now out of jobs thus becoming more vulnerable to poverty than their male counterparts do.

In summary, the strength of the debate according to Marxism's school of thought is basically on the fact that policies and programs of institutions especially IOs such as the WB/IMF have done more harm than good to gender equality by subjecting more women to proletariat status in the society than the male gender. The weakness is that it is too generalized more on the society than on gender specifically.

Another school of thought still on gender and gender [n] equality is that of neoliberal capitalism, with this, scholars argue that international institutions such as WB/IMF have been able to empower women and young girls in developing countries with the trade liberalization, commercialization, privatization, and deregulation policies. Those scholars associated with this perspectives include; Balamoure-Lutz,

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<sup>32</sup> Bacchus, N , p.3

<sup>33</sup> Luxemburg, Rosa "Accumulation by Dispossession" in David Harvey's book: The New Imperialism Oxford University Press. P.145

Brummet, Bandiera and Natriaj.<sup>34</sup> Baliemoore-Lutz posits that the economic recovery policies by the WB/IMF in the 1980s in developing countries have done well for women elsewhere except in Sub-Saharan Africa.<sup>35</sup> The argument is that, women in Sub-Saharan Africa lack the education and skills necessary to be part of the benefits of the recovery program. In fact, the perceived inequality only reflects in education, but in terms of employment opportunities, women are better off compare to the farm work they use to do.<sup>36</sup>

Similarly, Brummet, argues that, gender inequality in education is affecting productivity, efficiency and thus reducing the economic growth of the states concern.<sup>37</sup> In the same vein, Badiera and Natraj posit that gender inequality in education, health etc seemingly hinders economic development and growth though available evidences still need further proof, yet they believe that economic equality between men and women is far more an important factor in this debate.<sup>38</sup>

Raday is another scholar though more of feminist –institutionalism, but add some neoliberal view to his argument by positing that neo-liberalism “left women as weaker members of the market economy exposed to considerable economic and

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<sup>34</sup> See the scholarly works of these scholars cited below

<sup>35</sup> Baliemoore-Lutz, M “Globalization and Gender Inequality”: Is Africa Different? *Journal of African Economies*, Vol. 16, No.2 p.301

<sup>36</sup> *Ibid* p.302

<sup>37</sup> Brummet, Quentin, “The Effects of Gender Inequality on Growth: A Cross-Country Empirical Study” [2008], Honours Projects. P. 6  
[http://digitalcommons.iwu.edu/econ\\_honproj/88](http://digitalcommons.iwu.edu/econ_honproj/88)

<sup>38</sup> Bandiera O. and Natraj A. “Does Gender Inequality Hinder Development and Growth? Evidence and Policy Implications” *The World Bank Research Observer* Vol. 28 no. 1 [February 2013]

social hardship” though it is a perspective that champions individual liberty, autonomy and equality.<sup>39</sup>

The strength of neo-liberal capitalist debate is that international financial institutions made some positive impact from the economic point of view in many developing countries. It empowers some people including women; expose them to western life and financial freedom. However, the argument is weak on the bases that, the evidence and logic use by Baliemoore-Lutz and Brummet are the same that points to the fact that these women and young girls have to trade education for the low paying jobs which is like the only option they were left with. Thus, the impact is more damaging on women than on men. These scholars unlike the Marxists group definitely are more concern about economic growth and development of the state, without considering the consequences of the kind of policies and programs emanating from the international financial institutions on the status of women on the long run and on the future of their children and next generation.

### **2.3 The United Nations and International law on Gender**

Meanwhile, the United Nations, is one international institution whose role in initiating and promoting international law via treaties, conventions, resolutions, declarations etc is almost over-documented and debated since the end of the second World War. This is more so because of the crucial role it occupies in the global political landscape. It represents the non-existing “world government” that is a popular debate in the international political studies arena, which to realist is the essence of pursuing power at all cost and due to the anarchic nature of the global system devoid of a central government.

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<sup>39</sup> Raday F. [2012] “Gender and Democratic Citizenship: the Impact of CEDAW” I.CON Vol. 10 No. 2 pp. 524

Furthermore, the contributions and impacts of the UN on gender both globally and in Africa and Nigeria in particular cannot be over emphasized. Beginning with the preamble of the Charter of the organization it explicitly states that it is committed to “reaffirm faith in fundamental human rights, in the dignity and worth of human person, in equal rights of men and women and of nations large and small.”<sup>40</sup> Thus, the UN has established many specialized agencies and entities for gender purposes, it has initiated sponsored and supported many conferences that are mentioned later in this paper.

According to Falk, the UN General Assembly though possesses a “quasi-legislative power” with which it legislate on varieties of issues including gender equality among others, it is technically denied the impact it could make on gender equality between men and women.<sup>41</sup> Nevertheless, the UN is a key factor in the development of international law, with several treaties, declarations, resolutions and other instruments on gender, though there is debate about the binding or non-binding nature of those laws.<sup>42</sup>

Its commitment and support for the promotion and advancement of gender equality, non-discrimination as well as eliminations of violence against women is unrivaled. The organization also plays important role in the making of and sources of

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<sup>40</sup> <http://www.un.org/en/documents/charter/preamble.shtml> [accessed last on 20/04/2013]

<sup>41</sup> Richard A. Falk “On Quasi-Legislative Competence of the General Assembly” American Journal of International Law, Vol. 60, Issue 4 [Oct. 1966], 782-791. P.783

<sup>42</sup> Ibid, p.785

international law, which Rosaline Higgins argues that it does not really matter if its resolutions, declarations etc are binding or not as observe by some critics.<sup>43</sup>

However, some of its major contributions to the issue of gender and especially equality and non-discrimination against women is the 1979 Convention on the Elimination of all practices against women [CEDAW],<sup>44</sup> with all the contentions and reservations, the Beijing Declaration and Platform for Action 1995<sup>45</sup> and its Follow-ups i.e. Beijing +5, Beijing +10, and presently Beijing +15. This is apart from the some specialized agencies and organs of the organization dedicated to the advancement of women i.e. the Commission on the Status of Women [CSW],<sup>46</sup> the UNIFEM now UN Women.<sup>47</sup>

The United Nations Development Program [UNDP] is another specialized agency of the UN that has as part of its Millennium Development Goals [MDGs] women and gender perspectives.

Nevertheless, despite all the efforts of the UN, most women are still lagging behind their male counterparts in virtually all facets of life; they still suffer socio-economic marginalization, discrimination, and violence, their important contribution to economic growth and development of their country is not recognized or

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<sup>43</sup> Higgins, R. [1999] Problems and Process. International Law and How We Use it [Oxford: Clarendon Press], chapter 2, p.24

<sup>44</sup> Judith R. Comparative (in)equalities: CEDAW, the jurisdiction of gender, and the heterogeneity of transnational law production p.531

<http://icon.oxfordjournals.org/content/10/2/531.full.pdf#page=1&view=FitH>

<sup>45</sup> [http://www.un.org/womenwatch/daw/beijing/pdf/BDPfA\\_E.pdf](http://www.un.org/womenwatch/daw/beijing/pdf/BDPfA_E.pdf)

<sup>46</sup> <http://www.un.org/womenwatch/daw/csw/index.html#about> [accessed last on 20/04/2013]

<sup>47</sup> <http://www.unwomen.org/about-us/about-un-women/> [accessed last on 20/04/2013]

appreciated.<sup>48</sup> Therefore, much still need to be done in the area of women's right, education, health and empowerment to bridge the gap between men and women for which CEDAW is key, hence the need to identify the obstacles, and find a way out.

However, the International Court of Justice [ICJ] is one important international institution whose Statute recognizes resolutions, conventions etc of the UN and other international organizations as sources of international law.<sup>49</sup> Falk, Alvarez, Allott, Gorman among others, also alluded to this.<sup>50</sup> Thus, resolutions and declarations on gender related matters by the UN General Assembly and the Security Council are important policy instrument that many states ratify, adopt and implement as measures to improve gender relations and equality among their citizenry.

Another international institution from the legal perspectives is the International Criminal Court. The extent of its effect on gender equality and discrimination against women is however, complicated and attract criticism from feminist scholars. This stem from the definition of gender in the Rome Statue of International Criminal Court [ICC Statue], Article 7 [3] reads; 'For the purpose of this statute, it is understand that the term 'gender' refers to the two sexes, male and female, within the context of society. The term 'gender' does not indicate any meaning different from

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<sup>48</sup> <http://www.unwomen.org/about-us/about-un-women/> [accessed last on 20/04/2013

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<sup>49</sup> Higgins, R. [1999] Problems and Process. International Law and How We Use it [Oxford: Clarendon Press], chapter 2, p.18

<sup>50</sup> See Richard A. Falk "On Quasi-Legislative Competence of the General Assembly" American Journal of International Law, Vol. 60, Issue 4 [Oct. 1966], 782-791. Jose E. Alvarez "The New Treaty Makers" p. 110-120. Phillip Allott "The Concept of International Law" p. 42-47. Robert F, Gorman Great Debates at the United Nations: An Encyclopedia of Fifty Key Issues, 1945-2000 p. 256-262

the above.<sup>51</sup>The reason for this criticism is that this discriminatory and derogatory meaning and interpretations of gender is often used against women before the ICC especially during war crime trials.<sup>52</sup> Nevertheless, the debate indicates the fear of decreasing the security or safety this accord women during conflict, or culpability for individual's actions, hence feminist legal scholars are hesitant of suggesting a new legal meaning and explanation of gender in International Humanitarian Law [IHL].<sup>53</sup>

Thus, according to Helen et.al, they rather favor supplementing legal provisions for women in armed conflicts with resolutions such as 1888, 1889, etc of 2009, and 1325 of 2000 to increase the role of women in conflict resolution and peace negotiations.<sup>54</sup>

In addition to this, is the assertion by Judith, that effect or impact of international law on gender within states is further constraint by the fact that just as states are bounded, system of government and the legal system can determine the adoption, ratification and implementation of international gender law.<sup>55</sup> Whereas, the restrictions cum worrying responsibilities imposed on women cut across borders though in different shades, color, and connotations depending on normative and social institutions within the society.<sup>56</sup>

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<sup>51</sup> Helen Durham and Katie O'Byren "The Dialogue of Difference: Gender Perspective on international humanitarian Law" International Review of the Red Cross Vol.9 Issue 887, March 2010 p.

<sup>52</sup> Ibid

<sup>53</sup> Ibid

<sup>54</sup> Ibid

<sup>55</sup> Judith R. Comparative (in)equalities: CEDAW, the jurisdiction of gender, and the heterogeneity of transnational law production p.531

<http://icon.oxfordjournals.org/content/10/2/531.full.pdf#page=1&view=FitH>

<sup>56</sup> Ibid, p.532



Despite the inadequacies and constraints in international law generally, and this IHL in particular, it provides for the protection of female combatants as well as prisoners of war even as far back as Geneva Convention in 1949, in spite of its view of women as vulnerable object while men are always treated as subject.<sup>57</sup>

## **2.4 Effectiveness of International and National Institutions**

Nevertheless, the last and most persuasive of the debate on how far institutions affect gender inequality in Africa and Nigeria and South Africa in particular is from the feminist institutionalism school of thought. Scholars identified with this theory include; Krook Mona Lena, Didier Ruedin, Raday Frances, Elizabeth Prugl, Karen Barnes, Nejma Boucham and Estelle Louseau, Odizi, Falk, Uroh, Judith, Sope Williams among others.

The starting point for this debate according to Krook is that in politics as well as for scholars, a major issue is the underlying forces involved in selecting candidates for representations during ballots.<sup>58</sup> The argument is however dominated by the issue of supply and demand of women i.e. issue of qualification and capacity, as well as availability of such capable women.<sup>59</sup> Her position is however on the fact that the better approach to this issue is the institutional and feminist approach that examines who and what determines and how a person is chosen to represent and participate in power and decision-making.<sup>60</sup> In other words, the role or impact of institutions in determining who represents who in political system is very important, and it always

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<sup>57</sup> Helen Durham and Katie O'Byren "The Dialogue of Difference: Gender Perspective on international humanitarian Law" *International Review of the Red Cross* Vol.9 Issue 887, March 2010 p.

<sup>58</sup> Krook Mona L. [2010] "Beyond Supply and Demand: A Feminist-Institutionalist Theory of Candidate Selection" *Political Research Quarterly* 63 [4] 708

<sup>59</sup> Krook Mona L. [2010] "Beyond Supply and Demand: A Feminist-Institutionalist Theory of Candidate Selection" *Political Research Quarterly* 63 [4] 708

<sup>60</sup> Ibid

in favor of men while discriminating against women. Hence, there is need for change in this regard.

Alluding to this Didier Ruedin argues that the role of institutional factors such as electoral system, constitutions etc are commonly use to explain the disproportionate numbers of men to women in national parliaments globally.<sup>61</sup> To this, I argue that these are parts of the obstacles that we can do something about to make this work in favour of women if the will is there even in Nigeria, as South Africa has found ways round it. Furthermore, Prugl argues as earlier mentioned that the Bretton Woods institutions i.e. the World Bank and IMF did more damage to gender equality than good in most developing nations [including Nigeria] from the 1980s' economic recovery program of SAP.<sup>62</sup> It is obvious from the way the program was fashioned that these global financial institutions did not consider gender issues i.e. women's role in the public and private sphere, implication of the program on women's life or on gender equality despite the existing international treaties on the rights of women.<sup>63</sup>

In fact she is not convince that women's right advocates and feminist bureaucrats are capable of advancing the status of women via international institutions, rather she posits that they are more likely to compromise their stand on demanding for strict measures to achieve equality between men and women in every sphere of life.<sup>64</sup> She argues that domestic institutions are no less guilty anyway especially in the so-called

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<sup>61</sup> Didier R. [2012] "The Representation of Women in National Parliaments: A Cross-National Comparison" *European Sociological Review* Vol.28, No.1 p. 97

<sup>62</sup> Elizabeth Prugl "International Institutions and Feminist Politics" *Brown Journal of World Affairs* Winter/Spring 2004 Vol. x, Issue 2

<sup>63</sup> Ibid

<sup>64</sup> Ibid

welfare states where different labor laws are highly discriminatory against women even in the public sphere without recognizing their unpaid labour at home.<sup>65</sup> This is in relation to Karen Barnes et.al who posits that gender biases within social institutions is responsible for the slow pace in achieving gender equality between men and women despite the rhetoric by many of them as working in favour of women.<sup>66</sup> However, Uroh based his own critique of the SAP policies by the WB/IMF on not just the economic implications, but also the social institutions of norms, cultures and values that relegate women to the background both at home and within the community.<sup>67</sup> In the same context, Odizi opines that, we cannot overlook the extent to which social institutions such as the family, school, governmental bodies etc at the domestic level of analysis have contribute to discrimination against the girl child as well as women in the society.<sup>68</sup> Furthermore, he argues that underdevelopment, and general poor quality of life in most developing world, is a direct impact of greed, corruption and insensitivity of actors in most governmental institutions that make them neglect importance of gender and gender equality in their policies and programs.<sup>69</sup> Vetten et al in their own argument, worried about the fact that the issue of gender inequality and marginalization of women transcend history and cut across borders especially in institutional representation.<sup>70</sup> Sequel to the above arguments by scholars from the institutionalism perspective, many institutions at

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<sup>65</sup>Elizabeth Prugl, p.70

<sup>66</sup> Karen Barnes, Nejma Bouchama and Estelle Loiseau , “Shifting wealth, shifting gender relations”

<sup>67</sup> Uroh C. “Globalization and the Question of Gender-Justice: the Nigerian case” 2004 p.168

<sup>68</sup> John C. Odizi, Socio economic gender inequality in Nigeria: A review of theory and measurements. <http://mpira.ub.uni-muenchen.de/41826/> last accessed

<sup>69</sup> Ibid

<sup>70</sup> Lisa Vetten, Lindiwe Makhunga and Alexandra Leisegang, Making Women’s Representation in Parliaments Count: The case of violence against women [www.tlac.org.za](http://www.tlac.org.za) [accessed 7 July, 2013]

both the domestic/national and international level are implicated in their role in entrenching discriminatory practices against women and the girl child. Here, traditional institutions of marriage, culture, values are blame for indoctrinating stereotype ideas of inferiority of the female gender to her male counterpart right from childhood. Thus, a male child is spared of domestic chores like dishwashing, sweeping, laundry, cooking and many more while the girl child is over-burdened with these duties at early stage of her life. We can see the negative impact in their relations as they grow together in our communities.

