

**THE ROLE OF UN WOMEN TOWARDS THE DEVELOPMENT AND
ADVANCEMENT OF WOMEN IN SOUTHERN AFRICA: A CRITICAL
COMPARISON BETWEEN SOUTH AFRICA AND ZIMBABWE**

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MINI-DISSERTATION

Submitted in fulfilment of the requirements for the degree of

MASTER OF LAW

In the

FACULTY OF LAW

At the

UNIVERSITY OF PRETORIA

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2017

DECLARATION OF ORIGINALITY

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ACKNOWLEDGMENTS

First and for most, I would like to thank the Almighty God for being my strength throughout the journey, for guarding me especially when it hurt, and I had lost all hope and strength to continue. Many thanks to my mum for believing in me, for her prayers and for being my pillar of strength. I would also like to thank my dad, for being my silent inspiration, for his advice and guidance, it always motivated me to carry on. It has not been easy being away from everyone, but you all accepted my choices.

Secondly, to my sister Tatenda Mazwi, you are my everything, this journey would not have been possible without you and your family. I cherish your love and support, for the many days I was down you pushed me and motivated me when I wanted the break your home, and the ocean was my sanctuary.

To Dee thank you for everything, for pushing me when I needed to be reminded, for caring in your own way, your support means the world to me. I am grateful to have such a great friend in my life. I can never thank you enough for being an inspiration and a mentor. Your hard work and striving for excellence will continue to be my motivation and I wish to be half the person you are as I will always look up to you.

To all my colleagues at the University of Pretoria (Procedural Law Department), thank you for the best two years of my life.

To everyone who has played a role throughout this journey, directly and indirectly, thank you to Christine Mutsau-Matsvai, Thembisa Dhodho, Happy Raligia, Albert Mudadi, Princess V, Prayer N and Wedzerai M you are all heaven sent, you put up with a lot from me. When it hurt the most, you were there for me and experienced some of my meltdowns when I wanted to give up.

Finally, I would like to express my sincere gratitude to my supervisor Professor Hansungule, for his patience, guidance, support and mentorship. Your comments and guidance helped me a lot during the journey of writing this dissertation.

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ACRONYMS

1. AIDS	Acquired Immune Deficiency Syndrome
2. APRM	African Peer Review Mechanism
3. AU	African Union
4. ANC	African National Congress
5. CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
6. DA	Democratic Alliance
7. DAW	Division for the Advancement of Women
8. GEM	Girls Education Movement
9. GEWE	Gender Equality and Women’s Empowerment
10. GDI	Gender Development Index
11. HIV	Human Immunodeficiency Virus
12. ICCPR	International Covenant on Civil and Political Rights
13. LGBT	Lesbian, gay, Bisexual and transgender
14. MDGs	Millennium Development Goals
15. NAC	National Aids Council
16. NGO	Non-Governmental Organization
17. NPP	National People’s Party
18. OAU	Organization of the African Unity
19. OSAGI	Office of the Special Adviser on Gender Issues Advancement of Women
20. SDGs	Sustainable Development Goals
21. UNCRC	United Nations Convention on the Rights of the Child
22. UNICEF	United Nations Children’s Emergency Fund
23. UNDP	United Nations Development Programme
24. UNIFEM	United Nations Development Fund for Women
25. UN	United Nations
26. WHO	World Health Organisation
27. WPE	Women’s Political Environment
28. ZANU PF	Zimbabwe African National Union-Patriotic Front

ABSTRACT

Current issues surrounding the development and advancement of women have been a cause of concern over the years, not only in Africa but around the world. Many organisations have come through to assist in eradicating challenges that hinder women's advancement. Since its establishment in 2010 UN Women has played a crucial role in developing and advancing women around the world. However, despite its efforts through the implementation of programmes and policies, women continue to face all forms of discrimination every day.

This paper aims to evaluate the role of UN Women in Southern Africa, looking at South Africa and Zimbabwe as case studies.

The first part looks at the background of UN Women in general as an introduction to the study.

The second part assesses UN Women's policies and programmes towards the development and advancement of women. The second part looks explicitly at country programmes established to address challenges faced by women.

The third part looks at the core challenges identified that affect women's development and advancement with specific reference to child marriages, access to education, leadership and political participation.

The fourth part assesses the role of UN Women in implementing regional and global instruments that advocate towards the development and advancement of women.

The fifth part expands on the organisation's challenges in attaining its regional and global obligations that have been set out in various human rights instruments.

Finally, the study has a sixth chapter that is the conclusion and recommendations. The sixth chapter elaborates on the key findings and provides for recommendations for future research. The main recommendations of this research aim to ensure that the organisation adopts policies that are African oriented to ensure visibility and effective implementation of programmes. A solid relationship between the state, people and other entities is of vital importance to achieve UN Women's goals.

Chapter One

1 Introduction to the Study

The past decade has seen an increase in world population with women comprising of approximately 49.6 % of the population, which roughly translates to 3.52 billion.¹ Despite the percentage of women being almost at par with that of men; inequality all over the world, more especially in third world countries persists. Women continue to receive lower wages in comparison to their male counterparts in the same professions. Women continue to be sidelined in decision-making processes. The most affected are rural based women who are at the bottom of the pyramid due to limited access to resources and basic needs. The rapid increase in population has resulted in high rates of unemployment due to unstable economic growth, limited or lack of education and early marriages. These challenges have had a negative impact on the status of women as they continue to be less advanced in their various societies.

Despite having an imbalance in society, it cannot be disputed that women are acknowledged as the cornerstone of Africa's development. Over the years, their role has evolved and shifted from economic and political marginalisation to a more stable partial recognition. This recognition has been achieved regardless of vehement resistance and subtle disapprovals from various traditional and religious societies.² Admittedly, the progress made has been at a "snail's pace."³

¹ World Population 2016| World Population clock: Available <http://countrymeters.info/en/World> (accessed on 06 April 2016).

² UN Dialogue: Achieving Gender Equality, Women's Empowerment and Strengthening Development Cooperation: 2010.

³ United Nations News Centre: Launch of 'Women in Politics' map reflects sluggish progress in gender equality available at <http://www.un.org/apps/news/story.asp?NewsID=50294#.WgMOiWiCzIU> (accessed on 16 March 2016).

UN Women⁴ together with various civil organisations have partnered with governments in setting up policies and programmes that impact women’s development, advancement and gender inequality. Some main thematic areas of work implemented by UN Women include leadership and political participation,⁵ economic empowerment,⁶ ending violence against women,⁷ 2030 Agenda on Sustainable Development,⁸ and HIV and AIDS.⁹ Individual country programs have been tailored to focus on specific country needs such as JPGE programme that was tailored for Zimbabwe.¹⁰ Such programmes have attracted other civil societies in funding various projects that can assist women in that country.

Women’s equality and rights have been the basic principles of UN Women and other UN agencies. These principles have been emphasised in the United Nations Charter’s preamble reaffirming “*faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women*”¹¹

It is indisputable that the role of women in societies is very crucial for the existence and well-being of societies. This recognition has been reaffirmed by K Stefiszyn who explains that women are the backbone of societies, despite being the ones who suffer disproportionately in wars created by men.¹² In most instances, after the aftermath of war and natural disasters women assist both men and children to get back on their feet.¹³ UN Women has urged countries to safeguard and guarantee equality for women by adopting election laws that provide for affirmative action measures for women in their constitutions.¹⁴

⁴ United Nations Entity for Gender Equality and the Empowerment of Women (UN Women) established in 2010 by the United Nations General Assembly Resolution 64/289.

⁵ UN Women: Leadership and political participation (5 November 2015).

⁶ UN Women: Economic empowerment (5 November 2015).

⁷ UN Women: Ending violence against women (5 November 2015).

⁸ In Focus: Women and the Sustainable Development Goals (SDGs).

⁹ UN Women: HIV and AIDS.

¹⁰ UN Women Zimbabwe: Joint Programme for Gender Equality (JPGE Zimbabwe).

¹¹ United Nations Charter of 1945: Preamble.

¹² K Stefiszyn ‘The African Union: Challenges and opportunities for women’ 5 *African Human Rights Law Journal* (2005) 358.

¹³ J.S Goldstein *War and Gender: How gender shapes the war system and vice versa* (2002).

¹⁴ UN General Assembly: Third Committee Debate on Women’s Rights Critical to Achieving Gender Equality.

Most countries including South Africa¹⁵ have enacted legislation that advocates for the development and advancement of women and have reluctantly abolished cruel, discriminatory cultural practices.¹⁶ However, irrespective of these efforts, development and advancement of women continue to be crippled by the effects of child marriages, no access to education and discrimination in political participation.

States continue to face challenges within their legal systems due to slow implementation of domestic laws and international human rights instruments. Progress in Zimbabwe has been debilitated due to the absence of well-resourced legal aid programs, low legal literacy amongst women and communities; a weak referral system between the police, legal aid providers, and justice delivery structures.¹⁷

Based on the challenges faced by women, this research aims at looking at the work of UN Women in advancing and developing women in Southern Africa through a comparative study between South Africa and Zimbabwe. UN Women has been assisting countries in eradicating ruthless patriarchal practices in societies through its flagship programmes to mainstream the role of women in Africa

1.1 Background of UN Women

The United Nations (UN) has led to the creation of various entities that seek to address a myriad of challenges the world has been facing. These UN entities have assisted states in identifying challenges that they confront and urging them to adopt international instruments as the basis of their rules and regulations in advancing and protecting women's rights. In July 2010, the United Nations General Assembly established the United Nations Entity for Gender Equality and the Empowerment of Women, commonly known as UN Women to

¹⁵ Recognition of Customary Marriages Act, some practices that were practiced under customary laws were abolished and criminalised. The famous *Bhe v Magistrate Khayalitsha* was discriminatory and unlawful as it discriminated against women in favour of the male primogeniture.

¹⁶ Introduction of Affirmative Action gives preference in the work place; it makes sure that qualified people (in this case woman) from designated groups have equal opportunities in the workplace. Affirmative Action falls under the Employment Equity Act.

¹⁷ World Pulse: *Gender Mainstreaming in Curriculum Development Processes - Strengthening Capacities for Gender Sensitive Peace and Security in Zimbabwe*.

address challenges and assist states in promoting the recognition of women's development and advancement. Negotiations took place for years between the UN Member States, women's groups and civil societies, leading to the adoption of a unanimous resolution 64/289.¹⁸ This resolution created UN Women by merging four parts of the UN System which included, Division for the Advancement of Women (DAW); the International Research and Training Institute for the Advancement of Women (INSTRAW, established in 1976); Office of the Special Adviser on Gender Issues Advancement of Women (OSAGI, established in 1997), and the UN Development Fund for Women (UNIFEM, established in 1976).¹⁹ An executive body was created to provide integral support and supervision of its operational activities. The establishment of UN Women was due to a long-standing demand to have a women's movement emanating from the UN institution that would spearhead change for women. Its framework originated from the UN Charter, the Beijing Declaration and its critical areas of concern and other applicable UN instruments and resolutions that support and contribute towards gender equality.

Before UN Women's establishment, there was United Nations Development Fund for Women (UNIFEM) which ensured the participation of women in all levels of development and practice.²⁰ UNIFEM acted as a catalyst within the UN system to support the needs and concerns of women in respect of all issues that were critical on national, regional and global agendas.²¹ The motivation behind the transition from UNIFEM to UN Women was primarily the protection and promotion of women's rights globally, focusing on women's rights and development because of their challenging nature. Before UNIFEM and UN Women, an international Bill of Rights for women was introduced known as CEDAW.²² It became a bedrock of women's rights as it was the first human rights instrument that focused on women. UN Women has used its provisions as its yardsticks to fight against any form of discrimination against women.

¹⁸ UN Women: Commission on Status of Women.

¹⁹ (n 4 above).

²⁰ UN Women: <http://www.un.org/popin/programmes/unifem.html> (accessed 20 March 2016).

²¹ (n 4 above).

²² United Nations Global Issues: Convention on the Elimination of all Forms of Discrimination against Women of 1979 available at <http://www.un.org/en/globalissues/women/> (accessed 20 March 2016).