In addition, Uroh posits that dogmatism through religious institutions especially in the northern part of Nigeria is another culprits of the wide gap between women and men in every facet of life i.e. education, economic, health and so on.<sup>71</sup> The debates also focus on the important political institutions, with the general apathy to gender equality, as it is erroneously believe that women are incapable of decision-making.<sup>72</sup>

Alluding to this, Gillaumen et.al focus on the importance of law making institutions like the national assemblies of democratic states in either developing or developed world.<sup>73</sup> The logic here as we know is that these legal institutions have a lot of advantage on government policies and program if they have interest in an issue. Thus, they can legislate on issues that can improve the status of women in their countries if they see it as something as important as economic as well as other developmental issues. However, politicians do not always recall that; gender equality

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<sup>71</sup> Uroh C. "Globalization and the Question of Gender-Justice: the Nigerian case" 2004 p. 170

<sup>72</sup> Ibid, p.171

<sup>73</sup> Guillaume R. Frechette, Francois Maniquet and Massimo Morelli "Incumbent Interest and Gender Quotas" Midwest Political Science Association 2008 p.891

is not only smart economics but also smart politics.<sup>74</sup> Moreover, I also believe as observed in the last gender report by the British Council Nigeria that, the interest of women can only be represent better by women anywhere in the world.<sup>75</sup>

Therefore, according to Guilaumer et.al above, the extent to which the impact of parliament on gender equality goes is however dependent on their determination to come up with incentives along with strict laws such as parity law to ensure equal opportunity for both men and women in elections.<sup>76</sup> In other words, the use of quota either legal or party one is important.

To this end, Krook observes that there are different ways to go about achieving gender equality from feminist-institutionalist theory, these include; reserves seats, party quotas and legislative [statutory] quotas.<sup>77</sup> She argues that the later is the most recent in this regard and involves legislative provisions mandating all political parties to nominate certain percentage of women for elective positions unlike the voluntary party quotas which may be found in one or few parties.<sup>78</sup> It is common in Latin

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<sup>74</sup> See Devarajan S. in “ World Development Report 2012: Linking Findings to Actionable Gender Equality Policies in South Africa”  
<http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/AFRICAEXT/0,,contentMDK:23033289~menuPK:2246551~pagePK:2865106~piPK:2865128~theSitePK:258644,00.html> [accessed 7July, 2013]

<sup>75</sup> <http://www.britishcouncil.org/files/2012/12/GenderReport-full.pdf> p.58  
[accessed last on 01/04/2013]

<sup>76</sup> Ibid, p.892

<sup>77</sup> Krook Mona L. [2005] “Politicizing Representations: Campaigns for Candidate Gender Quotas Worldwide.” PhD dissertation Columbia University. P.346

<sup>78</sup> Krook Mona L. [2005] “Politicizing Representations: Campaigns for Candidate Gender Quotas Worldwide.” PhD dissertation Columbia University. p.350

America, post-conflict countries i.e. Rwanda, Southeastern Europe, Somalia, and the Middle East.<sup>79</sup>

However, one important point to note in Krook's argument is that unlike the party quotas and reserved seat initiated by men for various reasons and purposes, women groups having learnt about quotas through international organizations, usually initiate legislative quotas.<sup>80</sup> They mobilize themselves and lobby the male-dominated parliament of their countries for this type of law to ensure all parties adopt quota system to have more women for elective offices.<sup>81</sup> However, women in South Africa transpose this logic by first focusing on political parties especially the ANC for informal or party quotas and that is what leads to the country's position among the high-ranking nations in terms of women in parliament.<sup>82</sup>

To this end, it is imperatives for us to appreciate the impact and influence of international organizations on domestic or national normative and systemic or practical institutions in pursuing gender equality and advancing the status of women generally.

Similarly, I want to posit that despite the recent argument that is not so much in favour of party quota, its relevance and the need for its use now at least to get more women to the parliament must not be underestimated as South Africa has prove this.

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<sup>79</sup> Krook Mona L. p.350

<sup>80</sup> Ibid

<sup>81</sup> Krook Mona L. [2005] "Politicizing Representations: Campaigns for Candidate Gender Quotas Worldwide." PhD dissertation Columbia University. P.346

<sup>82</sup> See also, Meintjes S. "South Africa: Beyond Numbers" in Women in Parliaments: Beyond Numbers [http://www.idea.int/publications/wip2/upload/South\\_Africa.pdf](http://www.idea.int/publications/wip2/upload/South_Africa.pdf) [accessed on 7 July, 2013]

## **2.5 Conclusion**

Conclusively, the extent of the impact of institutions on gender issues especially equality as well as non-discrimination against women as noticed in the debate among academic works reviewed here varies depending on the theoretical lenses each use to view it. Meanwhile, many of the debates focus on policies and programs of these institutions, especially at the international level, while few debates occur on the domestic or national institutions especially NGOs and political parties, which to me is most crucial. Most importantly however, is the gap on the executive arms of government, the court etc and obstacles that lies within them against achieving the targets set in all the instruments including implementation of CEDAW. Thus, it represents one of the major lapses or issues not mentioned or insufficiently addressed in most of the scholarly literatures reviewed in this report, hence the justification for this research work.

Nonetheless, the institutions at the national level germane to gender related matters therefore include; the National Assemblies, the Court or Judiciary, the Electoral bodies, the political parties, and executive arm of government like the Ministries of women affairs and Justice. Others are non-governmental organizations [NGOs] such as feminist and women activist groups genuinely interested in the advancement of women like their men counterparts.

Consequently, the study later in this thesis reveals the importance of these institutions in Nigeria and South Africa similarities and differences between the system of government and their legal system including their international legal obligations. It also identifies the different obstacles against the institutions in both

countries as well as suggests ways to surmount them for better policy implementation



## **Chapter 3**

### **RESEARCH DESIGN**

#### **3.1 Introduction**

The methodology the researcher adopts in this study as earlier explained is that of a comparative analysis, and she relates this to the research question, determines the hypothesis, and demonstrates the model as will be seen in this section.

Thus, this chapter explains the rationale for the case selection, model, hypothesis and the methodology adopted by the researcher in carrying out this study. It defines the independent and the dependent variables, which is the implementation of CEDAW. It also describes the sources of information and data used, including the methods or approaches used in presenting and analyzing the data collected and explanation of the findings. It finally tells us how the thesis and hypothesis is evaluated and tested to determine whether it is sustained or not.

#### **3.2 The Case selection**

The choice of Nigeria and South Africa is made after careful review of the literatures and consideration of the need to broadly represent Africa in the study, so that the inference can apply to similar states and population on the continent. Hence, the researcher looks at criteria such as size, population, constitution, development level, type of government, legal system, socio-cultural and religious diversity, more importantly percentage of women in National Assemblies and Executive positions, as well as the regions each belong to on the continent. This is important because the

research design requires the most different cases analysis. Hence, the percentage of women in the Parliament and in the Executives, gender friendly constitution and laws, literacy or educational level between men and women, equality before law, economic status etc are some of key criteria use in selecting the countries. These are parts of the outcomes or dependent variables, which the researcher argues with the hypothesis that they will be achieved if the obstacles can be removed especially in Nigeria that is the dawdler in this case. Nevertheless, the research question relates more to Africa, yet it is applicable to policy implementation obstacles that are obtainable anywhere else especially among less developed and more traditional countries. Moreover, the relevance of each case to the research question is that; Nigeria for instance is yet to even achieve consistently 15% global average of women in the Parliament, it is yet to enact into law the CEDAW document, the constitution is silent on gender equality yet it is a party to the convention. At the same time, Nigeria has obligation under CIHRL to implement CEDAW, and the relevant Institutions in the country are always preparing and submitting [often-late] mandatory progress report to CEDAW Committee. Hence, there is the need to find out what exactly are the obstacles facing institutions of the Executive and Judicial arms of government in fulfilling their responsibilities apart from the ones posed by the constitutions and national legislative/legal system.

Similarly, South Africa on the other hand has achieved consistently more than 30% in women representation in Parliament and the Executives since return to democracy; it has established specialized institutions to tackle discrimination against women among other issues. Yet, there is a lot to achieve in the area of education, violence against women, etc, thus there is need to examine factors affecting proper implementation of these other articles of CEDAW in the Republic. Therefore, it goes

to say that according to the hypothesis, if these obstacles that are obviously national in nature can be surmounted, then the relevant institutions will be able to effectively implement the convention and thereby achieve the overall objectives of improving the lives and status of women in the society. Hence, both the research question and the case selection are based on these considerations.

### **3.2.1 Population Sample**

To start with, Nigeria is not the largest in terms of size, rather it is the most populated state in Africa with the latest population estimate over one hundred and sixty million [160,000,000] people,<sup>83</sup> hence, it is globally acknowledged that 1 out of every 4 black people on earth is a Nigerian. South Africa (SA) on the other hand is the fifth in Africa population wise, with a little above fifty million people.<sup>84</sup> Other countries in-between Nigeria and South Africa and with population of 50-90 million includes; Ethiopia, Egypt and Democratic Republic of Congo (DRC).<sup>85</sup> Therefore, the rationale behind the selection in terms of population is that, apart from Nigeria, SA represents average population of the ten most populated countries in Africa from all regions.<sup>86</sup> Thus together with Nigeria, the two reasonably represent African demographically, a third and fourth country would have come from North and East Africa but for the scope and limitations earlier mentioned.

### **3.2.2 Socio-cultural, ethnic and Religious Diversity**

Considering the cultural and religious diversity of different countries in Africa, Nigeria and South Africa also fit better to represent the continent better in this

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<sup>83</sup> See Nigerian Population Commission <http://www.population.gov.ng> [accessed last 7 July, 2013]

<sup>84</sup> See South African Government info <http://www.info.gov.za/aboutsa/glance.htm> [same as above]

<sup>85</sup> See also Map of the World <http://www.mapsofworld.com/africa/thematic/largest-countries-by-population.html> [accessed last 7 July, 2013]

<sup>86</sup> Ibid

regard, hence their selection unlike countries in other regions like the North African countries that are almost mono-cultural, language, ethnic and religious wise. Other consideration is the fact that the researcher tries two most different cases; one pacesetter and one dawdler in terms of gender equality and implementation of CEDAW. South Africa represents the former, while Nigeria of course represents country with slow and poor record from all indications in this context.

### **3.3 The Variables**

The dependent variable for this study is the implementation of CEDAW, which when put into action it means gender equality in education, political representation and participation of women, non-discrimination and non-violence against women, equality before law and equal employment opportunity. The independent variables on the other hands includes, unprogressive constitution, in other words, constitution that fails to explicitly provides for and recognizes human/women's rights as in the case with the Nigerian constitution, mixed legal system i.e. civil, common, customary/traditional and or Islamic laws. Others are religious dogmatism, cultural imperatives i.e. harmful cultural practices, and institutional framework i.e. funding, expertise, among others as discussed by scholars in some of the relevant literatures.

### **3.4 Hypothesis**

The hypothesis this study tries to test, evaluate or sustain is that; overcoming domestic obstacles against the implementation of CEDAW by national institutions, means elimination of all discrimination against women, gender inequality and will improve the lives and status of women especially in Nigeria and South Africa. Nevertheless, the null or legally invalid hypothesis is that; institutions remain the same, but there is improvement in the implementation of CEDAW consequently

improvement in the live and status of women. If this happen then the prediction of the researcher in the hypothesis and the findings of this thesis is not sustainable.

### **3.5 Model**

The model for this thesis that we will analyse later in this thesis is as follows;

Change the institutions→get better results in implementation of CEDAW

### **3.6 Methodology**

The methodology the researcher uses in carrying out the study is that of comparative analysis approach. The study is on the obstacles against national institutions in Nigeria and South Africa to fulfill their legal responsibilities on gender equality and implementation of CEDAW; the landmark international gender equality and non-discrimination instrument. The researcher examines the constitutional provision of the two countries on women's rights and on implementation of international treaties; through either incorporation or transformation. It then investigates the current stage of the process and implementation of the major policy recommendations of the treaty in accordance with the constitution of both countries. Furthermore, the study also identifies institutions that are involved in the process with their roles, and most importantly, the challenges and or obstacles. Sequel to this, the study considers the candidature/outcomes of the last general elections in both countries in relation to percentage of men and women elected to various elective positions throughout the country to check the improvement or otherwise over the previous ones since return to democracy. The linkage here is that, proper and effective implementation of CEDAW begins with gender friendly laws

and approval of relevant institutional frameworks and policies recommendation from the Executives. Hence, minimum of 30% representation of women in the Parliament is important to this, just as equality between men and women in representation and participation in positions of authority including the Parliament of course is part of the clauses of CEDAW.

### **3.7 Sources of Data**

Most of the information and data used in this study are mainly secondary data from books, journals and articles both hard and soft copies. These also include the use of reliable internet sources such as official webpage of organizations and or institutions. Examples include; official website of the UN and its specialized agencies and bodies i.e. the UN Women, Commission on the Status of Women, CEDAW. The Nigerian Constitution 1999 as Amended, Ministry of Women Affairs and Social Development Nigeria, NGOs, regional and sub-regional bodies like the African Union, ECOWAS among others, the British Council Nigeria gender report 2012, and the World Bank World development report; gender equality and development 2012. Others are, the South African government information webpage, the South African Constitution webpage, Commission on Gender Equality, SA webpage, CIRDDOC, NCAA among others.

### **3.8 Data Presentation and Analysis**

This report presents and analyzes the findings using qualitative analysis approach. It involves the use and presentation of texts, figures, tables and diagrams or pictures where possible to convey the information as clearly as possible, which according to Roger Pierce is used to interpret, evaluate or relate the same subject by different

authors but from different perspectives.<sup>87</sup> The researcher in the analysis also links the finding with the theoretical framework i.e. feminist-institutionalist approach, as well as the research question to clearly state their relevance in each case study. Thereafter, the researcher gives suggestion on the various ways through which we can overcome the obstacles.

### **3.9 Conclusion**

Finally, the thesis concludes with statements indicating how the findings fit in the existing literatures on the subject matter, as well as how and why the inference is applicable to some other states that have ratified CEDAW. In addition, the researcher makes recommendation and suggestion on new areas for further research considering the scope and limitations of this present work, and accepts responsibility for errors of omission and commission and generalization in the thesis. At the end the researcher also gives hint on her future plan for further study on gender or women and development.

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<sup>87</sup> Roger P. [2008] *Research Methods in Politics a practical guide* London: SAGE Publications p.264

## Chapter 4

# IMPLEMENTATION OF CEDAW IN NIGERIA AND SOUTH AFRICA

### 4.1 Introduction

According to the UN High Commissioner for Human Rights [OHCHR], within the context of IHRL, one can describe implementation as

moving from a legal commitment, that is, acceptance of an international human rights obligation, to realization by the adoption of appropriate measures and ultimately the enjoyment by all of the rights enshrined under the related obligations.<sup>88</sup>

Therefore, this chapter examines institutions and processes actually involve in the implementation of CEDAW in Nigeria and South Africa since return to democracy in 1999 and 1994 respectively. The two countries represent most different cases in some criteria, particularly percentage of women in Parliament, and constitutional provisions. Other criteria includes; historical background, type of government and legal system, women's representation and participation in positions of authority either by election or by appointment as well as education and health inequality against women.

To this end, the researcher takes each of the two countries one by one beginning with brief background information based on the above criteria, obligations to the treaty in question stemming from Customary International Human Rights Law [CIHRL] and

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<sup>88</sup> Chenwi L. "Using International Human Rights Law to Promote Constitutional Rights: The [Potential] Role of the South African Parliament" in *Law Democracy and Development* Vol. 15 [2011] p.322



law of treaties, and their constitutional requirements on international treaties. The study then looks into the various institutions and processes involve in the actual implementation of clauses of CEDAW, the current state of gender in the countries in education, health, political representation and participation and most importantly obstacles against achieving the objectives of the treaty by the institutions.