The establishment of UN Women was a way of supporting women all over the world and assist states in upholding the rights of girls and women. It was also a way of boosting UN efforts in promoting gender equality, expanding opportunities for women, and tackling discrimination around the globe.²³ UN Women became operational in January 2011, and like its predecessor UNIFEM, it is a member of the United Nations Development Group.²⁴ Its establishment mainstreamed from the Beijing Platform for Action for Equality, Development and Peace 1995 (Beijing Platform for Action),²⁵ to develop national actions that aim to advance and develop the role of women. This was the first time the UN had created a unified body for women with high-level leadership.²⁶ How good an organization gets to be has not only been left to its leadership but on the resources committed by states and support from UN Member States and all agencies.²⁷

UN Women has played an important role over the past years by denouncing customary practices such as child marriages and gender inequality. It has further advocated for women's education, political participation in governance and national planning, women's leadership and political participation, and an end to violence against women.²⁸ The main areas of focus include:

- supporting intergovernmental bodies, such as the Commission on the Status of Women, in formulating national policies, global standards and norms,
- helping countries to implement these standards by providing suitable technical and financial support to countries that request it and to forge effective partnerships with civil societies,

²³ UN Women: Statement by the UN Secretary General on the Creation of UN Women dated 02 July 2010.

²⁴ UN Women: About us available at <http://www.unwomen.org/en/about-us/about-un-women> (accessed 20 March 2016).

²⁵ Beijing Platform for Action of 1995 was a fourth world conference that was convened by the United Nations to bring the principle of equality between men and women into action.

²⁶ The Global Citizen: Low Expectations for new UN Agency, UN Women available @ <https://globalcitizenblog.com/low-expectations-for-new-un-agency-un-women/> (accessed 20 March 2016).

²⁷ (n 14 above).

²⁸ Saraswathi M, *UN Women: Prospects and challenges*, Briefing 30 June 2016.

- holding the UN system accountable for its commitments on gender equality, including regular monitoring of system-wide progress.²⁹

The former UN Secretary General Ban Ki-moon observed: "*When women are educated and empowered, economies are more productive and strong. When women are fully represented, societies are more peaceful and stable.*"³⁰ This statement indicates the role women play in their societies, and as such, it is important for their efforts and voices to be heard through their participation in decision-making processes and reinforcing their power.³¹

UN Women has faced a lot of challenges and criticism due to conflict of interests, amongst conservative forces, and fundamental groups across the religious spectrum.³² In some countries, rather than expanding the legal framework for equality, revisions were introduced that restricted equality for people especially LGBT rights.³³ The organisation has been rather stereotypical as less attention and development has been paid to women especially in African rural areas. Other entities have questioned its audience as it has been selective in the African continent.

²⁹ UN Mechanisms for Protecting Women's Human Rights: Sex Discrimination - International Activities available @ <http://www.humanrights.gov.au/our-work/sex-discrimination/international/un-mechanisms-protecting-women-s-human-rights-sex> (accessed 20 March 2016).

³⁰ Africa Renewal: African women 'Asserting their rights available' <http://www.un.org/africarenewal/magazine/special-edition-women-2012/african-women-asserting-their-rights#sthash.DEroZV56.cuEQMjVC.dpuf> (accessed 21 March 2016).

³¹ These categories are based on UNDP, Human Development Report 2000: Human Rights and Development (New York, Oxford University Press, 2000), p. 17, where "human poverty" is defined as "deprivations in a long and healthy life, in knowledge, in a decent standard of living, in participation". The policy objectives of gender and development of the international development organisation Oxfam focus on issues pertaining to both money and human development. See Oxfam, The Oxfam Handbook of Development and Relief, D. Eade and S. Williams, eds. (Oxford, Oxfam GB, 1995), pp. 171-172; Sakiko Fukuda-Parr, "The human development paradigm: operationalizing Sen's ideas on capabilities" in Amartya Sen's Work and Ideas: A Gender Perspective, Bina Agarwal, Jane Humphries and Ingrid Robeyns, eds. (New York, Routledge, 2005), pp. 303-320; "Montréal Principles on Women's Economic, Social and Cultural Rights", Human Rights Quarterly, vol. 26, No. 3 (2004), pp. 760-780.

³² Saraswathi (n 28 above).

³³ Saraswathi (n 28 above).

1.2 Problem statement

Women all over the world, especially in Africa, have been struggling for their development and advancement. In the continent, development and advancement of women's rights has become a secondary issue with many countries struggling financially, socially and economically thereby abandoning women to focus on other pressing issues. The concept of development assumes that all people would benefit from initiatives geared towards modernising what were once economically backward societies.³⁴ However, many women continue to face challenges that impact the realisation of their rights due to lack of development and advancement. Poverty, lack of education, discriminatory cultural and religious practices tend to perpetuate the rights of women. In an endeavour to address these challenges various legal frameworks have been trying to consolidate the role of women in society by accepting different jurisprudence.³⁵ This endeavour has seen civil societies working together with governments in upholding and promoting the development and advancement of women. Despite all these efforts, discrimination and gender inequality persists. This persistence has promoted this research to identify the extent the organisation can fully realise gender equality through women's development and advancement.

Efforts to realise gender equality through development and implementation have only managed to reach the tip of the iceberg.³⁶ Looking at Zimbabwe, despite regional and international commitments of 50/50 representation for both men and women by 2015, there is less than 25% female representation in public service to date.³⁷ Child marriages are still prevalent in the country despite reports by the government that the custom has been abolished. One in three girls in the rural areas is said to be married off before they reach the age of 18.³⁸ There is a similar statistic in South Africa as it continues to battle with child

³⁴ F Banda *Women, law and human rights: An African perspective* (2005).

³⁵ Banda (n 34 above).

³⁶ WHO: Promoting gender equality to prevent violence against women

³⁷ UN Women Africa Zimbabwe available @ <http://africa.unwomen.org/en/where-we-are/eastern-and-southern-africa/zimbabwe>

³⁸ UNICEF: Girls not brides Report: Child marriage around the world: Zimbabwe, *State of the World's Children* (2016).

marriages and young girls dropping out of school before they matriculate.³⁹ These marriages have escalated the rate of HIV /Aids due to ignorance and non-disclosure by most men.⁴⁰ Furthermore, poverty in families exposes young girls to such marriages as compared to their male counterparts to get married early.⁴¹

1.3 Research questions

The main question for this study is:

How and to what extent have UN Women's Country policies and programs contributed towards the development and advancement of women in Southern Africa?

1.4 Sub-questions

1.4.1 How has UN Women dealt with challenges faced by women in eradicating cultural and traditional practices that affect women?

1.4.2 To what extent has UN Women in Southern Africa assisted host states to comply with the implementation of regional and global instruments?

1.5 Aims and objectives of this study

This study aims to explore the role of UN Women's programs and policies towards the development and advancement of women through a comparison between South Africa and Zimbabwe.

The study specifically seeks to:

- Investigate how and to what extent has the organisation's mandate assisted in eradicating challenges such as child or early marriages (as a form of violence against women), women's access to education and political participation.

The objective is to review the role of the organisation's mandate in collaboration with the governments, civil societies and women. This study does not take the participation of the

³⁹ UNICEF: Girls education movement: South Africa

⁴⁰ 1M Mswela 'Cultural practices and HIV in South Africa: A legal perspective' (2009) 21 *Potchefstroom Electronic Law Journal*).

⁴¹ (n 38 above).

organisation as an end to the challenges and problems faced by women, but to change the circumstances and conditions for women in Africa.

1.6 Significance of the study

UN Women was established to develop, empower and advance women from all walks of life and advocate for gender equality. The organisation has partnered with governments in Southern Africa in developing policies and programs that facilitate in training and supporting women and the implementation of legal frameworks in promoting and protecting the rights of women as enshrined by CEDAW. The significance of the study is to critic the organisation's role through its policies, programs and activities in developing, advancing, promoting and protecting women's rights in Southern Africa. Recommendations will be made to assist the UN to a) function in a way that it will accommodate many women in Africa and b) to show how it can fully realise international instruments. However, the reporting mechanism has not been adequate to cover areas that need attention, more especially in Southern Africa.

1.7 Research methodology

A desktop research method and informal discussions were used to ascertain the extent UN Women has managed to fulfil its mandate in Southern Africa for the development and empowerments of women. A descriptive methodology was adopted in assessing the various policies, programs and activities implemented to address these challenges. A comparative analysis will be done between South Africa and Zimbabwe as a case study to ascertain the extent to which the organisation influenced the development and advancement of women in the African system.

The study relied on primary and secondary sources including; case laws; journal articles UN Women reports and human rights instruments. Further to this, informal discussions were conducted to ascertain the current position in Southern Africa; South Africa and Zimbabwe

will be used as case studies. These two case studies served as a way of appraising the work of the organisation regarding its regional and international human rights systems.

Various attempts were made to visit UN Women offices in Pretoria (which is the Multi-country office)⁴² to obtain first-hand information with regards to the progress of their programs, and the challenges faced, unfortunately, same could not be attained, as no one was willing to respond to questions or to schedule an appointment.

1.8 Literature review

The development and advancement of women in Southern Africa have over the years been celebrated.⁴³ Ironically despite women being celebrated all over the world and many organisations flooding to advance and develop women, they remain marginalised.⁴⁴ This marginalisation is evidenced by their poor living conditions, low socio-economic development communities despite being the majority of the labourers.⁴⁵ Notwithstanding the fact that women's rights are a concern for national policymakers and legislators, with the plan having been put down on paper several years ago, the struggle is ongoing.⁴⁶

The celebration of women has become a religious act yearly with little positive impact on women based in the rural areas who neither have access to resources nor are granted any.⁴⁷ International Women's Day in today's world has assumed a new global dimension for women in developed and developing countries alike.⁴⁸ Unfortunately, few of its pioneers would celebrate the slow progress made in the protection and promotion of women's rights

⁴² UN Women South Africa Multi- Country Office (South Africa MCO) covers five countries- South Africa as a 'presence country' plus Botswana, Lesotho, Namibia and Swaziland available at <http://africa.unwomen.org/en/where-we-are/eastern-and-southern-africa/south-africa-mco> accessed 02 April 2016.

⁴³ N Bush *The role of women in social and economic development in South Africa*.

⁴⁴ Bush (n 43 above).

⁴⁵ Bush (n 43 above).

⁴⁶ Bush (n 43 above).

⁴⁷ C Ageng'o 'International women's day - Can we dare celebrate?' in P Burnett, S Karmali and F Manji (ed) Grace, *Tenacity and Eloquence, The struggle for women's rights in Africa*.

⁴⁸ Burnett (n 47 above).

since 1977.⁴⁹ Some scholars view women to have found their place in societies, and that feminism is dead, and the triviality of the fight picked by feminists is the surest proof of its demise.⁵⁰ This view has raised many debates about the role of women in the world as it has been termed a cry for attention.

Women based in rural areas, semi-urban areas and informal settlements have been affected the most by poverty as they tend to get married early and without attaining any formal education.⁵¹ Although the notion of “rural women”⁵² can be regarded as a fiction according to Michelle Friedman, this is neither here nor there⁵³. There are many women who reside in rural areas due to rural-urban migration that normally results in men migrating to urban areas in search of greener pastures, leaving women to take care of the family. The concept does not only differentiate geographical location, but the difference in lifestyle as the majority have limited access to resources and tools, proper education facilities and have no access to influential political leadership roles.⁵⁴ It should not be misconstrued that women in urban areas have it easy, they also face the same challenges. It is the marginalised rural based women that are disadvantaged the most.⁵⁵ They experience "development problems" differently from men in ways that go beyond their restricted access to land, education and exclusion from the decision-making processes affecting their general well-being.⁵⁶

Feminists like Emily Hill are of the view that, what started as a genuine crusade against genuine prejudice has become a form of pointless attention-seeking.⁵⁷ It has been 23 years since South Africa attained its freedom and democracy; the country is still grappling with

⁴⁹ Burnett (n 47 above).

⁵⁰ Burnett (n 47 above).

⁵¹ Burnett (n 47 above).

⁵² Burnett (n 47 above).

⁵³ M Friedman ‘The rural challenge: Women and land’ (1994) *Southern Africa Report*.

⁵⁴ Burnett (n 47 above).

⁵⁵ Burnett (n 47 above).

⁵⁶ Friedman (n 53 above).

⁵⁷ E Hill, ‘Feminism is over; the battle is won. Time to move on it should be celebrating its triumphs. Instead, it has descended into pointless attention-seeking in T Jefferson (ed) *Political Writing* (1999).

gender inequality, domestic violence, and discrimination against women.⁵⁸ Programs have been implemented to deal with these issues, but the gap between males and females on issues of violence, early child marriages, entrepreneurship, unemployment, education, and politics still exists and continues to widen.⁵⁹ Despite the availability of these programs, most women are not benefiting from them; excessive pre-conditions have been set which hinder their accessibility and benefits.⁶⁰

Scholars have argued that problems faced by women emanate from cultural and religious beliefs that conflict with the modern of society.⁶¹ Young women's dreams have been shuttered due to lack of financing to pursue primary and secondary education, let alone tertiary education.⁶² Prospects of a brighter future have been out of reach for many South African girls as daunting problems remain from the apartheid era, to present day economic disempowerment from the previously disadvantaged backgrounds.⁶³

In Kwa-Zulu Natal; in uThukela District Municipality a bursary scheme was established that benefited virgins only.⁶⁴ The pre-condition was criticised by human rights activists because the very same province parades young girls half naked for selection as a King or chief's bride.⁶⁵ Most of the girls who participate in this practice, do so out of the obligation of culture and to appease their families. In some instances, an illusion is created that being a King's bride is an achievement for them. In some way, there is an indirect dictatorship to adhere to the practice, just like it is in Swaziland. The practice was said to be unconstitutional and a violation of girls right to privacy and dignity.⁶⁶ It further showed a conflict between cultural

⁵⁸ Bush (n 43 above).

⁵⁹ Bush (n 43 above).

⁶⁰ SW Sinding 'Population, poverty and economic development' *The Royal Society* (2009).

⁶¹ F Acquah 'The Impact of African Traditional Religious Beliefs and Cultural Values on Christian-Muslim ERelations in Ghana from 1920 through the Present: A case study of Nkusukum-Ekumfi-Enyan area of the Central Region' unpublished PhD thesis, University of Exeter, 2011.

⁶² E Johannes 'Women's education in Sub-Saharan Africa: Obstacles facing women and girls access to education: The case of Kenya'.

⁶³ *Jeremy Gregory Wyngaard* In search of root causes of poverty testing a theological perspective in development dialogues.

⁶⁴ T Gqirana 'Viginity tests for bursaries are unconstitutional-gender equality commission' *News 24 17/06/2016*

⁶⁵ Gqirana (n 64 above).

⁶⁶ Gqirana (n 64 above).

practices and the rights that protect women and girls against violence and abuse.⁶⁷ Human instruments such as CRC were not considered in protecting young girls from such inhumane and derogatory activities.⁶⁸

These issues are everyday challenges that do not need to wait for International Women's day or Human Rights Day to be addressed.⁶⁹ Annie Lennox views that though encouraged by rising interest in the usage of feminism, talk is cheap since it can be divisive and polarising, diverting from the real issues at hand.⁷⁰ She Annie Lennox added that what is required is more action in education, societies and politics.⁷¹ It is important for women to become the change that they want to be through participation and action.⁷² However, this is not only limited to women but requires everyone to take action in the emancipation, empowerment and transformation of women.⁷³

Many African countries still face the scold of gender-based inequality, yet there are entities dedicated to assist and empower women.⁷⁴ Very few women are being recognised in politics and other influential leadership roles.⁷⁵ So much can be done to address gender inequality and discrimination provided the world acknowledge and support women and girls.⁷⁶ There has been an imbalance in relation to women's legal status in communities.⁷⁷ African governments explicitly know the discriminatory nature of some customary traditions, the abuse against women, violation of women's rights, with little being done.⁷⁸

⁶⁷ B Dlamini 'Forced virginity testing is unlawful and offensive' (4 February 2016).

⁶⁸ G Pswarayi Stories *Polygamy and poverty culture impacts women in rural Africa*: Women News Network – WNN MDG.

⁶⁹ H Lewis 'The suffragettes should not be used as a reproach to modern feminists'

⁷⁰ A Lennox *Join us in fighting for women's rights, there's still much to do*.

⁷¹ Lennox (n 70 above).

⁷² Mswela (n 40 above).

⁷³ Mswela (n 40 above).

⁷⁴ J True 'The Political Economy of Violence against Women in Africa' (2015) *OSISA*.

⁷⁵ J Clare, 'Becoming leaders: An investigation into women's leadership in male –defined and male-dominated professions' PhD thesis, Queens University of Technology, 2003 15.

⁷⁶ Lennox (n 70 above).

⁷⁷ True (n 74 above).

⁷⁸ True (n 74 above).

1.8.1 The impact of cultural and religious practices on the development of women (child marriages)

Child marriages can be defined as any form of marriage below the age of 18; the practice is a violation of human rights that has lasting adverse educational, political and economic impacts on young girls and women.⁷⁹ These marriages are a violation of natural laws and in my opinion, should not be addressed as marriage, but as child abuse. Accepting the term 'child marriage' is accepting and glorifying every form of abuse attached to it in the name of marriage. The practice is natured in a way that it violates the very existence of the young girls. The marriage is carried out before the girl is physically, and psychologically ready to shoulder the responsibilities of marriage and childbearing.⁸⁰ Young girls and in some instances unborn babies are forced or born into marriages that are never formally registered under customary, civil or religious laws.⁸¹ Researchers and civil societies have over the years acknowledged that accurate data on the true extent of child marriages have been difficult to obtain because many unions go unregistered and in most cases, girls' ages are falsified.⁸² The practice has resulted in physical, emotional, sexual abuse and human trafficking of girls.⁸³ Allowing children to get married under the age of 18 is a violation of various human rights instruments including CRC and CEDAW; unfortunately, communities have turned a blind eye to the risks of the practice, despite being outlawed.⁸⁴ The practice has escalated over the years, instead of decreasing with over 39 000 girls being married every day worldwide.⁸⁵ Other scholars believe that the rationale behind the practice is primarily based on cultural religion beliefs, poverty, impunity, and early teenage sex.⁸⁶ In Zimbabwe, poverty has elevated child marriages since young girls are considered an

⁷⁹ AM Kalamar, S Lee-Rife, MJ Hindin 'Interventions to prevent Child Marriage Among Young People in Low-and Middle- Income Countries: A Systematic Review of the Published and Grey Literature *Journal of Adolescent Health*, 2016.

⁸⁰ M Sibanda, 'Married Too Soon: Child Marriage in Zimbabwe' (2011) *Research and Advocate Unity*

⁸¹ Sibanda (n 80 above) 5.

⁸² Sibanda (n 80 above) 15.

⁸³ Sibanda (n 80 above) 16.

⁸⁴ M C Nguyen & Q Wodon 'Child Marriage and Education: A Major Challenge'.

⁸⁵ Nguyen (n 84 above).

⁸⁶ Sibanda (n 81 above).

economic burden, therefore once married one less mouth to feed.⁸⁷ Law enforcing authorities and parents have failed to protect and assist many girls by not helping them to fulfil their potential and dreams.⁸⁸

1.8.2 Gender Inequality and the elimination of discrimination against women and girls: Education⁸⁹

Gender inequality spreads from all aspects of life. These inequalities are realised in social cultural, economic, educational and political aspects of life.⁹⁰ Gender inequality means that the majority of women constitute a small number of those in senior positions, and ending up in insecure and low-wage jobs.⁹¹ This further affects their status and recognition in society and their political participation.⁹² Worldwide, about 41 million girls continue to be denied primary education, with many of them having to drop out to pave the way for their male counterparts especially in African countries.⁹³ Early drop outs has affected women's political participation and globally only one in five parliamentarians is a woman.⁹⁴ African women are not only ignored in traditional democratic discourses, but their oppression and subordination in male-dominated patriarchal societies have also kept them outside the parameters of formal politics.⁹⁵ Ignoring of women can be evidenced by the fact that globally only one in five parliamentarians is a woman which shows lack of representation.⁹⁶

⁸⁷ J Basiyange *Early Marriage as a barrier to girl's education: A development challenge in Africa*, National University of Rwanda, 1 available at <http://www.ifuw.org/fuwa/docs/Early-marriage.pdf> (accessed 7 May 2016).

⁸⁸ Basiyange (note 87 above).

⁸⁹ Convention on the Elimination of all forms of Discrimination against Women (CEDAW) The Convention defines discrimination against women as "...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." <http://www.un.org/womenwatch/daw/cedaw/> 16 March 2016.

⁹⁰ J Ward, B Lee, Simon Baptist and H Jackson 'Evidence for Action Gender Equality and Economic Growth.'

⁹¹ Ward & others (n 90 above).

⁹² Ward & others (n 90 above).

⁹³ K Ellerby *No shortcut to change: An unlikely path to a more gender equitable world* (2017) 38.

⁹⁴ Ellerby (n 93 above).

⁹⁵ R Murray *Human Rights in Africa: From the OAU to the African Union* (2004)135.

⁹⁶ Murray (n 95 above).

1.8.3 Leadership and Political Participation

Despite women making up half of the global population, their representation in political affairs is still relatively low.⁹⁷ Their political participation might have improved significantly in Africa; unfortunately, they remain challenges to be addressed.⁹⁸ There are however, three relative factors that have led to the changes in the African political arena when it comes to women; decline of conflict in Africa, expansion of civil liberties more particularly a shift from authoritarian to slightly more liberalised hybrid regimes; and pressure from international actors such as the UN agencies, regional organisations, donors and other external factors that have influenced states.⁹⁹

Leadership and political participation challenges emanate from early child marriages, access to education, patriarchal politics, traditional and cultural practices and violence.¹⁰⁰ Despite women making up half of the world population, they do not have political representation, and 70% of them live in poverty.¹⁰¹ Women have made enormous contributions to economies, be it in business, farming, as entrepreneurs or employees or being unpaid care workers at home, they remain highly affected and unrepresented.¹⁰² With these efforts in mind, their struggle continues to be ignored from every angle.¹⁰³

1.9 Limitation of study

The researcher took into consideration the challenge of the unforeseen and uncontrollable circumstances with regards to the research that might affect the quality of the result of the research. Considering that the researcher was currently working, time was such a constraint. It was difficult to access the Pretoria Multi-Country Office (MCO) as there was no response to the emails that were sent for requests of meetings. It was difficult to conduct informal discussions, thereby compromising the need for factual first-hand information. This

⁹⁷ Clare (n 75 above).

⁹⁸ Clare (n 75 above).

⁹⁹ Murray (n 95 above).

¹⁰⁰ A Aningwe 'Perceptions of Women in Political Leadership Positions in Nigeria' PhD thesis Walden University, 2014 68.

¹⁰¹ Murray (n 95 above).

¹⁰² N Tandon & M Wegerif 'Promise, Power and Poverty' *Oxfam Briefing paper 13*.

¹⁰³ Tandon & Wegerif (n 102 above) 14.

difficulty led to more information being accessed online that was limited to reports and some outdated statistics.

Furthermore, there existed a scholarly gap as very few scholarly literature was available about the organisation, especially from an African perspective.

Chapter Outline

The dissertation comprises of six chapters; the first chapter is the introduction which comprises of the statement problem, research question, research methodology. The chapter further outlines the literature review and subsequent chapters.