## **4.2 Nigeria: Background Information**

Nigeria is the most populated country in Africa and black nation in the world with population estimate at 174,507,539 (July 2013 est.).<sup>89</sup> It is situated in the Western coast of the continent with a total land area of 923,768 sq km,<sup>90</sup> boarded by the gulf of Guinea, Benin, Cameroon, Niger and Chad.<sup>91</sup> The independent day is October 1 1960, while it returns to democratic governance in 1999 after a long period of Military rule that interrupts the first, second and third republics.<sup>92</sup> The capital is Abuja in the North Central region of the country known as the Federal Capital Territory.<sup>93</sup>

The country is a Federal Republic and operates a Presidential Democracy as its form of government.<sup>94</sup> There are 36 states in the country with 1 Federal Capital Territory

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<sup>89</sup> <https://www.cia.gov/library/publications/the-world-factbook/geos/ni.html>  
[accessed on 29 July, 2013]

<sup>90</sup> Ibid

<sup>91</sup> Ibid

<sup>92</sup> Nigeria formerly operates a Unitary system of government like its colonial master; UK, but it changed to a Republic in 1963 [First Republic], 1979 [Second Republic], 1989 [Third Republic], and 1999 [Fourth Republic with the swearing-in of the elected Obasanjo Administration]. In-between the first three, there were eight [8] different Military Regimes from Aguiyi Ironsi 1966 TO Abdusalam Abubakar 1998-99

<sup>93</sup> [http://www.corporate-nigeria.com/index/country\\_profile/nigeria-at-a-glance.html](http://www.corporate-nigeria.com/index/country_profile/nigeria-at-a-glance.html)  
[accessed on 25 July, 2013]

<sup>94</sup> [http://www.corporate-nigeria.com/index/country\\_profile/nigeria-at-a-glance.html](http://www.corporate-nigeria.com/index/country_profile/nigeria-at-a-glance.html)  
[accessed on 25 July, 2013]

earlier mentioned as the seat of the Federal Government.<sup>95</sup> The official Language is English Language, with three major languages of Hausa, Yoruba and Igbo widely spoken alongside more than 250 other indigenous languages and ethnic groups.<sup>96</sup> Furthermore, there is a 3-tier system of government in the country, which comprises of Federal, states and Local Governments while the branches or arms of government includes; the Executive, Legislative and Judiciary.<sup>97</sup>

The bicameral legislative system of the National Assembly in the country consists of 109 Senate members and 360 members of Federal House of Representatives. The NASS shares legislative power with State Houses of Assembly with the presence of Exclusive and Concurrent Legislative List according to the Constitution of the Federal Republic.<sup>98</sup> This makes for 2-tier legislative system in the country, comprises of the NASS and the SHAs.

In addition, the Judiciary consists of the Supreme Court [the highest court], the Federal Court of Appeal, and the High Courts, Magistrate, Customary as well as Sharia and other specialized courts in the country.<sup>99</sup> Moreover, Nigeria operates a mix legal system consisting of the English Common Law, Sharia and traditional law.<sup>100</sup>

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<sup>95</sup> <https://www.cia.gov/library/publications/the-world-factbook/geos/ni.html>  
[accessed on 29 July, 2013]

<sup>96</sup> Ibid

<sup>97</sup> Ibid

<sup>98</sup> <http://www.nigeria-law.org/ConstitutionOfTheFederalRepublicOfNigeria.htm>  
[accessed last on 07/04/2013]

<sup>99</sup> <http://www.nigeria.gov.ng/2012-10-29-11-06-51/judicial-branch> [accessed on 29 July, 2013]

<sup>100</sup> <https://www.cia.gov/library/publications/the-world-factbook/geos/ni.html>  
[accessed on 29 July, 2013]

### **4.3 Nigeria's Obligation to Women's Rights Law Based on Customary International Human Rights Law [CIHRL] and Law of Treaty**

Nigeria's obligation to ensure, protect and respect human rights in general, and women's rights in particular, originates from Customary International Human Rights Law based on the theory of 'Dualism'. The theory stipulates the fact that, the rules of the system of international law and national or municipal law exists side by side, and neither can overrule or affect the other.<sup>101</sup> However, when it comes to international human rights law, any national law that is not in line with CIHRL is automatically overruled by the later, and the former cannot be used as excuse for non-compliance by states concerned.

Moreover, the law of treaties also stresses that a treaty is binding on member states once they give consent to it by signature, and or ratification, which is very important except the rules of the treaty is that of customary law, in which case it is self-executing and automatically incorporated.<sup>102</sup>

In fact, Justice Mustapha of the Nigeria Court of Appeal in *Abacha vs Fawehinmi* substantiates this<sup>103</sup>, when in his rulings he states categorically that in the case of human rights, the decree by Military Government in Nigeria cannot override the African Charter when it comes to human rights matters, hence the court has

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<sup>101</sup> Shaw, M.N. [2003] *International Law Fifth Edition* Cambridge: Cambridge University Press] p.122

<sup>102</sup> *Ibid*, p.817

see also customary international law and the doctrine of incorporation Shaw, M.N. p.129

<sup>103</sup> See Egede, E "Bringing Human Rights Home: An Examination of the Domestication of Human Right Treaties in Nigeria" *Journal of African Law*, Vol. 51, No. 2 [2007], p.251

However, the case no and date are not given in the article

jurisdiction to hear the case.<sup>104</sup> This according to Egede is out of the desire to protect Nigerians from human rights abuse by the then Military junta, and also to guarantee that the country abide by its international obligation to international HR law<sup>105</sup> based on dualism, and dualist effect of the section 12[1] of the Nigerian Constitution<sup>106</sup>

Sequel to the above, and since it is generally accepted that women's rights are human rights, and international human rights belongs to the group of customary international law, implementation of CEDAW therefore essentially becomes obligatory for ratifying member states irrespective of their constitutional or legal provisions on international treaties. Moreover, according to Shaw, it is a general rule in the international system that "it is no defense to a breach of an international obligation to argue that the state acted in such a manner because it was following the dictates of its own municipal law".<sup>107</sup> Hence, failure to enact into law by the legislature is not an excuse for non-implementation of an international treaty such as CEDAW to which Nigeria is a party.<sup>108</sup>

In addition, according to the Judge in the Lockerbie case, it is important to note that a constraint to act posed by national law was no defense to non-compliance with an

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<sup>104</sup> Egede, E "Bringing Human Rights Home: An Examination of the Domestication of Human Right Treaties in Nigeria" *Journal of African Law*, Vol. 51, No. 2 [2007], p.252

<sup>105</sup> *Ibid*, p. 253

<sup>106</sup> See also the unanimous rulings of the seven Justices constituted on the Appeal of the case to the Supreme Court of Nigeria by the respondent who was not satisfied by the Mustapha rulling at the Court of Appeal, Egede, E. p.253

<sup>107</sup> Shaw, M.N. [2003] *International Law Fifth Edition* Cambridge: Cambridge University Press] p.124

<sup>108</sup> Egede, E "Bringing Human Rights Home: An Examination of the Domestication of Human Right Treaties in Nigeria" *Journal of African Law*, Vol. 51, No. 2 [2007], p.253

international obligation.<sup>109</sup> Shaw further emphasized that lack of a particular provision neither its presence even in the constitution of a state or its legal system is not an excuse to disregard an international obligation.<sup>110</sup> Therefore, as a matter of fact, states are obliged generally to conform with the rules of international law, failure of which they will bear full consequences, whether it is the executive, legislative, or the judiciary that breach the obligation.<sup>111</sup>

To this end, Nigeria as member of the UN, AU, ECOWAS among others, it is also a party to many international conventions and treaties especially on human rights, it therefore as a matter of obligation to the law of treaties, owes responsibility to uphold and comply with these laws by implementing CEDAW.

Moreover, Nigeria naturally acceded to the UN's Universal Declaration on Human Rights 1948 after gaining independent, also Nigeria ratifies the International Covenants on Economic and Social Rights 1966, and the International Covenants on Civil and Political Rights 1966, in 1993, CEDAW 1979, in 1985, and the African Charter on Human and Peoples' Rights 1981, in 1983. The Nigerian government also signs and ratifies the Protocol to the African Charter on the Rights of African Women in 2003 and 2004 respectively.<sup>112</sup>

Nigeria therefore, by ratification owes the duty and responsibility in line with the law of treaties to adopt measures and legislation at the domestic level to enable it fulfill

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<sup>109</sup> Shaw, M.N. [2003] International Law Fifth Edition Cambridge: Cambridge University Press] p.126

<sup>110</sup> Shaw, M.N. [2003] International Law Fifth Edition Cambridge: Cambridge University Press] p.127

<sup>111</sup> Ibid, 128

<sup>112</sup> William, Sope. [2004] "Nigeria, Its Women and International Law: Beyond Rhetoric" Human Rights Review Vol.4, No.2, p. 229

its obligations to all the above and other international treaties and conventions.<sup>113</sup> Regrettably however, the 2012 reports by the Amnesty International reveals that Nigeria is still among those states where the rights of women is not adequately protected and violence against women is still going on with impunity in the society.<sup>114</sup>

Therefore, the extent to which CEDAW and other women's rights laws is beneficiary to individual women in any country including Nigeria will depend on upon the will of the state to implement it rules within the domestic legal system.<sup>115</sup>

#### **4.4 Current State of Gender Equality in Nigeria**

Women in Nigeria are generally gender inequality and social injustice personified. Their situation is one of the worst in Africa and in the world at large as evidence in reproductive health for instance where maternal and child mortality rate is one of the highest in the world.<sup>116</sup> This is due to inadequate healthcare facilities and services, but particularly so because of illiteracy or lower educational level, and poverty level compared to their male counterparts. In all other sector, they lag behind their male counterparts and they suffer discrimination in virtually everything and everywhere, from private to the public domain. The situations are even alarming in all the focus areas of CEDAW i.e. gender equality and empowerment in education, health,

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<sup>113</sup> <http://www.ohchr.org/EN/ProfessionalInterest/Pages/InternationalLaw.aspx>

<sup>114</sup> <http://www.amnesty.org/en/region/nigeria/report-2012#section-15-11> [accessed last 22/05/13]

<sup>115</sup> See "Responding to individual Needs: Human Rights" p.96 from a material collected from my instructor; an expert on international law

<sup>116</sup> <http://www.britishcouncil.org.ng/files/2012/12/GenderReport-full.pdf> p.39 [accessed last on 01/04/2013] See also the executive summary of the same document on page iii

employment and income generating opportunity as well as political representation and participation<sup>117</sup>

Table 1 below reflects trend in percentage of primary and secondary school attendance for both girls and boys over the space of twenty [20] years.

Table 1.4. Net primary and secondary school attendance ratio 1990-2010

Year	All %		Female %		Male %	
	Primary	Secondary	Primary	Secondary	Primary	Secondary
1990	51	24	48	22	54	26
2003	60	35	57	33	64	38
2010	61	44	58	44	64	44

Source: National Population Commission [2011].<sup>118</sup>

The figures in the table above represent a significant improvement in the enrolment of boys and girls into primary and secondary schools in Nigeria over twenty years period. However, this is below expectation for a country like Nigeria, the so-called giant of Africa and now over fifty years of independent, yet it is a positive step forward but girls are still lagging behind. Nevertheless, the most striking feature in this data is that as at 2010, female secondary school enrolment is now at par with that of boys in terms of percentage of the boys and girls population. Moreover, if data for the last two years were to be available, I believe the situation must have improved far better than this, but the question remains how many of them complete the secondary school education and proceed to the tertiary level and finish.

<sup>117</sup> [http://content.undp.org/go/cms-service/stream/asset/?asset\\_id=2524504](http://content.undp.org/go/cms-service/stream/asset/?asset_id=2524504) [accessed last on 03/04/2013]

<sup>118</sup> <http://www.britishcouncil.org.ng/files/2012/12/GenderReport-full.pdf> p.390 [accessed last on 01/04/2013]

Table 2.4. Summary of national secondary school statistics, 2004-2008

<b>Year</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>
<b>Total schools</b>	10,913	10,913	18,238	18,238	18,238
<b>Total enrolment</b>	6,279,462	6,397,343	6,536,038	6,068,160	6,625,943
<b>Total male enrolment</b>	3,593,708	3,543,425	3,642,871	3,460,146	3,682,141
<b>Total female enrolment</b>	2,739,754	2,854,718	2,893,167	2,608,014	2,943,802
<b>Total teachers</b>	154,594	144,413	199,163	207,283	270,650
<b>Total male teachers</b>	99,403	91,080	122,462	136,285	167,527
<b>Total female teachers</b>	55,191	53,333	76,701	70,998	103,123
<b>Total classroom</b>	98,077	98,077	98,077	98,077	98,077
<b>Teacher/pupil ratio</b>	40	44	32	29	24

Source: NBS [2009].<sup>119</sup>

Furthermore, the table 2 above gives us the picture of the situation between boys and girls in relation to secondary school enrolment, as seen in the statistics between the years 2004 and 2008. The situation percentage wise is still in favour of boys for various reasons beyond the scope of this study, though the increase in terms of actual numbers is more for girls compare to boys. Unfortunately, data is not yet available for the last four years this is a situation common to Nigeria due to attitudinal, and infrastructural and technological services that could aid electronic data and statistics generation, storage and dissemination.

<sup>119</sup> <http://www.britishcouncil.org/files/2012/12/GenderReport-full.pdf> p.30 [accessed last on 01/04/2013]



Table 3.4 Admission statistics into Nigerian Universities by sex, 2000-2008

<b>Year</b>	<b>Sex</b>	<b>Applications by gender</b>	<b>Total applications</b>	<b>Admissions by gender</b>	<b>Total admissions</b>
<b>2000</b>	Male	238,456	416,291	26,665	45,766
	Female	177,835		19,101	
<b>2001</b>	Male	743,725	1,056,617	54,972	90,769
	Female	312,892		35,797	
<b>2002</b>	Male	580,338	994,380	31,942	51,485
	Female	414,042		19,903	
<b>2003</b>	Male	603,179	1,046,950	59,742	105,157
	Female	443,771		45,415	
<b>2004</b>	Male	486,539	841,878	69,715	122,492
	Female	355,339		52,777	
<b>2005</b>	Male	526,281	916,371	45,256	76,984
	Female	390,090		31,728	
<b>2006</b>	Male	456,953	803,472	52,413	88,524
	Female	346,519		36,111	
<b>2007</b>	Male	911,653	1,302,529	64,706	107,370
	Female	390,876		42,664	
<b>2008</b>	Male	598,667	1,054,060		113,100
	Female	455,393			

Source: JAMB Annual Reports.<sup>120</sup>

The above table again, reveals improvements in female genders' admission into Nigerian universities from year 2000 to 2008 and indeed the gap is been narrowed, but there is still much that can be achieved if there is political will on the part of government to implement CEDAW. It is also important to note that there is significant number of Nigerian students travelling abroad for higher education every year there is no evidence that that is consider along with this very data.

However, the social injustice, inequality and discrimination against women is more pronounced in nowhere else than in positions of power and authority, in fact by 2011 general elections, there is downward trend in the marginal gains made so far since

<sup>120</sup><http://www.britishcouncil.org/files/2012/12/GenderReport-full.pdf> p.305  
[accessed last on 01/04/2013]

return to democratic governance in 1999.<sup>121</sup> Evidently, the issue is more complicated than we actually believe. Thus, it also requires drastic but ad-hoc measures in line with CEDAW provisions to remedy the situation and in line with suggestions by some scholars as seen in the literatures reviewed and further discussed later in this thesis.