The second chapter –Role of UN Women policies and programs

The third chapter – Human Rights violations: Core issues affecting the development and advancement of women in Southern Africa

The fourth chapter – The role of UN Women in implementing international human rights instruments

The fifth chapter – An evaluation of the work of UN Women towards their obligations of international instruments

The sixth chapter – Conclusion and Recommendations

Chapter Two: UN Women Policies and Programs

2. Introduction

UN Women was established to accelerate progress on meeting women and girls needs all over the world. It was a response to the UN General Assembly resolution 63/311 that aimed at promoting gender equality and women's empowerment through various programmes. This establishment was also a way of relieving other parts of the UN system of their responsibility for promoting gender equality. Hence, a new system was meant to sharpen the focus and impact of gender equality activities of the entire UN system. The past decades saw a transition towards women's advancement and development in various societies and politics. This transition has been attributed to the contributions of women's groups, civil societies and governments' efforts in implementing policies and programs tailored for women. Policies have transmitted into long-term programs with monitoring and evaluation mechanisms in different spheres through advocacy, implementation and research.¹⁰⁴ Academics and professionals have debated on several issues that affect the development and advancement of women to bring about a framework that assists communities in eradicating challenges faced by women. Though development and advancement are a process, there are areas with no progress at all, especially in the African regions.

The formation of UN Women's emanated from the post-Beijing context, and it was marked as a historic milestone in global efforts in advancing women's rights.¹⁰⁵ Country offices have been set up around the world, the African countries include South Africa, Zimbabwe and Malawi to improve the status of women at the country level. The organisation has also assisted in implementing international human rights instruments into positive social, economic and political change in women's lives.¹⁰⁶

UN's various treaty-monitoring bodies have emphasised on the development of indicators as yardsticks for assessment, monitoring and evaluations of its programmes.¹⁰⁷

¹⁰⁴ NYE Zogo 'The State of Monitoring and Evaluation of NGOs' Projects in Africa.

¹⁰⁵ (n 4 above) see section 1 above para 3.

¹⁰⁶ M Greenberg 'Women's Rights Advocacy versus Gender'

¹⁰⁷ B Gawanas 'The African Union: Concepts and implementation mechanisms relating to human rights'

2.1 UN Women in General¹⁰⁸

The establishment of UN Women in 2010, paved the way for women around the world, proving to them that the UN system was dedicated to empowering women and protecting them from all forms of discrimination. The entity has further helped in building women's capacity through advocating for their right to education, implementation of legislation and constitutional reforms that ensure women's fair access to political spheres.¹⁰⁹ The organisation has been working tirelessly to eliminate any form of discrimination against women, empowering women and creating job opportunities. Despite having faced several challenges, some of its notable programmes include leadership and political participation, ending violence against women, and campaigns including HeForShe and Rape is NEVER OK.¹¹⁰ The annual reports have identified the progress and challenges at country and global level.¹¹¹ However, questions have been raised whether the organisation is indeed conveying its message to vulnerable women in societies especially the poor, illiterate and rural based women?

UN Women's was established to promote and protect gender equality, women empowerment, development and advancement. Its mandate and functions were consolidated from the:

- Office of the Special Adviser on Gender issues and advancement of women and the Division for the Advancement of Women (DAW)¹¹²

It also addresses challenges faced by women all over the world emanating from social attitudes, norms and power structures.¹¹³ Gender inequality, poverty, domestic violence and disempowerment have been prevalent in African societies. UN Women has assisted in abolishing the stigma against women's development and advancement that has been regarded as a waste of resources and time.

¹⁰⁸ See section 1.1 above.

¹⁰⁹ (n 108 above).

¹¹⁰ (n 108 above).

¹¹¹ UN Women: Annual Report 2016-2017.

¹¹² UN Women (About us) (see chapter 1).

¹¹³ Ra Manjoo Women's Human Rights in Africa (in Manisuli Ssenyonjo (ed.) *The African Regional Human Rights System 30 years after the African Charter on Human and People's Rights*).

The questions that have been posed for long include "what are women's rights?", "how is development and advancement affected by society and inequality?" Women's rights are defined as rights and entitlements that are claimed for women and girls around the world.¹¹⁴ The rights formed the basis of the women's rights movement in the nineteenth century and feminist movement during the 20th century.¹¹⁵ In some countries, these rights are institutionalised or supported by domestic laws whereas in others they are restricted, for instance, the rights of gays and lesbians in Zimbabwe.¹¹⁶ They differ from notions of human rights through claims of an inherent historical and traditional bias against the exercise of rights by women and girls, in favour of men and boys.¹¹⁷

UN Women was established to focus and impact gender equality activities for the entire United Nations system.¹¹⁸ The organisation commended countries on some of their legislative progress achieved thus far, even though there is still much to be done. South Africa's efforts can be commended as it has implemented legislative frameworks that are pro-women including legislative amendments of customary laws that discriminated against women. On the other hand, Zimbabwe has been battling to push for legislative agendas that protect the rights of women, as many women have suffered in the hands of a legal system that is discriminatory against women inheritance and laws of succession.

UN Women's support at country level aims at turning the 2030 Agenda for Sustainable Development Goals into results realised rights and build resilience for women and girls.¹¹⁹ The motto behind the goal is based on the fundamental promise of Agenda 2030 not to leave anyone behind by increasing capacities in countries for gender mainstreaming.

¹¹⁴ Manjoo (n 113 above).

¹¹⁵ Hosken, Fran P, 'Towards a Definition of Women's Rights in Human Rights Quarterly' Vol 3, No. 2 (May 1981) pp 1 – 10.

¹¹⁶ Sarauswath (n 28above).

¹¹⁷ Manjoo (n 113 above).

¹¹⁸ Manjoo (n 115 above).

¹¹⁹ UN Women: *Annual Report 2016-2017* available at <http://annualreport.unwomen.org/en/2017> (accessed 26 May 2017).

2.2 UN Women South Africa¹²⁰

UN Women’s work in South Africa stretches across the country in developing joint programming and promoting national normative and policy framework for gender equality. Its role in South Africa has been applauded for as it has extended beyond its borders to neighbouring countries. UN Women South Africa is known as the MCO, which covers five countries that include South Africa (presence country), Botswana, Lesotho, Namibia and Swaziland.¹²¹ These countries are also members of Southern Africa Customs Union (SACU)¹²² and the Southern Africa Development Community (SADC).¹²³

Further to this, UN Women Country Programme contributes towards UN's Strategic Cooperation Framework (SCF) to South Africa.¹²⁴ South Africa MCO’s priority areas include:

- Women, especially the poorest and most excluded to be economically empowered and benefit from development,
- Governance and national planning to fully reflect accountability for gender equality commitments and priorities,
- Women and girls living a violence free life,
- Peace, Safety & Security and humanitarian actions shaped by women’s leadership and participation.¹²⁵

The MCO works with other SACU countries with no field present for advocacy and collaboration with sister UN agencies. Together with these agencies, they have supported UN programmes by integrating Gender Equality and Women’s Empowerment (GEWE) in UN Programming frameworks and support UN coordination on GEWE.¹²⁶

¹²⁰ (n 24 above).
¹²¹ (n 119 above).
¹²² (n 24 above).
¹²³ (n 24 above).
¹²⁴ (n 24 above).
¹²⁵ (n 24 above).
¹²⁶ (n 24 above).

The organisation identified that most women who are excluded in communities require the necessary attention for development and advancement since they suffer the most. Through the collaboration with Coca-Cola Company and Intel, there has been the development and implementation of gender-responsive policies and services that have been assisting women.¹²⁷

Another focus area in South Africa includes the strengthening of national responses and prevention mechanisms to reduce violence against women. This focus has been achieved by establishing relations with the government, faith-based institutions, men's networks that promote GEWE, civil society and the media.¹²⁸

South Africa has over the past years developed laws and policies that compel both public and private sectors in working towards achieving gender equality goals and targeting post-2015 development agendas, SDGs, AU Agenda 2063 and National Development Plan 2030.¹²⁹ The objective of this work by South Africa MCO to create partnerships that strengthen the capacity of gender equality champions at national level, private and public institutions. The work that has been dealt with so far includes:

- Helping to equip gender machinery, gender advocates and women parliamentarians with capacity to implement pre-existing gender equality and women's empowerment policies that promote women's leadership;
- Building capacity of women (including young women) to better engage in decision-making processes and positively influence processes that promote improved outcomes for women and girls; and
- Supporting mentorship of young women and girls.¹³⁰

South Africa has further committed to focus on areas that promote development and advancement through:

¹²⁷ (n 24 above).

¹²⁸ (n 24 above).

¹²⁹ South Africa's national policy framework (executive summary): South Africa's Meeting on Gender Equality and Women's Empowerment.

¹³⁰ (n 129 above).

- Equal representation and women empowerment, in terms of Section 9 of the Constitution.¹³¹ This empowerment has been affected by developing a comprehensive legal framework such as Promotion of Equality and Prevention of Unfair Discrimination Act, 4 of 2000;¹³²
- Women and health, working towards a generation free of HIV, with reference to girls and young women,¹³³
- Ending violence against women, going to district municipalities convening national dialogues on violence against women. The dialogue led to the launch of #356 Days Campaign on No Violence against Women and the #CountMeIn, as media tools to engage communities, men and boys, to contribute to ending violence against women and children.

These campaigns have been aligned with UN Women's He4She Campaign that mobilises and encourages men to be agents of change in ending the persistent inequality and violence faced by women and girls.¹³⁴

2.3 UN Women Zimbabwe

UN Women Zimbabwe has been playing a significant role in the country by providing support and assistance to the government. The organisation has further ensured that the country develops and implements measures that allow for women's leadership and political participation. The country still needs support and improvement in areas of stagnation especially in implementing the various human rights instruments that have constantly been violated over the past years. A 50/50 female representation target has been set for 2015 to allow for women in public institutions. However, this was never attained as less than 25%

¹³¹ Section 9 of Constitution of South Africa (It protects the rights of all persons to equal protection and benefit of the law, and to freedom from unfair discrimination based on among others, gender, sex, pregnancy and marital status).

¹³² (n 129 above).

¹³³ (n 129 above).

¹³⁴ (n 129 above).

of women managed to secure positions in the public sector.¹³⁵ This inconsistency requires strong commitments and strategic plans in relation to parity in accessing services and participation in decision-making.¹³⁶

The country's last elections in 2013 saw women's representation in Parliament at a staggering 35%.¹³⁷ At this point, Zimbabwe is likely to hold an election by mid-July 2018; the elections will reflect how the organisation has been supporting women in pursuing their political endeavours. According to recent statistics, female representation in Parliament is less than 32%.¹³⁸ These statistics shows a difference with South Africa that is currently at approximately 42% female representation.¹³⁹ Critical components for women's development in the country include gender mainstreaming, women's economic empowerment and alignment of legislation to the country's Constitution.

2.3.1 Joint Programme for Gender Equality Zimbabwe (JPGE)

The Joint Programme was introduced to support the Zimbabwean Government in achieving national goals about GEWE.¹⁴⁰ This was a Swedish International Development Cooperate Agency (SIDA) funded programme that was set from March 2014 up until March 2017, with a confirmed budget of \$5,311,640.¹⁴¹ The programme comprised of three programme goals which include:

- Increased women's participation and representation in political and decision-making structures,
- Increased women's economic empowerment and improved working conditions,

¹³⁵ UN Women Zimbabwe Report.

¹³⁶ (n 135 above).

¹³⁷ UN Women: Zimbabwe <http://africa.unwomen.org/en/where-we-are/eastern-and-southern-africa/zimbabwe>

¹³⁸ The World Bank: Proportion of seats held by women in national parliaments available @ <http://data.worldbank.org/indicator/SG.GEN.PARL.ZS> (accessed on 21 March 2016).

¹³⁹ (n 135 above).

¹⁴⁰ (n 10 above).

¹⁴¹ (n 10 above).

- Strengthened national accountability on gender equality and women's empowerment.¹⁴²

The programme had the support of United Nations Development Programme (UNDP), International Labour Organisation (ILO) in partnership with the Ministry of Women Affairs, Gender and Community Development and twelve other Ministries and Governmental Bodies.¹⁴³

According to SADC Gender Barometer, Zimbabwe was performing very poorly in women's leadership and political participation as compared to its neighbouring country, South Africa.¹⁴⁴ Women hold less than 6% of ministerial positions and 92 in local authorities.¹⁴⁵ This shows the disproportion that exists when it comes to the importance and seniority of positions, which leaves women having less authoritative roles. According to the Gender and Development Index, despite the introduction of the new 2013 Constitution of Zimbabwe that made provisions aimed at benefiting women, women continue to suffer gender discrimination and inequality.¹⁴⁶ UN Women's support has been focusing on ensuring that there is equal participation of women in influential political and decision-making roles at local and national levels through its support to the governments.¹⁴⁷

2.4 UN Women: policies and programs

UN Women deals with several focus areas that include leadership and political participation, education and SDGs addressing harmful customary practices. It aims to eradicate pressing issues affecting African women as its cornerstone. Most young girls' dreams have been affected by traditions more especially being forced into marriage before attaining the legal age of majority. Customary practices in South Africa and Zimbabwe are recognised as laws governing the indigenous. However, the practice of child marriages has raised eyebrows

¹⁴² UN Women: Joint Programme for Gender Equality (JPGE) Zimbabwe.

¹⁴³ (n 139 above).

¹⁴⁴ SADC Gender Protocol 2015 Barometer

¹⁴⁵ JPGE Zimbabwe available @ <http://www2.unwomen.org/-/media/field%20office%20africa/attachments/publications/2016/01/zimbabwe%20joint%20programme%20for%20gender%20equality%20jpge%20newsletter%20%20october%202015.pdf?vs=4800> (accessed 21 March 2016)

¹⁴⁶ (n 138 above).

¹⁴⁷ (n 138 above).

due to its discriminatory nature and the fact that it robs young girls of their childhood and future.¹⁴⁸ South Africa and Zimbabwe may not hold high rates of child marriages, as compared to Chad, Central Africa Republic and South Sudan that have been known to have quite large numbers of girls married early, but the practice is relatively high and is ongoing.¹⁴⁹ In 2016 it was reported that approximately 6% of South African girls were married off before the age of 18.¹⁵⁰ Unfortunately, these numbers cannot accurately determine the number of young girls married because most of these marriages are not registered.¹⁵¹ The sad reality of it all is that every two seconds, a girl is forced into marriage before she reaches puberty or 18 years of age.¹⁵² The various systems set in place and the community are not doing their part to protect the young victims and law enforcement is of little help.

Moreover, while other countries are battling with the practice, Malawi has been applauded for its efforts in eradicating the practice. The country has made extensive commitments through campaigns, interactions with community leaders to annul such marriages.¹⁵³ These efforts have been applauded at both domestic and regional level, as it has inspired other countries to come up with action plans. South Africa has followed suite more especially in Limpopo where perpetrators have been imprisoned and young girls have been rescued from the marriages. A Limpopo man was sentenced to a minimum of 15 years imprisonment after abducting and claiming that he was legally married to a young bride.¹⁵⁴

UN Women has been advocating for the adoption and implementation of laws and policies that prevent early marriages and assist in mobilising community members against the

¹⁴⁸ E.M Baloyi 'Critical reflections on polygamy in the African Christian context'

¹⁴⁹ Child not Brides : *Ending child marriage in Africa A brief by Girls Not Brides* available at <https://www.girlsnotbrides.org/wp-content/uploads/2015/02/Child-marriage-in-Africa-A-brief-by-Girls-Not-Brides.pdf> (accessed 24 May 2016).

¹⁵⁰ Girls not brides: *Child marriages around the world, South Africa.*

¹⁵¹ Baloyi (n 148 above).

¹⁵² Girls not Brides Brief: *Child marriage in Africa.*

¹⁵³ UN Women Malawi: UN Women News.

¹⁵⁴ M De Waal, 'Limpopo child bride: Sold into marriage, kept there by the system.'

practice.¹⁵⁵ It has further campaigned with communities in supporting girls' progress and assisting in annulling child brides' marriages.

The South African National Prosecuting Authority¹⁵⁶ has been working with civil societies to teach the public about the dangers and risks posed by these marriages. It further drives the provisions of section 12 (a) and (b) of the Children's Act in relation to child marriages,

(a) "A child below the minimum age set by law for a valid marriage may not be given out in marriage or engagement; and

(b) Above that minimum age may not be given out in marriage or engagement without his or her consent."¹⁵⁷

The HeForShe campaign was introduced as a way of raising awareness against child marriages.¹⁵⁸ The campaign calls for men and women to take active steps in promoting GEWE.¹⁵⁹

2.4.1 HeForShe Campaign

UN Women established the HeForShe campaign in 2014 to engage men and boys to be agents of change, in empowering, developing women against gender inequality.¹⁶⁰ The campaign focuses on acting against negative inequalities faced by women and girls.¹⁶¹ The idea is grounded in goals much bigger, systematically structured towards economic, social and political realities for women and men.¹⁶² The campaign aimed to involve every single person. The Zimbabwean HeForShe campaign was aligned with Beijing+20 frameworks

¹⁵⁵ Equality now: *Protecting the girl child*.

¹⁵⁶ Section 179 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), created a single National Prosecution Authority (NPA) The Constitution, read with the said Act, provides the prosecuting authority with the power to institute criminal proceedings on behalf of the State and to carry out any necessary functions incidental to instituting criminal proceedings.

¹⁵⁷ Section 12 of the Children's Act of 2005,

¹⁵⁸ UN Women: *HeForShe Campaign* available at <http://www.heforshe.org/en/our-mission> accessed 16 May 2016.

¹⁵⁹ (n 155 above).

¹⁶⁰ UN Women: HeForShe Action Kit 4 available @ http://www.heforshe.org/~media/HeForShe/Files/impactchampion/HeForShe_IMPACT10X10X10_Brief.pdf

¹⁶¹ (n 158 above).

¹⁶² (n 158 above).

with UN Women pledging towards advocating for affirmative action, fighting against harmful practices and increasing the commitment to gender equality.¹⁶³

The campaign was further extended to universities around the globe including the University of Witwatersrand that pledged to take a stand in developing a comprehensive system that reports, predicts, prevents and address gender-based harm on campus.¹⁶⁴ The university further committed to use non-traditional supporters to mainstream gender equality and increase the representation of women staff in the context of South Africa’s complex ‘dual diversity’ mandate.¹⁶⁵ However, this campaign in Zimbabwe has not been extended to any universities to date. An extension to universities helps in creating and spreading awareness when it comes to advancing and developing women’s rights.

2.4.2 Leadership and Political Participation

UN Women has assisted women in attaining leadership roles through training political candidates to help build capacity.¹⁶⁶ In total, the organisation has trained over 4 000 aspiring candidates and elected women leaders in 51 countries.¹⁶⁷ It has further advocated for legislative and constitutional reforms to ensure women’s fair access to political spheres. This assistance has helped women to campaign freely, without the fear of intimidation. This capacity building has resulted in the increase of women in the national legislature, local councils and political parties, and support for public administrations to position women at the front line of public service delivery. Women in leadership and political participation have been restricted as evidenced by being underrepresented as voters or influential political positions. Targets have been set by both South Africa and Zimbabwe to meet their goals in attaining equality in women’s leadership and political participation following the footsteps of Rwanda that has raised the bar in the continent.¹⁶⁸

¹⁶³ UN Women Zimbabwe: *#HeForShe signing in Harare, Report by the Swedish Embassy.*

¹⁶⁴ HeForShe Impact 10x10x10 University Parity Report 2016.

¹⁶⁵ (n 164 above).

¹⁶⁶ (n 119 above) @ page 3.

¹⁶⁷ (n 119 above).

¹⁶⁸ UN Women: Coverage: Executive Director in Rwanda.

Women have proved their capabilities as leaders and agents of change by participating in democratic governance.¹⁶⁹ However, many African women still face obstacles in political participation due to lack of exposure and fear of intimidation. Barriers such as religious beliefs, discriminatory laws, poverty and institutional discrimination limit them from contesting for top executive posts.¹⁷⁰ Furthermore, capacity gaps exist as men have better education, resources, contacts and support compared to women. It can be argued that due to affirmative action, most women are placed in positions for statistics purposes.

2.5 UN Women's role in women's leadership and political participation

Over the past years, women's leadership and political participation have shifted from mere administrative roles to authoritative ones. This progress can be attributed to some of UN Women's programmes that have been guided by its international commitments towards women's representation.¹⁷¹ UN Women has powerfully advocated for parity at all levels in politics, and public lives, in line with the commitments affirmed in the SDGs. Constitutions have supported the role of women by repealing laws that are discriminatory and upholding policies that guarantee women opportunities to lead, including temporary special measures that pave the way for permanent measures. It cannot be disputed that the process of development in women's leadership and political participation remains elusive with only 1 in 5 parliamentarians globally being women.¹⁷² This development has proved to be a very slow process for women who strive to lead and make a change.

New leadership skills have been implemented to equip women who serve in Parliament, civil societies and their local communities to provide effective champion for change. In 2014, the Inter-Parliamentary Union launched Women in Politics map which showed that despite progress, the glass ceiling remained firmly in place for women at the highest level.¹⁷³ A year

¹⁶⁹ (n 164 above).

¹⁷⁰ (n 164 above).

¹⁷¹ UN Women: "Progress for women in politics, but glass ceiling remains firm"

¹⁷² UN Women: Launched at UN, latest 'Women in Politics' map reflects sluggish progress in gender equality. available @ <http://www.un.org/apps/news/story.asp?NewsID=50294> (accessed 24 May 2016).

¹⁷³ UN Women; Progress for women in politics, but glass ceiling remains firm.

later, in March 2015, UN Women with the Inter-Parliamentary Union launched 'Women in Politics' 2015 Map, which revealed the "snail's pace of progress" on gender equality and women participation in politics. This launch prompted UN representatives to warn against the slow advancement as it would severely affect the new global development agenda in future.¹⁷⁴ This warning led to the renewal of commitments and investments that meet the Beijing Platform for Action's target of gender balance set back in 1995.¹⁷⁵ The Map further paved the way for leaders to front-load gender equality considering the Beijing Platform for Action.¹⁷⁶

2.5.1 Sustainable Development Goals (SDGs)¹⁷⁷

Another notable work of UN Women includes the enforcement of 17 SDGs which include equality and women and girls access to education. SDGs are goals that were adopted by countries in 2015 when they agreed on the need for comprehensive financing and development to end poverty, protect the planet and ensure that all people enjoy peace and prosperity with women included. Countries concluded negotiation processes with governments uniting behind an ambitious agenda which featured 17 new SDGs and 169 targets aimed at ending poverty and combatting inequality by 2030.¹⁷⁸ The new SDGs were built from Millennium Development Goals (MDGs) that also focused on reducing poverty, gender inequality, diseases and ensuring access to water and sanitation by 2015.¹⁷⁹ The goals are aimed at completing what the MDGs failed to achieve and go much further in addressing the causes of poverty, inequality and the universal need for development that works for all people. SDGs go further than MDGs in that they look at progress and action in results. MDGs were overly ambitious and had unrealistic expectations placed on aid rather than action which resulted in their failure.

¹⁷⁴ UN Women: Launched at UN, latest 'Women in Politics' map reflects sluggish progress in gender equality available @ <http://www.un.org/apps/news/story.asp?NewsID=50294> (accessed on 26 May 2016).

¹⁷⁵ (n 174 above).

¹⁷⁶ (n 174 above).

¹⁷⁷ UN Women: *Sustainable Development Goals 2015*.

¹⁷⁸ (n 177 above).

¹⁷⁹ UN Women: In focus women and the Sustainable Development Goals (SDGs).

The new agenda goals focus on the action plan for people, planet, prosperity, peace and partnership in assisting towards development and advancement of women.¹⁸⁰ The goals aim to end poverty by 2030, promote shared economic prosperity and social development to mention a few for all countries.¹⁸¹ One important goal which is the “stand-alone” goal focuses on gender equality and the empowerment of women and girls (SDG 5) aiming at ending early marriages. UN Women was tasked as an observer of this goal and has made it a part of its programs. UN Women has further been advocated for a post-2015 development agenda aimed at achieving gender equality, women’s rights and empowerment grounded in human rights.¹⁸²

i) SDG 4: Quality Education¹⁸³

The most fundamental way to advance and develop women has been regarded to be through formal quality education. SDG 4 aims at ensuring that by 2030, there is equitable, quality primary and secondary education for all, more especially women. Targets have been set to meet the goal; however, in the developing regions like South Africa and Zimbabwe, the accomplishment has been far fetching as many women still struggle to obtain an education. Most young girls have failed to complete primary education, especially in the rural areas, as they are married off at a young age. For those that proceed tend to only go as far as Grade Seven just to give them a basic primary education. Many young girls in rural areas are forced to walk long distances to go to the nearest schools, in the end opting to drop out. This drop out has increased the gender gaps between girls and boys access to education. UN Women has been promoting access to education as a core prerequisite for gender equality and women's rights through the revision of school curriculums and policies that counteract gender discrimination.¹⁸⁴ Both Zimbabwe and South Africa, through Girl

¹⁸⁰ (n 174 above).