Table 4.4 Women elected to public offices in Nigeria 1999-2011

Office	1999		2003		2007		2011	
	Seats available	Women	Seats available	Women	Seats available	Women	Seats available	Women
<b>President</b>	1	0		0		0		0
<b>Senate</b>	109	3[2.8]	109	4[3.7]	109	9[8.3]	109	7[6.4]
<b>House of Representatives</b>	360	7[1.9]	360	21[5.8]	360	27[7.5]	360	25[6.9]
<b>Governor States</b>	36	0	36	0	36	0	36	0
<b>House Assembly [SHA]</b>	990	24[2.4]	990	40[3.9]	990	57[5.8]	990	68[6.9]
<b>SHA Committee Chairpersons</b>	829	18[2.2]	881	32[3.6]	887	52[5.9]	887	-
<b>LGA Chairpersons</b>	710	13[1.8]	774	15[1.9]	740	27[3.6]	740	-
<b>Councillors</b>	6368	69[1.1]	6368	267[4.2]	6368	235[3.7]	6368	-

<sup>122</sup>

The figures above for women elected to the two chambers reveal that fewer women were elected in 2011 than it were in 2007.<sup>123</sup>

<sup>121</sup> <http://www.britishcouncil.org/files/2012/12/GenderReport-full.pdf> p.355 [accessed last on 01/04/2013]

<sup>122</sup> Ibid

<sup>123</sup> Ibid

The case also calls for concern in the area of violence against women i.e. domestic violence, sexual harassment and violence even in public sphere for instance at work and in school,<sup>124</sup> though there is no reliable data on this very issue due to reluctance of most victims to report abuse for cultural and stigma issues.<sup>125</sup> Gender inequality in employment and gap in earnings between men and women is another issue that activist and interest groups within and outside Nigeria acknowledge as a barrier to women's emancipation globally and particularly in developing countries like Nigeria.<sup>126</sup>

#### **4.5 Institutions and Processes Involve in the Implementation of CEDAW in Nigeria**

As earlier stated, the Nigerian government ratifies without any reservation the Convention on the Elimination of All Forms of Discrimination Against Women in 1985, while the Optional Protocol was also signed in 2000 and ratified in 2004 by the then Obasanjo Administrations.<sup>127</sup> Nigeria is also a signatory and party to other international and regional human rights and women's right instruments, having ratified domesticated and implementing some of them such as the African Charter on Human and Peoples' rights, Protocol to the African Charter on Human and Peoples' Rights on the Right of Women in Africa to mention but few.<sup>128</sup>

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<sup>124</sup> See Gender in Nigeria Report 2012 by the British Council Nigeria, p.33 and page 47.

<sup>125</sup> Ibid

<sup>126</sup> The World Bank .Gender Equality and Development, in world development report 2012. p. 16-20

<sup>127</sup> [http://www.aacoalition.org/domestic\\_cedaw.htm](http://www.aacoalition.org/domestic_cedaw.htm) [accessed last on 30/04/2013]

<sup>128</sup> <http://www.africanunion.org/root/au/Documents/Treaties/Text/Protocol%20on%20the%20Rights%20of%20Women.pdf> [accessed last on 30/04/2013]

However, the implementation of the landmark treaty [CEDAW] that is the focus of this study involves institutions spread within the three organs of government; i.e. the executive, the legislature and the judiciary and even the Civil Society and Political Parties, as well as Electoral bodies. Thus, some of these institutions from the executive side include; the Ministry of Women Affairs and social development, Federal Civil Service Commission, Federal Character Commission, and National Directorate of Employment [NDE]. Others are, the National Assembly, State Houses of Assembly, and The Courts, National Human Rights Commission as well as the Civil Society to mention but few.

Nevertheless, the study discovers only little on the implementation of CEDAW in Nigeria especially on the part of government. This corroborates the fact that the country represents a dawdler state while South Africa represents a pacesetter in this comparative study. To this end, the researcher only discusses the implementation processes involving the NASS, the Federal Ministry of Women Affairs, the Courts and the Civil Society or Women NGOs.

#### **4.5.1 The Parliament**

The National Assembly [NASS] according to section 12[1] of the Nigerian constitution, has the mandate to enact into law any treaty entered into by the Federal Government of Nigeria, for such a treaty to become enforceable and implementable in the country.<sup>129</sup> Section 12 [2] also empowers the NASS to legislate for the federation or any part of it on matters that are not in the Exclusive Legislative List.<sup>130</sup> However, section 12 [3] of the same constitution stipulates that such laws made by the NASS has to be ratified by majority i.e.2/3of the State Houses of Assembly in the

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<sup>129</sup> See chapter 2 section 12 [1] of the 1999 Constitution of the Fed. Rep. of Nigeria

<sup>130</sup> See the Nigerian Constitution 1999, chapter viii, part iv, Schedule 2 Legislative power; part I, Exclusive Legislative List

country before they can present it to the President for his assent and for such law to enter into force.<sup>131</sup> With this, the implementation of any treaty actually begins with the NASS by enacting a law to give it a force with the exception of human rights treaties [though the constitution is silent on this] such as CEDAW that falls within the confines of customary international human rights law. Unfortunately, though, the NASS is yet to enact the CEDAW bill into law,<sup>132</sup> hence, its implementation is on a standstill but for the fact that it is a CIHRL treaty.

Nevertheless, the NASS has enacted into law a bill on National Gender Policy 2007,<sup>133</sup> the NGP is an improvement on the earlier ones i.e. the National Policy on Women 2001 and Gender Opportunity and Equality Bill 2004.<sup>134</sup> They are all based on the principles of CEDAW considering the fact that it all contain several sections that are taken from several articles of CEDAW, and in particular to fulfill Articles 2, 4, 6, and 24 concerning special measures to actualize the policy measures in the document. Therefore, the NASS at least is playing a role in what Egede refers to as indirect implementation of HR treaties not domesticated in the country.<sup>135</sup> Moreover, the NASS has passed into law the bill on African Charter, which according to Sope

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<sup>131</sup> See chapter 2, section 12 [3] of the 1999 Constitution of the Fed. Rep. of Nigeria

<sup>132</sup> Egede, E “Bringing Human Rights Home: An Examination of the Domestication of Human Right Treaties in Nigeria” *Journal of African Law*, Vol. 51, No. 2 [2007], p.273

<sup>133</sup> [http://www.aacoalition.org/national\\_policy\\_women.htm](http://www.aacoalition.org/national_policy_women.htm) [accessed last 08/05/2013]

<sup>134</sup> [http://www.aacoalition.org/equal\\_opp.htm](http://www.aacoalition.org/equal_opp.htm) [accessed last on 08/05/2013]

<sup>135</sup> Egede, E “Bringing Human Rights Home: An Examination of the Domestication of Human Right Treaties in Nigeria” *Journal of African Law*, Vol. 51, No. 2 [2007], p.276 See also non-domesticated human rights treaties as customary international law

Williams, this also mean indirect incorporation of most provisions of CEDAW into Nigerian law through the African Charter by the NASS.<sup>136</sup>

#### **4.5.2 The Executive i.e. the FMWASD**

The Federal Ministry of Women Affairs and Social Development is a line ministry and institution under the Executive arm of government.<sup>137</sup> It was established in 1989 during the Military Administration of Ibrahim Babangida under Presidency as the Office of the First Lady for his late wife Maryam Babangida, but became a full ministry in 1995 in line with the provisions of CEDAW.<sup>138</sup> As part of its role in implementation of CEDAW, the ministry plays crucial roles in the drafting and presentation of the NGP bill in collaboration with the civil society<sup>139</sup> to the NASS for enactment into law. In fact, objective number 4 of the Policy categorically states that “incorporate the principles of CEDAW and other global and regional frameworks that support gender equality and women empowerment in the country’s laws, legislative processes, judicial and administrative systems.”<sup>140</sup> It will nonetheless, take an empirical research, to examine the extent of the implementation and the achievement so far of the goals, objectives and targets of this policy. Another area the ministry is involving together with women NGOs in fulfilling the country’s obligations to CEDAW is in the periodic reporting to CEDAW Committee on the

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<sup>136</sup> William, Sope. [2004] “Nigeria, Its Women and International Law: Beyond Rhetoric” Human Rights Review Vol.4, No.2, p. 234

<sup>137</sup> <http://www.womenaffairs.gov.ng/> [accessed last on 30 July, 2013]

<sup>138</sup> Former First Lady Maryam Babangida popularize and glamourise the position of the wife of a President, and established the controversial pet programme dubbed “Better Life For Rural Women” to couching the effect of her husband’s bitter pill of SAP/SAL that turned the fortune of Nigeria economy upside down till today. Her office was one of those conduit pipe through which the Military Junta syphoned billions of dollars of public funds and entrenched the hydra-headed monster; corruption that bedeviled every sphere of the society today.

<sup>139</sup> [http://www.aacoalition.org/national\\_policy\\_women.htm](http://www.aacoalition.org/national_policy_women.htm) [accessed last on 30 July, 2013]

<sup>140</sup> Ibid

countries programmes, policies as well as achievements so far on the implementation of the Convention.<sup>141</sup>

#### **4.5.3 The Judiciary i.e. the Courts**

The Courts in Nigeria are not doing much with respect to implementation of clauses of CEDAW for reasons that the thesis will elaborate upon as obstacles later in this report. However, in few instances, the courts have indirectly applied international treaties i.e. CEDAW that Nigeria acceded to but yet to domesticate to interpret relevant Nigerian law. Thus, in the case of *Mojekwu vs Ejikeme*, Justice Niki Tobi of the Court of Appeal uses relevant clauses of CEDAW to interpret relevant Nigerian law and pass a judgment that the *Nrachi Nwanyi* custom is repugnant and must be stopped.<sup>142</sup>

#### **4.5.4 The Civil Society i.e. Women NGOs**

The civil society i.e. gender interest groups and activists have been involving in the implementation of CEDAW right from the onset, [especially those from the legal background] by playing crucial roles in preparing the bill to enact the document into Nigerian law which is still before the NASS.<sup>143</sup> Furthermore, the civil society is involved by way of legal representation, advocacy, awareness campaign, seminars, and capacity building for women and men alike on issues relating to gender equality, discrimination, violence against women and so on.<sup>144</sup> They also collaborate with the Federal Ministries of Women Affairs and Social Development as well as Justice,

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<sup>141</sup> See the Forward by Joy Ezeilo, to the CEDAW Shadow Reports 2006, by Women Aid Collective [WACOL] a coalition of about 150 women groups and activists available at

<http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/NigeriaNGOCoalition41.pdf>

<sup>142</sup> See indirect ways of applying non-domesticated human right treaties; using non-domesticated human right treaties to aid interpretation. Egede, E. p. 275, 276

<sup>143</sup> See domestication of CEDAW at [http://www.aacoalition.org/domestic\\_cedaw.htm](http://www.aacoalition.org/domestic_cedaw.htm) [accessed last on 30 July, 2013]

<sup>144</sup> Ezeilo, J. p. 45-46

including the NASS on incorporating CEDAW into national law, development and enactment into law of the new National Gender Policy 2007.<sup>145</sup> They also take it upon themselves to monitor the implementation of the convention and prepare shadow report<sup>146</sup> to CEDAW Committee as alternative to Government report to balance the information for adequate picture and assessment of the country's performance. Some of these NGOs include; National Coalition for Affirmative Action [NCAA], Civil Resource Development and Documentation Center [CIRDDOC], Women Aid Collective [WACOL] to mention but few.<sup>147</sup>

#### **4.6 Obstacles Against the Implementation of CEDAW in Nigeria**

There are several factors or obstacles militating against the proper and successful implementation of CEDAW in Nigeria that limits the enjoyment by women the benefits of its provisions i.e. gender equality, nondiscrimination, protection against violence and abuse among others. This study reveals that, apart from the lack of effective enforcement mechanism<sup>148</sup> on the part of the Convention itself, most of these obstacles are domestic rather than international; hence, it is within the power of the respective states to address the menace.

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<sup>145</sup> See NGP at [http://www.aacoalition.org/national\\_policy\\_women.htm](http://www.aacoalition.org/national_policy_women.htm) [accessed last on 30 July, 2013]

<sup>146</sup> <http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/NigeriaNGOCoalition41.pdf> [accessed last on 30 July, 2013]

<sup>147</sup> <http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/NigeriaNGOCoalition41.pdf> [accessed last on 30 July, 2013] See also, Ezeilo, J. p. 46

<sup>148</sup> See Afrasharipour, A. "Empowering Ourselves: The Role of Women's NGOs in the Enforcement of the Women's Convention" *Colombia Law Review*, Vol. 99, No. 1 [Jan., 1999], p. 129



#### 4.6.1 Cultural and Religious Imperatives

First among these obstacles is the issue of cultural and religious imperatives.<sup>149</sup> This is a major problem in the sense that, traditionally, Nigeria is a patriarchal society,<sup>150</sup> where women generally do not enjoy the same or equal rights with men in many cultures<sup>151</sup> in Nigeria and even generally in Africa. Men are the custodian of cultures, so they determine the faith of women in both private and public sphere in the society, hence, they traditionally see women as property of men; wives whose major role is to bear children and obey their husbands in everything.<sup>152</sup> Similarly, from the religious perspectives, Islamic cultures mostly practiced in the Northern part of Nigeria, including many other customs and traditions in other parts of the country, are generally discriminatory against women especially when it comes to inheritance.<sup>153</sup>

In the same vein, in the area of child-marriage [below 18 years],<sup>154</sup> majority of the Northerners, resist the attempt by the authorities concerned to charge and prosecute a member of the NASS that was alleged to marry an underage girl of 13years. The Islamic law and culture were used to support the campaign against the government

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<sup>149</sup> Egede, E “Bringing Human Rights Home: An Examination of the Domestication of Human Right Treaties in Nigeria” *Journal of African Law*, Vol. 51, No. 2 [2007], p.274

See also Ezeilo, Joy “Feminism and Islamic Fundamentalism: Some Perspectives from Nigeria and Beyond” *Chicago Journals* Vol. 32, No 1 [2006] p. 42

See also William, Sope. [2004] “Nigeria, Its Women and International Law: Beyond Rhetoric” *Human Rights Review* Vol.4, No.2, p. 230

<sup>150</sup> See also ‘Patriarchy’ under status of gender equality and situation of women in Nigeria under context and rationale for developing and adopting the National Gender Policy at [http://www.aacoalition.org/national\\_policy\\_women.htm#iq\\_8](http://www.aacoalition.org/national_policy_women.htm#iq_8) [accessed last on 30 July, 2013]

<sup>151</sup> *Ibid*

<sup>152</sup> *Ibid*

<sup>153</sup> Ezeilo, Joy “Feminism and Islamic Fundamentalism: Some Perspectives from Nigeria and Beyond” *Chicago Journals* Vol. 32, No 1 [2006] p. 42 see also Egede, E. p. 283

<sup>154</sup> Egede, E “Bringing Human Rights Home: An Examination of the Domestication of Human Right Treaties in Nigeria” *Journal of African Law*, Vol. 51, No. 2 [2007], p.282

move, and the case was swept under the carpet. Hence, these are some of the considerations for not passing the bill on CEDAW by the NASS, and thus hinder proper implementation of its clauses in Nigeria until now by the executive or the judicial institutions.<sup>155</sup>

#### **4.6.2 Mixed Legal System**

The second point is that of mixed legal system Nigeria is operating.<sup>156</sup> These legal systems consist of the English Common Law inherited from the Colonial rule, Customary or traditional law, and the controversial Islamic law [Sharia] that 12 states in the Northern part of Nigeria adopted recently.<sup>157</sup> Controversial in the sense that section 10 of the Nigerian constitution<sup>158</sup> regards the country as a secular state, hence, it prohibits adoption of any particular religious law or provisions in public life.<sup>159</sup> Moreover, as if that is not bad enough, the so-called law, is very discriminatory against women to such extent that, when a woman is convicted of extra-marital affairs, the man involved will not even be charged at all,<sup>160</sup> whereas, even a popular saying agrees that, it takes two to tango. Such is the case of three women sometimes back in the North; Safiyyatu Hussein, Amina Lawal, and Bariya Ibrahima Magazu.<sup>161</sup> This complexity in the legal system poses difficulty for courts in Nigeria to determine which one is to apply objectively in a case in the context of