¹⁸¹ (n 174 above).

¹⁸² UN Women: Position on the post -2015 development agenda.

¹⁸³ (n 177 above).

¹⁸⁴ UN Women: Analysis of women and sustainable goals.

Guides, Girl Scouts and the support from UN Women have developed curriculums that educate girls to be strong youth leaders that can deliver.¹⁸⁵

ii) SDG5: Gender Equality¹⁸⁶

The progress of SDGs has been monitored by the High-Level Political Forum (HLPF) with governments and civil societies thereby assisting participants to discuss the practical instruments and analytical tools that are instrumental in achieving gender equality goal of the SDGs (Goal 5) at the country level.¹⁸⁷ The key role lies in parliaments unlocking and leveraging the full potential of women since they are the bridge between citizens and governments. Women play a critical role in all SDGs, with many targets specifically recognising women’s equality and empowerment as the objective and part of the solution.¹⁸⁸ SDG 5 is dedicated to achieving these ends and as such is known as a stand-alone gender goal. UN Women has advocated for deep legal and legislative changes that are needed to ensure women’s rights in the continent, especially rooting from country constitutions as its basis.

2.6 Conclusion

The formation of the organisation has been coupled with many programmes and policies introduced to host countries in dealing with challenges affecting women in Southern Africa. South Africa as the presence country to Swaziland, Botswana, Lesotho and Namibia oversees the implementation of several programmes in identifying some challenges faced in different areas. Unfortunately, Zimbabwe has been battling in addressing most of the challenges faced by women. The purpose of the programmes in these countries is mainly to assist not only governments but women in all areas of life towards realising their development and advancement.

¹⁸⁵ (n 177 above).

¹⁸⁶ (n 177 above).

¹⁸⁷ (n 177 above).

¹⁸⁸ (n 177 above).

Different programmes and campaigns have been established to address the various challenges faced by women in different countries and cultures. Some of the programmes that have been explicitly set for South Africa are different from those set for Zimbabwe. With these in mind, UN Women has been guided by the organisation in such a way that all women are included and that their purpose and mandate is fulfilled in line with the principles set by the international community.

Chapter Three: Human Rights violations: Core Issues Affecting the Development and Advancement of Women in Southern Africa

3.1 Introduction

The development and advancement of women can be defined as a rich and complex theme which has gained increasing importance over the year. Unfortunately, the manner and way the process of development has shown little progress and some inconsistency as it has not been universally embraced.¹⁸⁹ Unfortunately, the process of development has shown little progress with some inconsistencies as it has not been universally embraced. The weak status of women in Southern Africa has originated from challenges such as early child marriages which are form violence against women, limited access to education and limited leadership and political participation. Factors leading to such weak statuses of women include poverty, lack of resources and opportunities

This chapter will address challenges affecting women including child marriages, education, leadership and political participation.

3.2 Concept of Development and Advancement of Women

The concepts of development, advancement and empowerment have been used interchangeably in relation to the status of women and the realisation of their rights. These have been looked at differently through the lens of UN Women and ordinary people.¹⁹⁰ The UNDP unequivocally concluded that no society treats its women the same as its men, hence, it was important that women's rights be taken as a matter of priority.¹⁹¹ The numbers of young girls that have been married over the years surpass that of young boys. This has been confirmed over the years, as evidenced by the fact that many young girls continue to be victims of child marriages.¹⁹² This has resulted in girls dropping out of school at an early

¹⁸⁹ A Booyesen-Wolthers 'The development status of women in South Africa: Patterns, Progress and Profiles' (2007) 4.

¹⁹⁰ H Babacan, Women and Development (University of the Sunshine Coast, Australia)

¹⁹¹ Babacan (n 190 above) 4.

¹⁹² Babacan (n 190 above) 6.

age, further increasing the rate of unemployment and future endeavours of women's participation in leadership and political roles.

3.3 Early or Child Marriages As a Customary Traditional Practice

Early or child marriages are defined as "*any marriage carried out below the age of 18 years, before a girl is physically, physiologically and psychologically ready to shoulder the responsibilities of marriage and childbearing.*"¹⁹³ Further, UN Convention on the Rights of the Child (CRC) defined a child as "every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier."¹⁹⁴ The conclusion of child marriages usually takes place between an underaged girl and a much older man, and such unions are not registered under civil, religious or customary laws.¹⁹⁵ General Recommendation 21 of CEDAW, explicitly deals with equality in marriage and family relations, it outlaws child marriages, and stipulate the minimum age to be 18 for both males and females.¹⁹⁶ Article 16 (2) of CEDAW states that the betrothal and 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 compulsory.¹⁹⁷

Child marriages have been described as an appalling violation of human rights that robs girls of their education, health and long-term prospects.¹⁹⁸ Despite the physical damages and the persistent discrimination against young girls, progress has been made towards trying to end the practice. However, problems threaten to increase with the rapid expansion of youth population in less developed countries. UN Women has estimated that more than 15 million African girls are forced into early marriages each year.¹⁹⁹ These are only estimates, as the actual figures are not available since most of the marriages are not

¹⁹³ IPPF, *Ending Child Marriage: A Guide for Policy Action (2007)*. Also, see Article 1 of the *Convention on the Right of the Child*.

¹⁹⁴ Convention on the Rights of the Child of 1989.

¹⁹⁵ V Wang, 'Ending child marriages – new laws bring progress, but hurdles remain' *CMI Insight* 2016.

¹⁹⁶ Convention on the Elimination on All Forms of Discrimination against Women; General Recommendation 21. (n 186 above).

¹⁹⁸ UN Women: "*Child Marriages: 39 00 Every Day-More than 140 million girls will marry between 2011 and 2020*."

¹⁹⁹ Booyesen-Wolthers (n 189 above) 16.

registered under customary or religious laws and if the marriages are registered ages are normally falsified.²⁰⁰

Customary laws have been recognised as part of the existing laws in many countries, with many aspects being channelled to conform to current civil laws.²⁰¹ However, with times evolving, conflicts exist which have led to clashes between customary practices and modern laws. Early marriages have become complex as they are rooted deeply in gender inequality, poverty and traditions ICC. ²⁰² Human Rights Committee’s General Comment 28 elaborates the obligation of states regarding equality rights between men and women:

“Inequality in the enjoyment of rights by women is deeply embedded in tradition, history, and culture including religious attitudes. States parties should ensure that traditional, historical, religious and cultural attitudes are not used to justify violations of women’s right to equality before the law and to equal enjoyment of all Covenant rights.”²⁰³

Under South African laws, boys under 18 and girls under the age of 15 cannot get married without special permission from the court, parent or guardian who have to give their consent that the minor is of right and sober senses and that there has not been any undue influence made to influence their decision.²⁰⁴ This special permission is also applicable in Zimbabwe although the minimum age for girls is 16 and the practice of early marriage continues under customary law.²⁰⁵

It is sad to note that issues relating to child marriages have not been adequately addressed, and this led to the failure in achieving UN MDGs 4 & 5²⁰⁶ that called for the reduction of

²⁰⁰ Wang (n 195 above) 5.

²⁰¹ South Africa has the Recognition of Customary Marriages Act, which recognises customary laws as part of the South African indigenous laws.

²⁰² International Covenant on Civil and Political Rights.

²⁰³ International Covenant on Civil and Political Rights Human Rights Committee’s General Comment 28.

²⁰⁴ Western Cape Government: Getting Permission to marry if you are under age, Available on <https://www.westerncape.gov.za/service/getting-permission-marry-if-you-are-underage>. Accessed 02/05/2017.

²⁰⁵ (n 79 above) 3.

²⁰⁶ Millennium Development Goals (MDGs) were eight goals that were set at the United Nations Millennium Summit in 2000 that targeted and set clear deadlines for improving the lives of the world’s poorest people. These goals ended in 2015, and they were substituted by Sustainable Development Goals (SDGs). Goal 4 was

child mortality and the need to improve maternal health. When MDGs came to an end in 2015, SDGs Agenda 2030 was introduced addressing child marriages once again as they were not yet over and still needed to be addressed.²⁰⁷

Based on the above, it can be determined that while the concept of child marriages has been glorified as marriage, this justification of the union should not be equated to marriage. It is a form of abuse in every sense and should not be classified under the ambit of marriage. The legal systems are failing the children and so are the parents and guardians. As such it would be in the interest of the victims that these unions are not termed marriages, in the same way that in some cultures same-sex marriages are not marriages but unions. The only way to achieve the advancement and development of women is to look at the root cause of their challenges and address them before they are nurtured. The term child marriages has been naturalised and slowly accepted, allowing the practice to perpetuate.

3.3.1 Perpetuations of child marriages

Out of the 20 countries in the world that hold the largest numbers of child marriages 15 are African countries which include Niger, Chad, Mali and the Central Africa Republic.²⁰⁸ The practice has been a global concern in developing and developed countries. An end to child marriages in Southern Africa is a door opener for young girls' education, good health and freedom and non-discrimination in leadership and political participation in the continent. It has seen an increase more especially in rural Sub-Saharan Africa. Although South Africa and Zimbabwe may not be amongst the top-ranking countries with child marriages, the practice is still very dominant in the regions.

to reduce child mortality, and Goal 5 was to improve maternal health. These had strong reference towards child marriages as young girls experienced child mortality as they lost children during birth. Goal 5 has also been a target for child marriages, with many young girls experiencing complications during pregnancy which resulted in high child mortality and deaths during child birth of young mothers.

²⁰⁷ (n 198 above).

²⁰⁸ (n 177 above).

Very little progress has been made as this requires not only the attention of parents and guardians but of law enforcers and the state as the guardian of minors. Most of the perpetrators who commit the crime are fined or receive minimum punishment and continue with their lives at the expense of the victims. If a drastic change is not made to abolish and impose heavy punishment on perpetrators the number of child brides will double by 2030.²⁰⁹ The effects of this to the continent is a loss on enormous future social and female political leaders.

The African, customary practices have played a role in advancing child marriages negatively, by gradually accepting their solemnization and acceptance as an acceptable norm. In some communities, traditional leaders view that straying from tradition is a sign of disloyalty to customs that moulded people and as such, the practice defines them traditionally.²¹⁰ In some African communities, marrying off a girl is regarded as a way of pleasing the ancestors.²¹¹ Unfortunately, the marriages have caused more harm than good in pleasing ancestors by accelerating emotional, sexual and physical abuse on young girls.

Gender inequality from a customary perspective has also driven the increase in child marriages.²¹² In African traditions, women are raised for marriage purposes and once married they become members of the husband's family. Families prefer to send a male child to school instead of sending a female child to school and as such preserving their family lineage in favour of a male child.

In South Africa, the most common practice of child marriage is known as *ukhutwala*.²¹³ This *ukhutwala* is when a young girl or woman is kidnapped by the potential suitor with the intention of compelling her family to endorse marriage negotiations. The same practice is

²⁰⁹ (n 177 above).

²¹⁰ (n 190 above).

²¹¹ (n 148 above) 17.

²¹² S Jongizulu, 'Causes and Consequences of Early Marriage in Lusikisiki' *Nelson Mandela Metropolitan University* (2012)

²¹³ South Africa, Department of Justice "Let's stop stolen childhood", *Ukhutwala* in South Africa, is the practice of abducting young girls and forcing them into marriage, often with or without the consent of their parents. The practice is more common in rural parts of South Africa, particularly in the Eastern Cape and KwaZulu-Natal.

also known in Zimbabwe as *musengabere*,²¹⁴ the suitor abducts the girl by force to his home for marriage purposes or with the intention to marry. Once the girl spends the night away from her home, she is not expected to return home, as she would have consented by not running away.²¹⁵ *Musengabere* can be regarded more as abduction than a marriage proposal and is a criminal offence in urban areas, while in rural areas it is common.²¹⁶

Furthermore, poverty has perpetuated child marriages as parents strive to ensure their family's financial security at the expense of the girl child.²¹⁷ The increase in poverty has been a driving force to most of the marriages, the increase in illiteracy, inadequate resources to send a child to school and an effect on women's political participation.