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<sup>155</sup> Egede, E “Bringing Human Rights Home: An Examination of the Domestication of Human Right Treaties in Nigeria” *Journal of African Law*, Vol. 51, No. 2 [2007], p.274

<sup>156</sup> William, Sope. [2004] “Nigeria, Its Women and International Law: Beyond Rhetoric” *Human Rights Review* Vol.4, No.2, p. 231

<sup>157</sup> *Ibid*, 232

<sup>158</sup> <http://www.nigeria-law.org/ConstitutionOfTheFederalRepublicOfNigeria.htm>  
[accessed last on 30 July, 2013]

<sup>159</sup> William, S [2004] p. 232

<sup>160</sup> Egede, E “Bringing Human Rights Home: An Examination of the Domestication of Human Right Treaties in Nigeria” *Journal of African Law*, Vol. 51, No. 2 [2007], p.283

<sup>161</sup> *Ibid*

See also Ezeilo, J. p. 46

CEDAW,<sup>162</sup> more so that, the NASS lack the courage to repeal or amend traditional laws, customs and practices that run contrary to human and women's rights.<sup>163</sup>

#### **4.6.3 Inadequate Funding and Corruption**

There is a huge gap in the resources required and funding available for and allocated to institutions responsible for gender matters in most cases. This is due to the poor economic situation of the country on one side as a developing nation,<sup>164</sup> misappropriation of the little available resources, and corruption on the other on the parts of those saddles with responsibility in such institutions.<sup>165</sup> Thus, they are not executing as planned most policies and programmes that are to ensure gender equality in education, health, women empowerment, eradicate or reduce violence against women and prosecute offenders. This also affects capacity-building programmes for personnel that are to work on the field in different context.<sup>166</sup>

#### **4.6.4 Lack of Political Will**

Despite the fact that Nigeria is now under democratic rule since 1999, with the rhetoric of rule of law and good governance, politicians in the positions of authority and decision-making [dominated by men of course] lack the political will to take bold steps in adopting new laws and policies in the spirit of CEDAW. Moreover, they refuse to adopt temporary special measures necessary for proper implementation and integration of CEDAW to ensure gender equality, nondiscrimination, women

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<sup>162</sup> See legal and human rights, under status of gender equality and situation of women in Nigeria under context and rationale for developing and adopting the National Gender Policy at [http://www.aacoalition.org/national\\_policy\\_women.htm#iq\\_8](http://www.aacoalition.org/national_policy_women.htm#iq_8) [accessed last on 30 July, 2013]

<sup>163</sup> William, S [2004] p. 231

<sup>164</sup> William, S [2004] p. 232

<sup>165</sup> Egede, E "Bringing Human Rights Home: An Examination of the Domestication of Human Right Treaties in Nigeria" *Journal of African Law*, Vol. 51, No. 2 [2007], p.263

<sup>166</sup> William, S [2004] p. 232

empowerment, and so on.<sup>167</sup> These measures can include; party quotas, reserve seats, establishment and special funding of especial institutions such as Equal Opportunity Commission etc.<sup>168</sup>

#### **4.6.5 Lack of Awareness/ignorance and Poverty**

This is due largely to low-level education and illiteracy by mostly women in the society, which make them unaware of their rights and privileges under and before the law.<sup>169</sup> This is worst in the northern part of the country where religious dogmatism and intolerance made it difficult for women's rights activists to create the necessary awareness campaigns, rallies, seminars and so on and raise the level of awareness among the populace.<sup>170</sup> Based on this, women in particular are unable to demand for their rights and secure redress where and when their rights are being violated or denied.

#### **4.7 South Africa: Background Information**

The Republic of South Africa is a highly diverse society like Nigeria, but with a smaller population of about 51 million based on the last 2011 census.<sup>171</sup> The country returned to democracy in 1994 with the election of the iconic freedom fighter Nelson Mandela.<sup>172</sup> The new constitution of SA that came into being in 1995 is claim to be

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<sup>167</sup> Ibid, 233 see also paragraph 2 of the introduction to the CEDAW Shadow Reports 2006 by the Women Coalition at

<http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/NigeriaNGOCoalition41.pdf>

<sup>168</sup> See rights protection under problems and challenges of bridging gender inequality and dis-empowerment at

[http://www.aacoalition.org/national\\_policy\\_women.htm#iq\\_8](http://www.aacoalition.org/national_policy_women.htm#iq_8)

<sup>169</sup> William, S. [2007] p. 233 see also Ezeilo, Joy "Feminism and Islamic Fundamentalism: Some Perspectives from Nigeria and Beyond" Chicago Journals Vol. 32, No 1 [2006] p. 43

<sup>170</sup> Ezeilo, Joy "Feminism and Islamic Fundamentalism: Some Perspectives from Nigeria and Beyond" Chicago Journals Vol. 32, No 1 [2006] p. 43

<sup>171</sup> <http://www.info.gov.za/aboutsa/glance.htm> [accessed last 31 July, 2013]

<sup>172</sup> See the First Decade of Freedom at <http://www.info.gov.za/aboutsa/history.htm> [accessed last 31 July, 2013]

one of the most progressive constitution in the world,<sup>173</sup> which also contain a separate section known as the ‘Bill of Rights’.<sup>174</sup> The system of Government in SA is Constitutional multiparty democracy, with 3-tier type of government; national, provincial and local government.<sup>175</sup> South Africa has three capital cities, hosting each of the three arms of government; Pretoria for the Executive, Cape Town for the Legislature, and Bloemfontein for the Judiciary.<sup>176</sup> Furthermore, the Republic has nine [9] Provinces, and eleven [11] official languages including English Language.<sup>177</sup>

In addition, the legislative arm of government consists of the National Assembly, and the National Council of Provinces making it a bicameral legislature.<sup>178</sup> Moreover, SA operates a mixed legal system, comprises of the Roman-Dutch civil law, English common law, and customary law,<sup>179</sup> and the highest courts of the land are the Supreme Court of Appeal, and the Constitutional Court [for constitutional matters].<sup>180</sup>

#### **4.7.1 SA’s International Obligation to HR Based on CIHRL and the Law of Treaties**

As earlier stated in the case of Nigeria, South Africa’s obligation to ensure, protect and respect human rights in general, and women’s rights in particular, also originates from Customary International Human Rights Law based on the theory of ‘Dualism’.

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<sup>173</sup> See the First Decade of Freedom at <http://www.info.gov.za/aboutsa/history.htm> [accessed last 31 July, 2013]

<sup>174</sup> See also chapter 2, sections 7-39 of SA Constitution

<sup>175</sup> <http://www.info.gov.za/aboutsa/glance.htm> [accessed last on 31 July, 2013]

<sup>176</sup> Ibid

<sup>177</sup> Ibid

<sup>178</sup> See also SA Legislative branch at <https://www.cia.gov/library/publications/the-world-factbook/geos/sf.html> [accessed last on 31 July, 2013]

<sup>179</sup> See SA Government, legal system at <https://www.cia.gov/library/publications/the-world-factbook/geos/sf.html> [accessed last 31 July, 2013]

<sup>180</sup> SA Judicial branch at <https://www.cia.gov/library/publications/the-world-factbook/geos/sf.html> [accessed last on 31 July, 2013]

The theory stipulates the fact that, the rules of the system of international law and national or municipal law exists side by side, and neither can overrule or affect the other.<sup>181</sup> The law of treaties also stresses that a treaty is binding on member states once they give consent to it by signature, and or ratification, which is very important except the rules of the treaty is that of customary law, in which case it is self-executing and automatically incorporated.<sup>182</sup>

It is also generally accepted that women's rights are human rights, and international human rights belongs to the group of customary international law, implementation of clauses of CEDAW therefore essentially becomes obligatory for ratifying member states irrespective of their constitutional or legal provisions on international treaties. Moreover, according to Shaw, it is a general rule in the international system that "it is no defense to a breach of an international obligation to argue that the state acted in such a manner because it was following the dictates of its own municipal law".<sup>183</sup>

Furthermore, section 231 [1] of the constitution of SA empowers the executive i.e. President to negotiate, signs and ratifies an international treaty,<sup>184</sup> however, for it to be enforceable in the land, section 231 [2] provides that the Parliament must approve

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<sup>181</sup> Shaw, M.N. [2003] International Law Fifth Edition Cambridge: Cambridge University Press] p.122

<sup>182</sup> Ibid, p.817

see also customary international law and the doctrine of incorporation Shaw, M.N. p.129

<sup>183</sup> Shaw, M.N. [2003] International Law Fifth Edition Cambridge: Cambridge University Press] p.124

See also further discussion on the Nigeria's obligation to IHRL from CIHRL earlier in this study.

<sup>184</sup> See chapter 14 section 231 [1]of the SA constitution

of such through a resolution in the NA and the NCOP.<sup>185</sup> Nevertheless, the constitution also recognizes in section 231 [3] and [4], the fact that some treaties are self-executing i.e. technical, human rights [CIHRL] etc,<sup>186</sup> and therefore are excluded from the provisions of section 231 [2], CEDAW therefore belongs to the categories of human rights law. Thus, SA is under obligation to implement CEDAW as a matter of and in compliance with its obligation to CIHRL and the law of treaties.

#### **4.7.2 Gender Equality in South Africa Today**

The Republic of South Africa is currently one of the countries in Africa and indeed in the world where women are faring better than their fellow women especially in the area of non-discrimination according to Article 7 of CEDAW<sup>187</sup> in political representation and participation with 44% in the NA, and 43% in the Cabinet.<sup>188</sup> This is a consistent increase in this area since return to democracy in 1994. Moreover, in the area of equality and elimination of all forms of discrimination in the area of education, SA is unique in the sense that it is virtually the only country in Africa where prevalent schoolgirl-pregnancy does not necessarily mean the end of education for the girl while the boy remain in school.<sup>189</sup> This is because, under SA law the school cannot ask the girl to stop coming to school as long as she can cope, and she is free to come back to school to continue her schooling after delivery if she

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<sup>185</sup> Ibid, section 231 [2] see also Chenwi, L. “Using International Law to Promote Constitutional Human Rights: The [Potential] Role of the South African Parliament” in *Law Democracy and Development* Vol. 15 [2011], p. 315

<sup>186</sup> See section 231 [3] and 231 [4] of the SA constitution

<sup>187</sup> See Article 7 in the Appendix

<sup>188</sup> See Speech by the South Africa’s Minister of Women Children and People with Disabilities; Ms Lulu Xingwana at <http://www.un.org/womenwatch/daw/csw/csw57/generaldiscussion/memberstates/southafrica.pdf> [accessed on 31 July, 2013]

<sup>189</sup> Lloyd, C.B. and Mensch, B.S. “Marriage and Childbirth as Factor in Dropping out of School: An Analysis of DHS Data from Sub-Saharan Africa Population Studies, Vol.62, No. 1 2008 p. 4

so wish.<sup>190</sup> Thus, the risk of falling back into the life-circle of poverty as a woman due to lack of educational qualification or incomplete schooling is drastically minimized, and consequently narrowing the educational gap between the two genders as it were. Furthermore, other interests of women in SA are extensively protected in the constitution with the ‘bill of right’ that is elaborate and covers nearly every aspect, and other legal provisions, which aligns with CEDAW provisions.

#### **4.8 Processes and Institutions involve in Implementation of CEDAW in South Africa**

Meanwhile, Republic of SA acceded to CEDAW by ratifying it without any reservation whatsoever in 1995 alongside the Convention on the Rights of the Child.<sup>191</sup> Institutions involve in the implementation of CEDAW in the country include; Parliament, the Executives i.e. Department of Women, Children and Persons with Disabilities [DWCPD], Commission on Employment Equality [CEE], Commission on Gender Equality [CGE], The Courts, Human Rights Commission and Civil Society or NGOs. Though one might argue that some of these institutions are provided for in the new constitution, the influence of CEDAW and other HRs treaties that were ratified by SA around the period is obvious, especially with the participation of the women’s coalition.<sup>192</sup> However, this study only discusses the implementation as it involves few of these institutions under the headings; the Parliament, the Executive, the Judiciary and the Civil Society or Women NGOs.

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<sup>190</sup> Ibid

<sup>191</sup> Sarkin, J. “The Development of Human Rights Culture in South Africa” Human Rights Quarterly, Vol. 20, No. 3 [Aug. 1998], p. 636

See also Budlender, D. “Gender Equality and Social Dialogue in South Africa” Working Paper 2 [2011] Bureau of Gender Equality ILO. p. 1

<sup>192</sup> Heyns, C. and Viljoen, F. “The Impact of the UNs HRs Treaties on Domestic Level” Human Rights Quarterly Vol.23, No. 3 [AUG., 2001], p. 488 See also Level of awareness of the treaties on p. 499 see also p. 502 See also Meintjes, S. “ South Africa: Beyond Numbers” in Women in Parliament: Beyond Numbers p. 231



#### 4.8.1 The Parliament

As in many other countries, implementation of international treaties in SA begins with the national parliament's approval of the ratification of such treaties, which section 231 [2] empowers the SA Parliament to do.<sup>193</sup> Apart from this, the legislature in line with Articles 2, 4, 10, 11, 24 etc,<sup>194</sup> also play crucial role by way of approving or passing into law any bill for adoption of special measures, and establishment of specialized bodies or institutions for the promotion, and protection of human rights and specifically in this context women's rights. Such bodies include; the Commission on Gender Equality, which the Constitution provided for,<sup>195</sup> but was later, recommended to be merged with the South African Human Rights Commission,<sup>196</sup> due to ineffectiveness. Others are Office of the Status of Women that was later transform into a Department, and later on upgrades in 2009 to a Ministry of Women Children and Persons with Disabilities among others.<sup>197</sup> Moreover, within the NA, there is a standing committee on the Improvement on the Quality of Life and Status of Women.<sup>198</sup> The work of the committee covers mostly overseeing activities and programmes on poverty reduction, HIV and AID, and violence against women.<sup>199</sup> Furthermore, the legislature, through the Committee actively involves in the process of regular country report to the CEDAW Committee<sup>200</sup> to highlight the

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<sup>193</sup> See section 231 [2] of the constitution of South Africa.

<sup>194</sup> See Articles of CEDAW in the Appendix

<sup>195</sup> Budlender, D. "Gender Equality and Social Dialogue in South Africa" Working Paper 2 [2011] Bureau of Gender Equality ILO. p. 4

<sup>196</sup> Ibid

<sup>197</sup> Ibid

<sup>198</sup> Ibid

<sup>199</sup> Ibid

<sup>200</sup> See Article 18, of CEDAW in the Appendix

achievements and challenges of the implementation programmes in their country.<sup>201</sup> For instance, in 2008 the Office of the Status of Women presents the combined [three] reports to the Parliament's Joint Monitoring Committee on Improvement of Quality of Life and Status of Women. The Committee's remark through its Chairperson is that the OSW need to focus its activities more on practical issues that germane to women's interest rather than Administrative matters.<sup>202</sup> Such simple comment speaks volume and if there is follow-up by the legislature through closer monitoring and proper oversight function, it can results in better service delivery by the OSW and other institutions responsible for actual implementation of CEDAW.<sup>203</sup>

#### **4.8.2 The Executives**

The government is doing a lot in the implementation of CEDAW in SA through the special bodies and institutions such as the Department of Women Children and Persons with Disabilities [now Ministry]. The ministry though originally set up to address the issue of marginalization stemming from the Apartheid regime, it later has as part of its aims; to help both government and non-governmental institutions, the executive arm of government to realize among other things, national and global goals for gender equality.<sup>204</sup> Its vision is also to enhance among other factors the international instruments to which the country is a party to including CEDAW, and

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<sup>201</sup> Chenwi, L. "Using International Law to Promote Constitutional Human Rights: The [Potential] Role of the South African Parliament" in *Law Democracy and Development* Vol. 15 [2011], p. 329

<sup>202</sup> *Ibid*

<sup>203</sup> Chenwi, L. "Using International Law to Promote Constitutional Human Rights: The [Potential] Role of the South African Parliament" in *Law Democracy and Development* Vol. 15 [2011], p. 327

<sup>204</sup> See a document of the Ministry of Women Children and People with Disabilities, stating its background, values, visions and core functions at [http://www1.uneca.org/Portals/ngm/Documents/NGM\\_Information\\_South\\_Africa.pdf](http://www1.uneca.org/Portals/ngm/Documents/NGM_Information_South_Africa.pdf) [accessed on 31 July, 2013]

its core functions includes to have a society free of discrimination and inequality.<sup>205</sup> Its branches thus include women's empowerment and gender equality.<sup>206</sup> Furthermore, the institution is involved in the preparation and submission of the country reports on the implementation of CEDAW to the CEDAW Committee as mandated by the document under Article 18.<sup>207</sup>

In addition, the Minister in charge of the ministry, in her speech during the 57<sup>th</sup> Session of the Commission on the Status of Women at the UN in New York in March 2013,<sup>208</sup> she listed some of the achievements and progress towards implementation of CEDAW. These include, Domestic Violence Act, Sexual Offence Act, 44% women representation in the Parliament, and 43% in the Cabinet. She also reveals that South African Parliament will soon pass a bill that will ensure 50/50 women representation in all positions of decision-making in both public and private establishments, the bill is known as Women Empowerment and Gender Equality Bill.<sup>209</sup>

Similarly, and to confirm the fact that SA is a pacesetter in many respect when it comes to implementation of CEDAW, the country has also set up an Inter-Ministerial

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<sup>205</sup> See a document of the Ministry of Women Children and People with Disabilities, stating its background, values, visions and core functions at [http://www1.uneca.org/Portals/ngm/Documents/NGM\\_Information\\_South\\_Africa.pdf](http://www1.uneca.org/Portals/ngm/Documents/NGM_Information_South_Africa.pdf) [accessed on 31 July, 2013]

<sup>206</sup> Ibid

<sup>207</sup> See Article 18 in the Appendix

<sup>208</sup> See Speech by the South Africa's Minister of Women Children and People with Disabilities; Ms Lulu Xingwana at <http://www.un.org/womenwatch/daw/csw/csw57/generaldiscussion/memberstates/southafrica.pdf> [accessed on 31 July, 2013]

<sup>209</sup> See Speech by the South Africa's Minister of Women Children and People with Disabilities; Ms Lulu Xingwana at <http://www.un.org/womenwatch/daw/csw/csw57/generaldiscussion/memberstates/southafrica.pdf> [accessed on 31 July, 2013]

Committee to find out the causes of violence against women and children.<sup>210</sup> In addition to this, new institutions have been set up and or reintroduced; National Council against Gender Based Violence,<sup>211</sup> the special Sexual Offences Court,<sup>212</sup> and within the Police Service, a special Unit for Family violence, Child Protection and Sexual Offences, as well as Victim friendly rooms.<sup>213</sup> Moreover, in a bid to re-orientate the young people on the right values and norms with sense of responsibility, the President recently launched as part of school curriculum, a Stop Rape Campaign.<sup>214</sup> However, the Commission on Employment Equality [CEE] is specifically set up under Department of Labour to ensure equality in employment opportunities between women and men in the Republic.<sup>215</sup>

#### **4.8.3 The Judiciary**

The Judicial arm of government in South Africa is also playing a crucial role in the implementation of CEDAW. The involvement of the judiciary is mostly that of a watchdog to investigate, prosecute and sanction appropriately offenders in the context of discrimination, domestic and sexual violence, abuse and other gender related offences.<sup>216</sup> As earlier mentioned in this study, the judiciary is helpful in the area of creation of special courts alongside the regular ones to fast track prosecution and judgment delivery in cases relating to gender which is one of the special

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<sup>210</sup> See a document of the Ministry of Women Children and People with Disabilities, stating its background, values, visions and core functions at [http://www1.uneca.org/Portals/ngm/Documents/NGM\\_Information\\_South\\_Africa.pdf](http://www1.uneca.org/Portals/ngm/Documents/NGM_Information_South_Africa.pdf) [accessed on 31 July, 2013]

<sup>211</sup> Ibid

<sup>212</sup> Ibid

<sup>213</sup> Ibid

<sup>214</sup> Ibid

<sup>215</sup> Budlender, D. "Gender Equality and Social Dialogue in South Africa" Working Paper 2 [2011] Bureau of Gender Equality ILO. p. 4

<sup>216</sup> Sarkin, J. "The Development of Human Rights Culture in South Africa" Human Rights Quarterly, Vol. 20, No. 3 [Aug. 1998], p. 652

measures suggested by the CEDAW document.<sup>217</sup> The judiciary has also helped in reviewing the Domestic Violence Act 1998 to meet current realities.<sup>218</sup>

#### **4.8.4 Civil Society**

The role of women activists especially the National Women's Coalition in SA is a very crucial one, it dates back to the struggle against apartheid. Most importantly however, the body actively participates in the drafting of the interim and final constitution for the republic in early 1990s.<sup>219</sup> One of their greatest achievements is the inclusion in the constitution, gender-sensitive and friendly provisions that make it easier for proper implementation of CEDAW these days, as many of the provisions are in harmony with CEDAW.

### **4.9 Obstacles Against implementation of CEDAW in South Africa**

Despite the fact that South Africa has recorded and is still recording successes in many areas in terms of gender equality and nondiscrimination, significant among which is in the area of women political representation and participation. Yet, there are so many factors militating against greater achievements in many other aspects. This section therefore tries to examine some of them.

#### **4.9.1 Clashes Between Socio-cultural Norms and Human/Women's Rights**

The SA Constitution demands and guarantee socio-political and economic equality, just like HRs treaties such as CEDAW, yet, the same constitution demands that SA recognizes and protect "cultural rights". Thus, the relativism between the two makes

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<sup>217</sup> See Speech by the South Africa's Minister of Women Children and People with Disabilities; Ms Lulu Xingwana at <http://www.un.org/womenwatch/daw/csw/csw57/generaldiscussion/memberstates/southafrica.pdf> [accessed on 31 July, 2013]

<sup>218</sup> See also <http://www.info.gov.za/aboutgovt/justice/admin.htm> [accessed on 31 July, 2013]

<sup>219</sup> Budlender, D. "Gender Equality and Social Dialogue in South Africa" Working Paper 2 [2011] Bureau of Gender Equality ILO. p. 4

it difficult for the relevant authorities to properly and effectively implement CEDAW especially the issues of discriminatory, dangerous and degrading cultural practices towards women in order to eradicate such customs. Example is the culture of ‘virginity testing’<sup>220</sup> within the SA tradition, which according to CEDAW, it is against a woman’s reproductive and sexual rights.

#### **4.9.2 Power Play**

Another obstacle to effective implementation of CEDAW in SA is the issue of power play within the South African politics. This manifest especially when it comes to appointment of people to manage most of the special commissions and other bodies set up to tackle the issue of gender matters.<sup>221</sup> This factor affects the smooth running of the institutions and their service delivery as qualified and experienced persons are left out for less-qualified political party loyalists, which lead to loss of public confidence in such bodies.

#### **4.9.3 Inadequate Funding and Corruption**

This factor is a major challenge to policy implementation generally, and in this context CEDAW implementation, and South Africa is not an exception. This is partly due to demand and competition for funding by different development programme projects by government institutions as it were, and attitudinal factors towards HRs and women’s issue generally. Hence, most of the gender-based institutions receive less funding than their counterparts are. Thus, their allocation are merely enough to cover administrative purposes, making them less effective and achieving little in the practical projects and issues affecting women that suppose to

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<sup>220</sup> See George, E. R. “Virginty Testing and South Africa’s HIV/AIDS Crisis: Beyond Rights Universalism and Cultural Relativism Towards Health Capabilities” *California Law Review*, Vol. 96, No 6 [2008] p. 1147

<sup>221</sup> Sarkin, J. “The Development of Human Rights Culture in South Africa” *Human Rights Quarterly*, Vol. 20, No. 3 [Aug. 1998], p. 649, see also 656

be their main essence of existence. On the other hand, the public are skeptical about the effect of these institutions on government budget, with allegation of corruptions trailing the officials in charge of many of them<sup>222</sup>

#### **4.9.4 Poverty and Ignorance**

Though SA is economically rich than many of its African counterparts, yet the fact still remains that many of its population are living under poverty with some in extreme poverty, ignorance and illiteracy especially those in the rural communities. Therefore, they are ignorant of their rights and hardly report abuse, discrimination and violence act against them not to talk of seeking redress from the appropriate authority.

This and other obstacles made it difficult for realization of the benefits of CEDAW on the long run.

#### **4.10 Conclusion**

In conclusion, this chapter helps us discover that Nigeria and South Africa indeed have obligation to implement CEDAW not only from the customary international human rights law perspectives, but also from the law of treaties. It is also clear here that Nigeria is not doing enough on the implementation of CEDAW but South Africa has a lot to show in this regard. Furthermore, the chapter reveals that there are both institutional and cultural factors in the obstacles to the implementation of CEDAW. In South Africa, institutional changes is occurring, but cultural aspect i.e. virginity testing is still far from changing as we can see in this chapter. Hence, this area can be looked into in more details but for the constraints and limitations earlier mentioned.

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<sup>222</sup> Sarkin, J. "The Development of Human Rights Culture in South Africa" Human Rights Quarterly, Vol. 20, No. 3 [Aug. 1998], p. 649, see also 629

The presence of Sharia law in some States in Northern Nigeria made it more problematic for the decisions more problematic for courts as far as gender and women's rights are concern unlike in South Africa.



## Chapter 5

### DATDATA PRESENTATION AND ANALYSIS

#### 5.1 Introduction

This section as the heading suggests, presents the data and analyzes the findings. It first discourses the comparison i.e., the similarities and differences between the two countries; it then spells out the measures or tools that help us to know whether the two countries are implementing CEDAW or not by discussing, how what they have done or are doing, is in response to fulfill their obligations to the Convention. The section thereafter suggests and discourses ways to overcome the obstacles identified earlier.

#### 5.2 Comparison Between Nigeria and South Africa

The researcher uses this section to give comparative analysis of the two cases Nigeria and South Africa, The similarities and differences base on different criteria and obstacles to the implementation process as well as the outcomes.

##### 5.2.1 Similarities between Nigeria and South Africa

Both Nigeria and SA are democracies and Republics.<sup>223</sup> The two countries have highly diverse population.<sup>224</sup> Both have a complex history of instability and conflicts

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<sup>223</sup> See <https://www.cia.gov/library/publications/the-world-factbook/geos/ni.html> [accessed on 29 July, 2013] See also <http://www.info.gov.za/aboutsa/glance.htm> [accessed last on 31 July, 2013]

<sup>224</sup> Ibid

before their final return to democracy in mid and late 1990s.<sup>225</sup> They both operate bicameral legislative system, with mixed as well as dualist legal system.<sup>226</sup> Furthermore, Nigeria and SA are very significant and strategic in Africa and in international system.

Moreover, the two states ratify CEDAW without any reservations<sup>227</sup> and their constitutions implicitly and explicitly empower the Executive arm of Government to negotiate and sign international treaties.<sup>228</sup> However, due to the dualist system they operate, the legislatures still have to enact such treaties into law for it to be implementable in the countries by approving the ratification by the Executives.<sup>229</sup>

### **5.2.2 Differences Between Nigeria and SA**

First, Nigeria operates a Federal system,<sup>230</sup> while the Republic of South Africa operates a Constitutional multiparty Provincial system.<sup>231</sup> In Nigeria, the constitution requires the Federal Legislature to pass international treaties into law including CEDAW, while 2/3 of State Legislatures also must ratify it for it to be operational in the country.<sup>232</sup> However, according to the constitution of SA, it is just the National

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<sup>225</sup> See <https://www.cia.gov/library/publications/the-world-factbook/geos/ni.html> [accessed on 29 July, 2013] See also <http://www.info.gov.za/aboutsa/glance.htm> [accessed last on 31 July, 2013]

<sup>226</sup> Ibid

<sup>227</sup> [http://www.aacoalition.org/domestic\\_cedaw.htm](http://www.aacoalition.org/domestic_cedaw.htm) [accessed last on 05/08/2013]

<sup>228</sup> See section 231 of the SA Constitution. See also section 12 of the Nigerian Constitution

<sup>229</sup> Ibid

<sup>230</sup> See <https://www.cia.gov/library/publications/the-world-factbook/geos/ni.html> [accessed on 29 July, 2013]

<sup>231</sup> See also <http://www.info.gov.za/aboutsa/glance.htm> [accessed last on 31 July, 2013]

<sup>232</sup> See section 12 [3] of the Nigerian constitution

Assembly and the National Council of Provinces that must enact international treaties into law for it to be enforceable in the Republic.<sup>233</sup>

In addition, SA has achieved Affirmative Action [30% or more] in terms of women political representation and participation in parliament and cabinet,<sup>234</sup> whereas in Nigeria it is still below global average of 15% in parliament especially<sup>235</sup> as shown in tables 5.5 and 5.6 below.

Table 5.5. Women elected to public offices in Nigeria 1999-2011

Office	1999		2003		2007		2011	
	Seats available	Women	Seats available	Women	Seats available	Women	Seats available	Women
<b>President</b>	1	0		0		0		0
<b>Senate</b>	109	3[2.8]	109	4[3.7]	109	9[8.3]	109	7[6.4]
<b>House of Representatives</b>	360	7[1.9]	360	21[5.8]	360	27[7.5]	360	25[6.9]
<b>Governor States</b>	36	0	36	0	36	0	36	0
<b>House Assembly [SHA]</b>	990	24[2.4]	990	40[3.9]	990	57[5.8]	990	68[6.9]
<b>SHA Committee Chairpersons</b>	829	18[2.2]	881	32[3.6]	887	52[5.9]	887	-
<b>LGA Chairpersons</b>	710	13[1.8]	774	15[1.9]	740	27[3.6]	740	-
<b>Councilors</b>	6368	69[1.1]	6368	267[4.2]	6368	235[3.7]	6368	-

<sup>233</sup> SA does not have State Houses of Assembly since its not a Federation

<sup>234</sup> See Speech by the South Africa's Minister of Women Children and People with Disabilities; Ms Lulu Xingwana at <http://www.un.org/womenwatch/daw/csw/csw57/generaldiscussion/memberstates/southafrica.pdf> [accessed on 31 July, 2013]

<sup>235</sup> See <http://www.britishcouncil.org.ng/files/2012/12/GenderReport-full.pdf> p.55 [accessed last on 01/04/2013]

The table above reveals clearly that four general elections has been held in Nigeria since 1999, and only three [3] women were elected into the Senate chamber of the National Assembly in 1999, seven [7] in 2003, nine [9] in 2007 seven [7] again in 2011 respectively out of the available one hundred and nine [109] Senatorial seats. With this, it is obvious that the numbers of female candidates feed in for the elections were so few compared to the numbers of male candidates due to various reasons as the findings revealed which will be explained later in this analysis. Table 5 below reveals the exact figures of candidates by gender who contested the 2011 general election.

Table 5.6. Participation in election by gender in April 2011 Nigeria

Office contested	Gender		Total
	Female candidates	Male candidates	
<b>President</b>	1[0]	19[1]	20
<b>Vice President</b>	3[0]	17[1]	20
<b>Governors</b>	13[0]	340[36]	353
<b>Deputy Governors</b>	58[1]	289[35]	347
<b>House of Reps</b>	220[19]	2,188[341]	2,408
<b>Senatorial</b>	90[7]	800[102]	890

Source: Salihu [2010: 70-71]<sup>237</sup>

This research is particularly concern with the representation and participation of women in the positions of power and authority at all levels, and especially at the national Parliament. The table above therefore reveals parts of the reason why the number of female parliamentarian is so minute compared to men, and is therefore parts of the obstacles to overcome in Nigerian context. However, South Africa has

<sup>236</sup> <http://www.britishcouncil.org/files/2012/12/GenderReport-full.pdf> p.55  
[accessed last on 01/04/2013]

<sup>237</sup> <http://www.britishcouncil.org/files/2012/12/GenderReport-full.pdf> p.55  
[accessed last on 01/04/2013] p.56

overcome this since return to democracy, hence; it is one of the countries with the highest numbers of women in Parliament today, a pacesetter for Nigeria indeed. Therefore, it is obvious as Lisa puts it that only women can better represent the interest of women,<sup>238</sup> thus the bill on CEDAW cannot see the light of the day particularly in Nigeria, and countries with similar situation in gender inequality in political representation and participation. Most importantly, national institutions according to the argument of this thesis can overcome the obstacles to the implementation of CEDAW if the political will is there since they are mostly national.