3.3.2 Religion beliefs

Religious beliefs have also had their influence on child marriages as most perpetrators have been hiding behind the façade that it is part of their religion to marry young girls to appease the spirits and ancestors. These beliefs have had a negative impact on young girls who are mainly victims of child marriages as they are married off out of the belief that marrying girls bring blessings to the family or a cure for AIDS.²¹⁸

While some of these beliefs are used as a scapegoat to the practice, the actions are driven by selfish motives of power or greed, as human rights violators seek to rationalise their behaviour as consistent with or conducive to some morally sanctioned purpose.²¹⁹ Excuses have been given in defence of child marriages. However, the true motives behind are more sinister and perverted than meets the eye. Some young girls are forced into child marriages to men twice or thrice their age, because of the belief that that sexual intercourse with a young virgin can cure HIV/AIDS.²²⁰ This belief has commonly been practised by

²¹⁴ *Musengabere* is the term that is used in the Zimbabwean Shona culture as a way of marrying young girls as they are abducted. In Beatrice, Zimbabwe, a man was jailed for 2 years after he abducted a 13-year-old to his wife and made her his wife.

²¹⁵ (n 214 above).

²¹⁶ Nzenza S, 'The disappearing act of traditional courtship' *The Herald* 27 August 2014.

²¹⁷ Sibanda (n 80 above).

²¹⁸ Sibanda (n 80 above).

²¹⁹ A Na'im 'Human rights in Cross-Cultural Perspectives: A Quest for Consensus' *Pennsylvania Studies in Human Rights*'.

²²⁰ G Ramjee & B Daniels 'Women and HIV in Sub-Saharan Africa'

Zimbabwe's popular religious group 'vaporisti²²¹' who do not believe in consulting professional medical assistance. Additionally, most of them hide behind the façade of fulfilling prophecies by abusing their religious positions and age to hand-pick young girls to whom they add to the existing number of wives.²²²

3.3.3 Impact of child marriages

Child marriages tend to persist because it has been a continuous practice that has been ongoing for generations without people being vocal about whether it is morally right or wrong. In the current world that we are living in, ways of life have changed, what seemed to be acceptable twenty years back, is no longer the same. Back then it was an accepted norm that once a young girl had reached a certain age, she was expected to get married, it was more of relations creating than the selfish endeavours of this day. Times are different; there is more to life than being married off at ten, the rate of child mortality during births and maternal deaths has increased since the majority of the girls are not strong enough to bear the term of pregnancy and deliver babies.²²³ According to the National Aids Council of Zimbabwe, the future of African girls has been robbed by the devastations of child marriages that robs them of education and exposes them to all forms of abuse.²²⁴

3.4 Education

The right to education is a right that everyone is entitled to enjoy according to the Universal Declaration of Human Rights.²²⁵ This right is considered to be an inherent right in the sense that it is legally guaranteed for all without any form of discrimination, states have an obligation to protect, respect and fulfil the right.²²⁶ The state can be held accountable for violation or deprivation of the right as such it is encourage to uphold the right.²²⁷ The right

²²¹ African Indigenous Churches, The Apostles are one of the prominent African religious churches that include Johan Masowe and Marange.

²²² UNICEF: *Child Marriages and the Law: Legislative Reform Initiative Paper Series* (2008) 13.

²²³ Sibanda (n 80 above)

²²⁴ Human Rights Watch: *Zimbabwe: Scourge of Child Marriage Set 18 as Minimum Age; Adopt National Action Plan*.

²²⁵ Article 26 Universal Declaration of Human Rights.

²²⁶ Fons Coomans 'Content and Scope of the Right to Education as a Human Right and Obstacles to its Realisation'.

²²⁷ *Christian Education South Africa v Minister of Education* (CCT4/00) [2000] ZACC 11; 2000 (4) SA 757; 2000 (10) BCLR 1051

to education emanates from basic education to tertiary education, which must be free and available for all. As a basic human right, education is meant for all which means that there should be no discrimination. This right has a solid basis in international law including CRC and CEDAW.

Even though there are no formal barriers to girls entering school, the disadvantaged position of women in a society may have the effect of denying them of their rights to education. Some young girls in African rural areas are illiterate compared to their male counterparts because they are denied access to education as early as primary education. Girls who are fortunate enough to attend school, may only go as far as grade 7, without being given the opportunity to proceed to secondary education. The advantages towards educating women gives rise to their independence, development and advancement, making them less reliant on men. Unfortunately, the gender gap in education exists in South Africa and Zimbabwe with women still battling to obtain an education.²²⁸ Access to education may have improved over the years, but there is more work to be done to ensure adequate, free and quality education be available to girls and women. Most governments insufficiently consider the relevant treaty provisions on the right to education as a touchstone for educational legislation and policy for women.²²⁹

The right to education is often described as an 'empowerment right' or a 'multiplier right'.²³⁰ From informal discussions with women between the ages of 26 to 35, most of them have opted to pursue their studies as far as doctoral studies instead of getting married. Most women have claimed that they have invested their incomes and future financial investments for the benefit of their siblings and parents.²³¹ This has proved to be contrary to the belief that educating the girl is a financial burden, as most families are being taken care of by their unmarried daughters.

The importance of male children has always been a controversial issue in Zimbabwean rural societies, and up to now, it is still a struggle. In her book 'Nervous Conditions', Tsitsi

²²⁸ Sibanda (n 80 above).

²²⁹ (n 216 above).

²³⁰ F Coomans 'In Search of the Core Content of the Right to Education' in A Chapman & S Russell (eds) *Core Obligations: Building a Framework for Economic and Cultural Rights* (2002) 217, 218.

²³¹ E King & R Winthrop 'Today's challenges for girls' education' *Global Working Papers | No. 79 of 82* (2015).

Dangarembga²³² described the challenges towards attaining education and the turmoil the female child experiences,

"Tambu was also eager to attend school and did not understand why her parents were only concerned with raising enough money to pay Nhamo's fees. When she complained to her mother that her father did not prioritize her education, her mother answered, "This business of womanhood is a heavy burden."

Despite these challenges having been identified in 1960 Rhodesia before independence, the right to education for girls remains a challenge in the 21st century. The road towards women's development and advancement has been crippled by many women's lack of education and the high rate of illiteracy. This lack of education should not be construed in a way that illiterate women are not successful, they are, but it is not an easy road for the majority. Most women struggle to obtain loans because they do not have proper income or permanent jobs. Others are forced to rely on their husbands to co-sign their loans because they have permanent employment and fixed income. Inequality and discrimination in education have been a major topic of discussion in most developing countries, particularly in Africa as girls are struggling to have access to free quality education.²³³

In 2000, 93.4 million women in Sub-Saharan Africa were illiterate, seventeen years later the number is still showing some disproportionality.²³⁴ Most young girls have been forced to drop out of school due to family financial constraints and ignorance towards its advantages on the future of girls. This drop out has been a major concern as half of the world's out of school children (OOSC) are concentrated in fifteen countries, eight of which are in Sub-Saharan Africa.²³⁵ It also led to organisations like the African Union (AU)²³⁶ declaring 2015 as the Year of Women Empowerment and Development towards Africa's Agenda 2063.²³⁷

²³² T Dangarembga *Nervous Conditions* (1988) 12.

²³³ J Agbor" *Poverty, Inequality and Africa's Education Crisis*.

²³⁴ "The State of Education in Africa" Retrieved 27 April 2017.

²³⁵ Coomans (n 226 above) 12.

²³⁶ The African Union is a continental union for African countries, one of its objectives is to promote and protect human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights and other relevant human rights instruments.

²³⁷ Status of women and girls in South Africa: *Towards the United Nation General Assembly meeting on the New Sustainable Development Goals (SDGS)*.

This Declaration was done to catalyse development and bridge the gender gap that exists between men and women. The initiative assisted in creating conducive environments or women in the agribusiness, their participation in judicial processes.²³⁸

3.4.1 Challenges in attaining education

Several factors such as financial constraints, customary beliefs and practices as evidenced above, hinder young girls from proceeding with formal education. There exists a belief in traditional African customs that a girl is a burden to the family, her role is only meant for childbearing and marriage, hence sending her to school is an unnecessary expense.²³⁹ Another view is that education is a hindrance to a young woman's customary development.²⁴⁰ Other cultures that do not support the development and advancement of girls regard education as a “Westernised” concept that brainwashes them. This view leaves most girls with limited opportunities, resorting to getting married early. Once a girl fails to receive some form of education or learn how to read or write, chances of pursuing a professional career of her choice are extremely low, and options will be limited to jobs in the unskilled labour market.²⁴¹

Fear exists amongst patriarchy groups for female dominance, which is a taboo in some African traditional societies for instance in some parts of Nigeria.²⁴² Investing in girls has been considered a smart move over the years as it boosts development and breaks the cycle of intergenerational poverty.²⁴³

Women and girls' access to education have been a major concern over the past decades with human rights activists urging governments to prioritise education for women by funding the construction of schools, funding young girls' education and having bursary schemes for them. In Burkina Faso, Nigeria and Senegal, once the girl fails to start school by the age of

²³⁸ Tralac *AU Declaration on 2015 year of women's empowerment and development towards Africa's agenda 2063*.

²³⁹ Sibanda (n 80 above).

²⁴⁰ Coomans (n 226 above).

²⁴¹ B Goldblatt & Kirsty McLean, 'Women's Social and Economic Rights' Developments in South Africa.

²⁴² 'Young girls have been attacked by Boko Haram an Islamic group from schools' *News 24* 2 May 2014.

²⁴³ The World Bank: *Getting to Equal: How Educating Every Girl Can Help Break the Cycle of Poverty*.

ten, the chances are high that she will never attend school in her life.²⁴⁴ In Nigeria, girls have been abducted from schools by the infamous Islamic group Boko Haram to keep them from attaining formal education.²⁴⁵ The infamous group has been discrediting education as a Westernised view and calling for its dissolution since they claim that it brainwashes women to rebel against their African traditions.²⁴⁶ This has resulted in girls being abducted from schools and placed in Boko Haram camps for them to practice Islamic education and ways of life.²⁴⁷ The group has further openly and unapologetically claimed that girls and women should not be educated, but they are meant to cook and be sex slaves.²⁴⁸

3.4.2 South Africa

Significant challenges faced by some South African women and girls in attaining education include gender inequality, safety and security, abuse in schools and the impact of HIV and AIDS. South African women experience discrimination and victimisation every day despite regulatory laws that have been imposed to protect them. The South African Constitution also prohibits against any form of discrimination.²⁴⁹ For many girls, the experience of going to school has not been pleasant due to constant discrimination, harassment and sexual abuse that they face from schoolmates and teachers.²⁵⁰

The Girls Education Movement,²⁵¹ CRC²⁵² and African Charter on the Rights and Welfare of the Child²⁵³ have rooted for free basic education and have also emphasised their safety in schools.²⁵⁴

²⁴⁴ The World Bank Report (n 243 above).

²⁴⁵ 'Boko Haram kidnapped 276 female students in Chibok in Borno State, Nigeria' *BBC News* 14 April 2014.

²⁴⁶ (n 237 above).

²⁴⁷ UN Women Annual Report 2016- 2017 *20UN Women has set up a social cohesion centre for displaced people, including girls who have been traumatised by the capture and repeated rape by Boko Haram.*

²⁴⁸ C Lamb, "A fight for the soul of the world" *Sunday Times* 23 March 2016.

²⁴⁹ Section 9 Constitution of South Africa, opening our eyes: *Addressing Gender-Based Violence in South African Schools: A Manual for Educators, Department of Education.*

²⁵⁰ (n 242 above).