Furthermore, Women activism is well established in SA than in Nigeria, and it cut across rural and urban, educated and illiterate women. This explains why and how they made so much impact and contributions to the new South African Constitution.<sup>239</sup> Nigerian women activism however, is dominated by the elite women, whereas, the majority of women that could make the real changes with their votes are illiterates and rural dwellers. Moreover, Women Activists in SA lobby political parties especially the ANC to adopt ‘Party Quotas’ to get more women to the NA,<sup>240</sup> rather than waiting endlessly for men to legislate on ‘statutory quotas’. Whereas, Nigerian Activists are waiting for the men dominated NASS to legislate on ‘quota system to get more women to the legislative houses. Needless to say, that in SA, the constitution already has provisions for the establishment of gender specific institutions to tackle gender equality, discrimination, violence etc, while Parliament

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<sup>238</sup> <http://www.britishcouncil.org.ng/files/2012/12/GenderReport-full.pdf> p.58  
[accessed last on 07/04/2013]

<sup>239</sup> See Budlender, D. “Gender Equality and Social Dialogue in South Africa” Working Paper 2 [2011] Bureau of Gender Equality ILO. p. 4

<sup>240</sup> Ibid

also have enacted bills or Acts to this effect as earlier shown.<sup>241</sup> All these, and the institutions therefore serve as part of the legal and other measures the CEDAW articles demands that states do, and it makes implementation in SA easier. In Nigeria on the other hand, the constitution give little consideration or provision for such issues like gender except mentioning non-discrimination in chapter 2 under fundamental rights.<sup>242</sup>

### **5.3 Tools/Measure to Show Implementation of Clause of CEDAW**

Here are some measures or tools that will show us that Governments are actually implementing CEDAW by showing what they are doing actually tallies with what is expected of them in the Convention. These include; amendment of, and or expulsion from national law or Constitutions any provisions and clauses that run contrary to gender equality and non-discrimination, enacting new laws to ensure, promote and protect women's rights. Others are; establishing specific bodies or institutions for gender equality and related issues, and regular preparation and submission of country reports on progress and challenges on implementation of CEDAW by ratifying states among other special and temporary measures.<sup>243</sup>

To avoid repetition, from the findings so far, it is clear to us that SA is really taking the right steps in the right direction based on all the programmes and policies taken by different tiers of government since return to democracy and since ratification of CEDAW. In fact, the latest speech by the Minister for Women children and Persons with Disabilities in New York enumerates clearly specific Acts, Institutions, Units among others that were recently put in place in SA explicitly show they are doing all

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<sup>241</sup> See SA constitution and the Minister's speech referred to earlier above

<sup>242</sup> See the Nigerian constitution

<sup>243</sup> See Articles of CEDAW in the Appendix

these directly to implement CEDAW. Whereas, in Nigeria, there is little or nothing to show the country is implementing CEDAW, apart from the creation of the Ministry of Women Affairs and Social Development [1989] as well as the new National Gender Policy 2007.

#### **5.4 Ways to Overcome the Obstacles**

The obstacles identified are quite similar in both countries [except in the area of Sharia law], though in different magnitude and dimension. Hence, the researcher here makes some suggestions that are applicable in both countries and elsewhere with similar situation and context.

First is to create mass enlightenment campaigns especially at the grassroots on the dangers posed by some of the cultural practices that are in gross contradiction to acceptable social norms and practices in today's world. To do this, government must support individuals researchers and institutions to conduct empirical studies to identify dangerous and anti-social practices, to have well documented proves to show clear picture and evidences of the negative impact of such practices to those still adhering to it especially traditional rulers and custodians of cultures and traditions. If these sets of actors can be convinced of these menace, as well as the lawmakers, then, it will be easier to get the necessary supports for the eradication of such degrading practices. Furthermore, alternative to such practices more compatible with the socio-cultural believes of the society must be suggested for them to embrace to motivate and encourage them. In addition, government can give some incentives like promise and provision of special social or infrastructural facilities for the community where such dangerous practices are taking place to persuade them to give up the culture and embrace modern alternatives. Example is in areas where genital

mutilation is still in practice, government and NGOs can make people to realize that the danger in it outweighs the so-called benefits of avoiding promiscuity. While they can also show evidence from studies that show that it make little or no difference in the number of young girls that engage in sexual activities early in life. Government can also show evidence of lower rate of early exposure to sexual activities by girls that progress steadily in schooling at least up to secondary school level. Therefore, government can build more schools in the area to serve as incentives to give more access to education, and sex education as well as guidance and counseling opportunity can be made available in the schools and hospitals.

Second, there must be dialogue between government, NGOs, religious and traditional leaders especially in the Northern part of Nigeria, where modern Islamic Scholars with moderate view and orientation can help in making the fanatics or hardliners to see sense in the cruelty and barbaric nature of some of the Sharia laws they are applying. Moreover, they can be made to understand the socio-economic benefits of giving equal opportunities to girls especially to have education just like the male-child, successful and high achievers like the present Chief Justice of Nigeria [Aloma Mariam Mukhtar]<sup>244</sup> can be use in popular campaign in this regards. This can encourage parents to stop giving their girls out in marriage too early.

Similarly, in South Africa, government and NGOs can change their approach by given incentives to girls who remain focused and refuse to engage in sexual acts while in school or protect themselves against pregnancy [as against encouraging those who get pregnant], by giving them stipends following monthly pregnancy test.

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<sup>244</sup> <http://www.nigeria.gov.ng/2012-10-29-11-06-51/judicial-branch> [accessed on 6 Aug., 2013]



This can also serve as alternative to the cultural practice of ‘virginity testing’ to dissuade the community engaging in such from doing so.

Third, Governments should continuously give financial, logistic and technical supports to NGOs or Women Activists, in their efforts in sensitizing the populace from urban centers to rural communities on all gender issues CEDAW is out to address.

Fourth, politicians themselves should show more sense of responsibility and commitment by ensuring that they do all it takes to play their parts well legally, constitutionally, financially, morally and so on to ensure, protect, and promote women’s rights. Especially legislators should always give priority to gender related bills and issues before them on the agenda. More importantly, they must try to block avenues for corrupt practices among themselves and civil servants in charge of Institutions responsible for gender matters among others, while corrupt officials must be brought to justice as deterrent to others.

Lastly, government should give priority to provision of social infrastructures such as schools, health centers and hospitals, roads, micro-credit facilities among other things to improve life and status of women. These is because if these things are in place and within reach, women will be able to create small income generating businesses for themselves, which in turn will take them out of abject poverty and empower them to take good care of themselves and their children.

## **5.5 Conclusion**

In conclusion, it is clear from the findings and analysis here that both countries have similarities and differences, despite the obstacles, national institutions have especially in South Africa are actually implementing CEDAW going by the measures developed by the researcher to measure this. Nonetheless, there are ways to overcome the obstacles and the institutions can perform better, while Nigeria has a lot to learn from South Africa from the findings. In addition, one of the differences between Nigeria and South Africa is that, though both of them have mixed legal system, Islamic legal system [Sharia] that is in operation in some parts of Nigeria but completely not existing in South Africa. Thus, it makes the implementation of CEDAW in South Africa easier especially in courts but difficult in Nigeria.

## **Chapter 6**

### **CONCLUSION AND SUGGESTION**

#### **6.1 Introduction**

The conclusion section thus includes statements showing that the obstacles are domestic and capable of improving the status of women if overcome, and the fact that the inferences are applicable to other similar cases in Africa and beyond. It then highlights again the weakness and limitations of the study, while the period covered by the study is further stated in this section

#### **6.2 Conclusion**

To start with, this study reveals to us that governments in the two countries in this study are under international obligation to implement clauses of CEDAW going by Customary International Human Rights Law, and the law of treaties, whether the Parliament enact the convention into law according to their constitutional provisions or not.

The study also shows that, the obstacles against the implementation of CEDAW are indeed domestic rather than international. In other words, these obstacles are national based and can only be addressed by the governments of the ratifying states, rather than waiting for international organizations like the UN to come and solve the problem. Moreover, there is hope if the states especially the politicians determine within themselves to give women's rights priority and diligence it deserves in order to ensure, promote, and protect them through proper implementation of CEDAW.

Similarly, we discover from the study that there are enough international treaties and conventions on human and women's rights, both at regional and global levels; the missing link is proper implementation at the national level as a matter of obligation. Hence, if ratifying states can abide by their international obligations and responsibilities, CEDAW and other international treaties have potentials to change our world for better through elimination of gender inequality and discriminations against women in all spheres of life.

The study also reveals that good governance, education, equality in political representation and participation, political will and enlightenment campaigns are essential to overcoming the obstacles, and consequently enjoyment of their rights by women in both countries.

South Africa is reveal in the study as indeed a model and pace setter in the area of implementation of CEDAW not only to Nigeria, but also to other African countries as well as other parts of the world in gender parity especially in political representation and participation.

Nevertheless, in general, the findings in this study is useful to make inferences in other cases that are closely related to the countries in this study because, the two countries use here have similarities, differences and peculiarities that are obtainable in similar cases, especially in developing worlds.

Therefore, the obstacles to proper implementation of CEDAW are largely similar to what we can find anywhere in the world including the developed world with few

exceptions. Examples of the few exceptions are the Sharia law and certain customs and practices that are peculiar to Africa and Muslim States generally. Thus, other factors such as mixed legal system, poverty, lack of political will and corruption are no more peculiar to developing worlds or Africa in particular; they are now global phenomena. Another issue that makes the two country most different is that in their mixed legal system, Nigeria has the Sharia law which is an Islamic law despite the fact that the country is secular according to the constitution, SA on the other hand is not having this type of legal code in its own mixed system. It does make implementation of legal measures in the CEDAW document easier for South Africa but complicated for Nigeria.

Furthermore, the findings in this study fit in with the rest of academic literature in the sense that, all the literatures reviewed significantly reveal that there are difficulties in implementation of CEDAW, but this very study explicitly identifies these obstacles and suggests ways to overcome them. Thus, it fills the gap in the literatures and enriches the existing scholarly work on CEDAW to enhance proper implementation for overall benefits of women and the society. Moreover, many of the literatures reviewed deals with periods much earlier than the last decades of the last century, whereas, this study and the finding relates with the period after thereby updating the relevant literatures with more current situations and events in this area of study.

### **6.3 Weaknesses and Limitation of the Study**

Once again, it is pertinent here to state some of the issues that affect the richness of the study. These include; lack of relevant, up-to date and adequate information on the two countries particularly Nigeria, even from the official websites of the country itself as well as its Institutions. Hence, the researcher collects most of the primary

information in this study from WebPages of organizations such as the CIA, World Fact book, the British Council, and the British Broadcasting Corporations among others. Similarly, the researcher did not receive a single response to mails, phone calls and text messages sent to officials of institutions in both countries requesting information directly from them to use as primary data for this study. This is due to cultural and attitudinal issues, including lack of transparency in governance generally in Africa. Finance and time constrains are other limitations that affect the quality of this work which if it were possible to eliminate the two; the researcher is capable of producing a better study and report. More so, the study covers only the period Nigeria returns to democracy [1999], and South Africa [1994] until date but the available information and data are not yet available for periods beyond 2008 in most cases.

Furthermore, another weakness of this thesis is that, the researcher is unable to carry out cross-sectional study of all countries in the world that are party to CEDAW for time and financial implications, hence, the findings can only be generalized to the extent of cases that are closely related to the ones used in this study.

#### **6.4 Suggestion**

In the light of the above, the researcher suggests further study especially empirical one on the actual impact of the implementation of clauses of CEDAW as well as women's equal representation in parliament on the lives and status of women as another interesting area of further research.

Finally, the researcher accepts responsibility for mistakes and error of omission and commission and generalization in this work.

## **6.5 Future Direction**

Conclusively, the researcher is looking at the possibility of carrying out an empirical study on the actual and measurable impact of proper implementation of CEDAW following institutional changes that is taking place in South Africa as the findings of this research shows. In addition, in the near future, the research will like to carry out another study on the impact of implementation of the new National Gender Policy [NGP] 2007 in Nigeria on the lives of women. In other words, the researcher's interest for future research is towards gender and or women and development.

## REFERENCES

Allot P. 'The Concept of International Law' EJIL, 1999

Alvarez J. E. 'The New Treaty Makers' in Charlotte Ku and Paul Diehl [eds], International Law. Classic and Contemporary Readings, second edition [London: Lynne Rienner Publishers, 2003

Amnesty International Nigeria Report 2012

Bacchus, N "The Effects of Globalization on Women in Developing Nations"  
[http://digitalcommons.pace.edu/honorscollege\\_theses/2](http://digitalcommons.pace.edu/honorscollege_theses/2)

Baglione L. A. Writing A Research Paper in Political Science: A Practical Guide to Inquiry, Structure, and Methods, Belmont: Thomson Wadsworth, 2007

Baliamoune-Lutz M. "Globalisation and Gender Inequality: Is Africa Different?"  
Department of Economics, University of North Florida,  
<http://jae.oxfordjournals.org/content/16/2/301.full.pdf>

Bandiera O, and Natraj A. "Does Gender Inequality Hinder Development and Economic Growth? Evidence and Policy Implications"  
<http://wbro.oxfordjournals.org/content/28/1/2.full.pdf+html?maxtoshow=&hits=10&RESULTFORMAT=&fulltext=IMPACT+OF+INSTITUTIONS+ON+GENDER+EQUALITY+IN+AFRICA&searchid=1&FIRSTINDEX=10&resourcetype=HWCIT>



Barnes K., Bouchama N, and Loiseau E. [2011] “Shifting wealth, shifting gender relations? Gender inequality and social cohesion in a converging world OECD Development Center

Briskin Linda and Muller Angelika, [2011] ‘promoting gender equality through social dialogue: Global trends and persistent obstacles. Working Paper No.34 International Labour Office Geneva

Brummet Q. “The Effect of Gender Inequality on Growth: Across Country Empirical Study”, Illinois Wesleyan University Economics Department. Honors Project <http://digitalcommons.iwu.edu/cgi/viewcontent.cgi?article=1237&context=parkplace>

Budlender, D. [2011] “Gender Equality and Social Dialogue in South Africa” Working Paper 2 Bureau of Gender Equality ILO. p. 4

CEDAW and Accountability to Gender Equality in Nigeria: Shadow Report Women Aid Collective [WACOL] 2008 <http://www.fidh.org/IMG/pdf/Nigeria-report.pdf>

Chenwi L. [2011] “Using International Human Rights Law to Promote Constitutional Rights: The [Potential] Role of the South African Parliament” in Law Democracy and Development Vol. 15

Convention on the Elimination of All Forms Discriminations Against Women [CEDAW] <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx>

Corporate Nigeria [http://www.corporate-nigeria.com/index/country\\_profile/nigeria-at-a-glance.html](http://www.corporate-nigeria.com/index/country_profile/nigeria-at-a-glance.html)

Discrimination Convention after initial Rejection,” Nigeria, UNCEDAW 2008

Egede, E [2007] “Bringing Human Rights Home: An Examination of the Domestication of Human Right Treaties in Nigeria” *Journal of African Law*, Vol. 51

Enloe C. ‘Feminism’ in Griffiths M. [2007] *International Relations Theory for the Twenty-First Century: An Introduction*, London: Routledge Tayloy and Francis Group

Ezeilo, Joy [2006] “Feminism and Islamic Fundamentalism: Some Perspectives from Nigeria and Beyound” *Chicago Journals* Vol. 32, No 1

Falk Richard A. [1996] “On the Quasi-Legislative Competence of the General Assembly”, *American Journal of International Law*

Fareda Banda [2005] *Women, Law and Human Rights: An African Perspective* Oxford: Hart Publishing

Federal Government of Nigeria, 1999 Constitution As Amended, Abuja; FGP, 2010

Federal Ministry of Women Affairs and Social Development Nigeria, <http://www.womenaffairs.gov.ng/departments/index.htm> FMWSD NIG

Frechette Guillaume R, Maniquet Francois and Morelli Massimo [2008]  
“Incumbents’ Interest and Gender Quotas’, Midwest Political Science Association

Gender And Development Action [GADA], National Gender Policy: A simplified  
version [http://www.gadanigeria-  
phc.org/publications/National%20Gender%20Policy.pdf](http://www.gadanigeria-phc.org/publications/National%20Gender%20Policy.pdf)

Gender Equality and Development: world development report 2012 The World Bank

Gender in Nigeria Report 2012: Improving the Lives of Girls and Women in Nigeria.  
Issues Policies Action 2<sup>nd</sup> edition  
<http://www.britishcouncil.org.ng/files/2012/12/GenderReport-full.pdf>

Gender Opportunity and Equality Bill 2004  
[http://www.aacoalition.org/equal\\_opp.htm](http://www.aacoalition.org/equal_opp.htm)

Gorman Robert F. [2001] Great Debates at the United Nations: An Encyclopedia of  
Fifty Key Issues, 1945-2000, Westport: Greenwood Press

Guideline for Gender Equality and Women’s Empowerment in Development Co-  
Harvey D. ‘Accumulation by Dispossession’, in The New Imperialism, Oxford:  
Oxford University Press,

Henderson Conway W. [2010] Understanding International Law, London: Wiley-  
Blackwell

Higgins R. [1999] “The Nature and Functions of International Law” in Problems and Process. International Law and How We Use it, Oxford: Clarendon Press

Higgins, R. [1999] Problems and Process. International Law and How We Use it, Oxford: Clarendon Press

<http://www.amnesty.org/en/region/nigeria/report-2012#section-15-11>

<http://www.gamji.com/article5000/NEWS5994.htm>

Innovative Approaches to Promoting Women’s Economic Empowerment UNDP  
[http://content.undp.org/go/cms-service/stream/asset/?asset\\_id=2524504](http://content.undp.org/go/cms-service/stream/asset/?asset_id=2524504)

Manheim Jarol B. and Rich Richard C. [1995] Empirical Political Analysis: Research Methods in Political Science, New York: Longman Publisher

Marshall I. Mainstreaming Gender Policy in Nigeria  
<http://www.gamji.com/article6000/NEWS6593.htm>

National Gender Policy, Nigeria  
[http://www.aacoalition.org/national\\_policy\\_women.htm](http://www.aacoalition.org/national_policy_women.htm)

NGO-CEDAW Coalition’s Memorandum on Constitutional Review 2012  
[http://www.baobabwomen.org/NGO\\_CEDAW\\_Coalition\\_Memo.pdf](http://www.baobabwomen.org/NGO_CEDAW_Coalition_Memo.pdf)

Nigeria <http://www.infoplease.com/country/nigeria.html>

Nigeria <http://www.nigeria.gov.ng/2012-10-29-11-06-51/executive-branch>

Nigeria <http://www.nigeria.gov.ng/index.php>

Nigeria on BBC <http://www.bbc.co.uk/news/world-africa-13949547>

Nigeria on CIA <https://www.cia.gov/library/publications/the-world-factbook/geos/ni.html>

Nigeria's Judiciary <http://www.nigeria.gov.ng/2012-10-29-11-06-51/judicial-branch>

Nigerian Women NGO Coalition  
[http://www.aacoalition.org/national\\_policy\\_women.htm#iq\\_8](http://www.aacoalition.org/national_policy_women.htm#iq_8)

Nwankwo Oby. "Briefing on the Domestication of Convention on the Elimination of All Forms of Discrimination Against Women [CEDAW]", Civil Resource Development and Documentation Center [CIRDDOC]  
[http://www.aacoalition.org/domestic\\_cedaw.htm](http://www.aacoalition.org/domestic_cedaw.htm)

Odizi John C. "Socio economic gender inequality in Nigeria: A review of theory and measurements <http://mpra.ub.uni-muenchen.de/41826/>

Ojoh C Akudo, , Empowering Nigerian Women in the 21st Century: Measuring the Gap, Munich, GRIN Publishing GmbH, 2012 <http://www.grin.com/en/e-book/192007/empowering-nigerian-women-in-the-21st-century-measuring-the-gap>

Protocol to African Charter on Human and Peoples' Rights on the Rights of African Women <http://www.africa->

[union.org/root/au/Documents/Treaties/Text/Protocol%20on%20the%20Rights%20of%20Women.pdf](http://www.un.org/root/au/Documents/Treaties/Text/Protocol%20on%20the%20Rights%20of%20Women.pdf)

Prugl E. “International Institutions and Feminist Politics”  
<http://www.watsoninstitute.org/bjwa/archive/10.2/Feminist%20Theory/Prugl.pdf>

Resnik J. “Comparative [in] equalities: CEDAW, the jurisdiction of heterogeneity of transnational law production” I.CON 2012 Vol. 10 N0 2

Roger P. [2008] Research Methods in Politics: a practical guide, London: SAGE Publications Ltd

Sarkin, J. “The Development of Human Rights Culture in South Africa” Human Rights Quarterly, Vol. 20, No. 3 [Aug. 1998]

Shaw, M.N. [2003] International Law Fifth Edition Cambridge: Cambridge University Press]

South Africa <http://www.info.gov.za/aboutsa/glance.htm>

South Africa

<http://www.un.org/womenwatch/daw/csw/csw57/generaldiscussion/memberstates/southafrica.pdf>

South Africa

[http://www1.unece.org/Portals/ngm/Documents/NGM\\_Information\\_South\\_Africa.pdf](http://www1.unece.org/Portals/ngm/Documents/NGM_Information_South_Africa.pdf)

South Africa <https://www.cia.gov/library/publications/the-world-factbook/geos/sf.html>

The 1999 Constitution as Amended Federal Republic of Nigeria <http://www.nigeria-law.org/ConstitutionOfTheFederalRepublicOfNigeria.htm>

The Nigeria CEDAW NGO Coalition Shadow Report 2008  
<http://www.fidh.org/IMG/pdf/Nigeria-report.pdf>

The Preamble, Charter of the United Nations  
<http://www.un.org/en/documents/charter/preamble.shtml>

True J. [2005] 'Feminism' in Burchill S. [eds] Theories of International Relations  
Third edition, New York: Palgrave

UN Women, United Nations Entity for Gender Equality and the Empowerment of  
Women <http://www.unwomen.org/>

UNAIDS "Impact of the global economic crisis on Women, girls and gender  
equality. Discussion Paper 2012

UNCEDAW: "Nigeria Poised to Vote on Bill to Enforce Women's Anti-  
discrimination Bill

UNFPA, "Background on Key International Agreements and Declarations" 2008  
online <http://www.unfpa.org/gender/rights.htm>

Universal Declaration of Human Rights <http://www.un.org/en/documents/udhr/>

Uroh Chris O. “Globalization and Gender-Justice: the Nigerian Experience’

<http://www.codesria.org/IMG/pdf/GE-Chapter-10-uroh.pdf>

Williams. Sope [2004] “Nigeria, Its Women and International Law: Beyond

Rhetoric” Human Rights Law Review. Vol. 4, Number 2



## **APPENDIX**

## **Appendix A: Convention on the Elimination of All Forms of Discrimination against Women**

Convention on the Elimination of All Forms of Discrimination Against Women

Adopted and Opened for Signature, Ratification and Accession by General Assembly

Resolution 34/180 of 18 December 1979 Entry into Force 3 September 1981, in

Accordance with Article 27(1)

The States Parties to the present Convention,

Noting that the Charter of the United Nations reaffirms faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women,

Noting that the Universal Declaration of Human Rights affirms the principle of the inadmissibility of discrimination and proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, including distinction based on sex,

Noting that the States Parties to the International Covenants on Human Rights have the obligation to ensure the equal rights of men and women to enjoy all economic, social, cultural, civil and political rights,

Considering the international conventions concluded under the auspices of the United Nations and the specialized agencies promoting equality of rights of men and women,

Noting also the resolutions, declarations and recommendations adopted by the United Nations and the specialized agencies promoting equality of rights of men and women,

Concerned, however, that despite these various instruments extensive discrimination against women continues to exist,

Recalling that discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity,

Concerned that in situations of poverty women have the least access to food, health, education, training and opportunities for employment and other needs,

Convinced that the establishment of the new international economic order based on equity and justice will contribute significantly towards the promotion of equality between men and women,

Emphasizing that the eradication of apartheid, all forms of racism, racial discrimination, colonialism, neo-colonialism, aggression, foreign occupation and domination and interference in the internal affairs of States is essential to the full enjoyment of the rights of men and women,

Affirming that the strengthening of international peace and security, the relaxation of international tension, mutual co-operation among all States irrespective of their social and economic systems, general and complete disarmament, in particular nuclear disarmament under strict and effective international control, the affirmation of the principles of justice, equality and mutual benefit in relations among countries and the realization of the right of peoples under alien and colonial domination and foreign occupation to self-determination and independence, as well as respect for national sovereignty and territorial integrity, will promote social progress and development and as a consequence will contribute to the attainment of full equality between men and women,

Convinced that the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields,

Bearing in mind the great contribution of women to the welfare of the family and to the development of society, so far not fully recognized, the social significance of maternity and the role of both parents in the family and in the upbringing of children, and aware that the role of women in procreation should not be a basis for discrimination but that the upbringing of children requires a sharing of responsibility between men and women and society as a whole,

Aware that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality between men and women,

Determined to implement the principles set forth in the Declaration on the Elimination of Discrimination against Women and, for that purpose, to adopt the measures required for the elimination of such discrimination in all its forms and manifestations,

Have agreed on the following:

## **PART I**

### **Article 1**

For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

### **Article 2**

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

(a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;

(b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;

(c) To establish legal protection of the rights of women

on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;

(d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;

(e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;

(f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices, which constitute discrimination against women;

(g) To repeal all national penal provisions which constitute discrimination against women.

### **Article 3**

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full

development and advancement of women , for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

#### **Article 4**

1. Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

2. Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.

#### **Article 5**

States Parties shall take all appropriate measures:

(a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;

(b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women

in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

#### **Article 6**

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

### **PART II**

#### **Article 7**

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

- (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;
- (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;
- (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

#### **Article 8**



States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.

#### **Article 9**

1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband. 2. States Parties shall grant women equal rights with men with respect to the nationality of their children.

### **PART III**

#### **Article 10**

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

(a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;

(b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;

(c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;

(d) The same opportunities to benefit from scholarships and other study grants;

(e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;

(f) The reduction of female student dropout rates and the organization of programmes for girls and women who have left school prematurely;

(g) The same Opportunities to participate actively in sports and physical education;

(h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

## **Article 11**

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

(a) The right to work as an inalienable right of all human beings;

(b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;

(c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;

(d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;

(e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;

(f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

(a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;

(b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;

(c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities;

(d) To provide special protection to women during pregnancy in types of work proved to be harmful to them.

3. Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

## **Article 12**

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of

men and women, access to health care services, including those related to family planning.

2. Notwithstanding the provisions of paragraph I of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

### **Article 13**

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

(a) The right to family benefits;

(b) The right to bank loans, mortgages and other forms of financial credit;

(c) The right to participate in recreational activities, sports and all aspects of cultural life.

### **Article 14**

1. States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural areas.

2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

(a) To participate in the elaboration and implementation of development planning at all levels;

(b) To have access to adequate health care facilities, including information, counselling and services in family planning;

(c) To benefit directly from social security programmes;

(d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency;

(e) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self employment;

(f) To participate in all community activities;

(g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;

(h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

#### **PART IV**

##### **Article 15**

1. States Parties shall accord to women equality with men before the law.
2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.
3. States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.
4. States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

##### **Article 16**

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:
  - (a) The same right to enter into marriage;

- (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
- (c) The same rights and responsibilities during marriage and at its dissolution;
- (d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;
- (e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;
- (f) The same rights and responsibilities with regard to guardianship, ward ship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;
- (g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;
- (h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.



2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

## **PART V**

### **Article 17**

1. For the purpose of considering the progress made in the implementation of the present Convention, there shall be established a Committee on the Elimination of Discrimination against Women (hereinafter referred to as the Committee) consisting, at the time of entry into force of the Convention, of eighteen and, after ratification of or accession to the Convention by the thirty-fifth State Party, of twenty-three experts of high moral standing and competence in the field covered by the Convention.

The experts shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution and to the representation of the different forms of civilization as well as the principal legal systems.

2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.

3. The initial election shall be held six months after the date of the entry into force of the present Convention. At least three months before the date of each election the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within two months. The Secretary-General

shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.

4. Elections of the members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

5. The members of the Committee shall be elected for a term of four years. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these nine members shall be chosen by lot by the Chairman of the Committee.

6. The election of the five additional members of the Committee shall be held in accordance with the provisions of paragraphs 2, 3 and 4 of this article, following the thirty-fifth ratification or accession. The terms of two of the additional members elected on this occasion shall expire at the end of two years, the names of these two members having been chosen by lot by the Chairman of the Committee.

7. For the filling of casual vacancies, the State Party whose expert has ceased to function as a member of the Committee shall appoint another expert from among its nationals, subject to the approval of the Committee.

8. The members of the Committee shall, with the approval of the General Assembly, receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide, having regard to the importance of the Committee's responsibilities.

9. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

### **Article 18**

1. States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the present Convention and on the progress made in this respect:

(a) Within one year after the entry into force for the State concerned;

(b) Thereafter at least every four years and further whenever the Committee so requests.

2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Convention.

### **Article 19**

1. The Committee shall adopt its own rules of procedure. 2. The Committee shall elect its officers for a term of two years.

## **Article 20**

1. The Committee shall normally meet for a period of not more than two weeks annually in order to consider the reports submitted in accordance with article 18 of the present Convention.
2. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee.

## **Article 21**

1. The Committee shall, through the Economic and Social Council, report annually to the General Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of reports and information received from the States Parties. Such suggestions and general recommendations shall be included in the report of the Committee together with comments, if any, from States Parties.
2. The Secretary-General of the United Nations shall transmit the reports of the Committee to the Commission on the Status of Women for its information.

## **Article 22**

The specialized agencies shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their activities. The Committee may invite the specialized agencies to submit reports on the implementation of the Convention in areas falling within the scope of their activities.

## **PART VI**

### **Article 23**

Nothing in the present Convention shall affect any provisions that are more conducive to the achievement of equality between men and women which may be contained:

- (a) In the legislation of a State Party; or
  
- (b) In any other international convention, treaty or agreement in force for that State.

### **Article 24**

States Parties undertake to adopt all necessary measures at the national level aimed at achieving the full realization of the rights recognized in the present Convention.

### **Article 25**

1. The present Convention shall be open for signature by all States.
  
2. The Secretary-General of the United Nations is designated as the depositary of the present Convention.
  
3. The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
  
4. The present Convention shall be open to accession by all States. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

**Article 26**

1. A request for the revision of the present Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations.
2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such a request.

**Article 27**

1. The present Convention shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying the present Convention or acceding to it after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

**Article 28**

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.
2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General of the United Nations, who shall then inform all States thereof. Such notification shall take effect on the date on which it is received.

#### **Article 29**

1. Any dispute between two or more States Parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State Party may at the time of signature or ratification of the present Convention or accession thereto declare that it does not consider itself bound by paragraph I of this article. The other States Parties shall not be bound by that paragraph with respect to any State Party which has made such a reservation.

3. Any State Party which has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

#### **Article 30**

The present Convention, the Arabic, Chinese, English, French, Russian and Spanish texts of which are equally authentic, shall be deposited with the Secretary-General of the United Nations. IN WITNESS WHEREOF, the undersigned, duly authorized, have signed the present Convention.