²⁵¹ Girls Education Movement South Africa was introduced in 2006, by UNICEF South Africa, for girls and boys to stand a better chance to develop and prosper as it looked at the challenges faced by girls' education. The movement dealt with UNICEF's action and impact towards girl's education.

²⁵² United Nations Convention on the Rights of the Child (CRC) 1989.

²⁵³ African Charter on the Rights and Welfare of the Child 1990

²⁵⁴ (n 251 above).

3.4.3 Gender Inequality

Most South African societies are more inclined to patriarchy than equality, leaving women at the mercy and authority of men. The system of patriarchy has mostly affected women in rural areas as they are mostly unaware of their rights and have been victims of abuse out of ignorance thus perpetuating gender inequality. Women and girls have been disempowered as they have been socialised to become home keepers and child-bearers, placing less value on education. In situations where most of the girls excel in math and science subjects, they are rarely encouraged to pursue them because they are difficult and are considered masculine related.²⁵⁵ Women and girls have been disempowered as they have been socialised to become home keepers and child-bearers, placing less value on education. Often where girls could excel in subjects such as maths and science, the girls are discouraged to pursue such subjects as there are considered difficult and more masculine subjects.²⁵⁶

3.4.4 Poverty

Girl child education has become a major concern in most developing countries due to the high rates of poverty that results in the scarcity or lack of elements that is social and economic.²⁵⁷ Poverty is the biggest barrier to a girl's education, but the odds are higher for those who live in rural areas, informal settlements or if they belong to an ethnic minority or are caught up in a conflict zone. There has been an escalation over the years of girls being forced to drop out of school due to poverty to get married. Capacity gaps have also meant that women are less likely than men to have education due to the disproportionate effect of poverty which has had an adverse impact on women.

²⁵⁵ (n 251 above).

²⁵⁶ W Moyo 'Causes and effects of poverty on academic achievements of rural secondary school students: Case of Tshazi Secondary School in Insiza District' *International Journal of Asian Social Science Zimbabwe Open University* available @ [http://www.aessweb.com/pdf-files/ijass%203\(10\),%202104-2113.pdf](http://www.aessweb.com/pdf-files/ijass%203(10),%202104-2113.pdf) accessed 31/07/2017.

²⁵⁷ Moyo (n 256 above).

3.4.1 Zimbabwe

The recent political and economic instability in Zimbabwe has resulted in rapid deterioration of the education sector with many families failing to provide for their children's education.²⁵⁸ At the present moment with the country having had a transition in government, though still under the rule of ZANU PF, most people are hoping that the country's economy recovers the sectors that had been crippled. Poverty rates had increased which led many young people dropping out of school to follow various informal sectors for survival. This poverty has affected mostly young girls in areas such as Mashonaland West in Hurungwe district, where it recorded statistics of 8 438 pupils that had completed Grade Seven of which 4223 of them were girls.²⁵⁹ Of these girls, 3143 proceeded to Form One, and 26% dropped out of school due to lack of funding.²⁶⁰ Most young girls have become victims of early marriages, or migrated to nearby countries especially South Africa and Botswana, to become general workers, prostitutes and drug traffickers.²⁶¹ The same applies to South Africa, with high rates of poverty becoming a contributory factor affecting girls' access to education.²⁶² The advantage that some of the South African girls have is the availability of grants, a scheme that has been set by the government to accommodate low-income earners. However, most of these funds have been abused by family members who have access to the childcare grant. Unfortunately for young Zimbabwean girls, the government has been struggling to pay its civil servants, setting aside funds for education has been difficult to attain.

It should be commented that access to education was once a priority for the Zimbabwean Government's social policies in the 1980s and 1990s before the establishment of UN Women.²⁶³ Government employed teachers ended up requesting students to pay for some extra classes to be taught properly leading to many having to opt out of school as families could not afford the extra classes. The standards have since deteriorated with large

²⁵⁸ "Rural girls dropping out of school for marriage *The Financial Gazette* 15 January 2015.

²⁵⁹ (n 257 above).

²⁶⁰ (n 251 above).

²⁶¹ (n 257 above).

²⁶² Research and Advocacy Unit Report on Child Marriages.

²⁶³ Un Women (n 219 above).

numbers of teachers leaving the country to secure employment in nearby countries. This exodus led to the closure of many schools due to lack of funds and resources, leading to young girls getting married to evade poverty.²⁶⁴

A 2017 report showed that in Mbire district, Mashonaland Province, an average of 240 pupils, dropped out of school because of poverty and child marriages.²⁶⁵ Zimbabwe's Ministry of Women Affairs, Gender & Community Development confirmed this anomaly with the most affected school being Makuvatsvane Secondary School in Mashonaland Central with an average of 40 girls dropping out every month.²⁶⁶ This was only an indication of one school out of many districts; the numbers have been escalating each month confirming the loss to the future professionals and leaders.²⁶⁷

The right to education has not only been entrenched in terms of section 75 of the Constitution, “*every citizen and permanent resident of Zimbabwe has the right to (a) a basic State-funded education, including adult basic education; and (b) further education, which the State, through reasonable legislative and other measures, must make progressively available and accessible.*”²⁶⁸

The Zimbabwean Government adopted a poverty alleviation strategy the Interim Poverty Reduction Strategy Paper (IPRSP) aimed at assisting in improving women's access to education.²⁶⁹ The programme started in 2016 and is expected to be finalised in 2018, however, it has been battling to meet its goals in most pillars including Pillar VI that deals with gender, women and youth empowerment.²⁷⁰ The strategy has been experiencing challenges, because they have been trying to achieve so many things and fix so many problems within a short period of time and with very few resources (spray gun approach). Not only have they been building schools in informal settlements to try and accommodate

²⁶⁴ W Moyo 'Causes and effects of poverty on academic achievements of rural secondary school students: Case of Tshazi Secondary School in Insiza District' International Journal of Asian Social Science Zimbabwe Open University available @ [http://www.aessweb.com/pdf-files/ijass%203\(10\),%202104-2113.pdf](http://www.aessweb.com/pdf-files/ijass%203(10),%202104-2113.pdf) accessed 31/07/2017.

²⁶⁵ 'Child marriages empty Mbire schools' *The Herald* 16 June 2017.

²⁶⁶ (n 251 above).

²⁶⁷ (n 251 above).

²⁶⁸ Section 75 of the Zimbabwean Constitution of 2013.

²⁶⁹ P Chitambara A critical review of Zim's Poverty Reduction Strategy (2016).

²⁷⁰ Chitambara (n 269 above).

young girls access to education, but also implementing sustainable livelihood projects that meet their daily basic needs. However, most of them have been stopped from going to school due to pressure and circumstances, affecting women's development and advancement leading to poor leadership and political representation and participation.

3.5 Leadership and Political Participation

Restrictions towards women's leadership and political participation over the years stem from structural barriers through discriminatory laws and institutions that limit women. Capacity gaps exist which means women are less likely than men to have the education, contacts and resources needed to become effective leaders.²⁷¹ There has been snail pace progress due to the efforts of UN Women, as they have been training women to build their capacities and expose them to pursue politics and aim for leadership roles within different sectors.²⁷² Though political parties pledged commitment to have more female candidates and leaders, very few of them have practically enforced the commitment.

In South Africa and Zimbabwe, women played a crucial role during apartheid and liberation struggles, but their efforts have not translated into public post-apartheid and postliberation struggle leadership positions. Questions about women's leadership positions have often been raised and resulted in them being undermined.²⁷³ The findings will likely be that perceptions of gender equality as well as the eradication of discrimination against women are very often closely linked to the values and attitudes that the political elite hold.

In Zimbabwe women constitute 52% of the population since January 2017; their representation in influential political positions, notwithstanding the reserved quota for women in Parliament has been relatively low.²⁷⁴ Statistics show that 34% of the current Parliament members constitute only 125 women out of 350 members that is 48 in the Senate and 31 % in National Assembly).²⁷⁵ Of the 26 Ministers, only three are women, and

²⁷¹ UN Women: Women's leadership and political participation.

²⁷² UN Women (n 269 above).

²⁷³ T N Maseko, 'A comparative study of challenges faced by women in leadership: A case of Foskor and the Department of labor in Mhlathuze Municipality University of Zululand 2014.

²⁷⁴ D Nemukuyu 'Women urged to run for office' *The Herald* 20 May 2017.

²⁷⁵ Nemukuyu (n 272 above).

there are only three women who are provincial affairs Ministers in a country that has ten provinces.²⁷⁶ Further to that out of the 19 Deputy Ministers, only five are women, and the country has 1635 Councillors, and only 323 are women.²⁷⁷

Although Joyce Mujuru was the country's first female Vice-President, she failed to get the support of many people to remain in the position, and this resulted in her being removed from her post and consequently from ZANU PF. ²⁷⁸ Her efforts to form and sustain her own political party, Zimbabwe People's Party²⁷⁹ received mixed support from Zimbabweans since not many people view her as a potential Presidential candidate.²⁸⁰ This mixed support shows how challenging it is for most women in pursuit of politics, as they fail to get the requisite support.

3.5.1 South Africa

South African women have played a crucial role in the country's politics and freedom, and their efforts have been recognised as compared to women in Zimbabwe. Before 1994, female political representation was only a mere 2.7%. However, the numbers have increased to 41% female Ministers in the cabinet, 47% female deputy Ministers and 41% females in the National Assembly.²⁸¹

Furthermore, some of the notable, and influential women in politics include Minister of International Relations and Cooperation, Ms Maite Nkoane-Mashabane, Minister of Human Settlement, Lindiwe Sisulu and Minister of Science and Technology Naledi Pandor. Many women have progressively left their mark in South African politics including the former Democratic Alliance leader Helen Zille, before her resignation as the party leader in April 2015. Zille led DA to win most seats in the Western Cape Province in 2014; also under her

²⁷⁶ Nemukuyu (n 272 above).

²⁷⁷ Nemukuyu (n 272 above).

²⁷⁸ Zimbabwe African National Union, formed 1987 is the current ruling party in Zimbabwe.

²⁷⁹ National People's Party (NPP) a party formed in March 2017 by the former first female Vice President of Zimbabwe, Joyce Mujuru.

²⁸⁰ (n 277 above).

²⁸¹ Professor Hlengiwe Mkhize 'The role of women in politics, focusing on then and now.'

leadership, the party won 89 seats in the National Assembly and 22.23% of the National vote. Some notable women who have been in the South African political arena include the former first non-white DA Parliament representative from 2011 until 2014; Lindiwe Mazibuko,²⁸² Winnie Mandela and Agang Africa founder Maphele Rampele.²⁸³ Such progress has broken barriers for women, and the efforts of these women have created a platform for other girls and women who strive to be where they are. These women have become the ambassadors for change for generations to come.

The South African government further introduced the Black Economic Empowerment (BEE)²⁸⁴ as part of its policy implementation that empowers previously disadvantaged people and encouraged businesses to deal with suppliers that are at least 50% black-owned and at least to be 30% black female owned.²⁸⁵ The policy has helped some women with companies hiring, investing and supporting women who wish to progress in all aspects, be it education, business or politics.

Women's political role in South Africa can be traced back to the August 1956 march, which brought over 20 000 women of colour and race to the Union Buildings in Pretoria.²⁸⁶ This march was a pivotal event in the history of South Africa, as women marked themselves as influential actors in politics and as leaders, and today they are celebrated for their actions.²⁸⁷ This march has resulted in women coming together for change in the country and being celebrated every year on the 9th of August as an appreciation of their actions to stand against discrimination and for women's freedom.

²⁸² Mkhize (279 above).

²⁸³ Agang Africa was formed by Maphele Ramele in 2013.

²⁸⁴ Black Economic Empowerment (BEE) is a government policy that was introduced in 2007 to advance economic transformation and enhance the economic participation of black people in the South African economy. Its vision has been based towards ensuring that there is equity and empowerment policies and strategic interventions.

²⁸⁵ SAB&T: BEE Services: Is BEE empowering South African black women'

²⁸⁴ I Akpan 'The 1956 Women's March" South African Women'

²⁸⁵ Akpan (n 284 above)

The march influenced other women to continue with the legacy for freedom and politics, such as Dr Nkosazana Dlamini - Zuma who was endorsed as the possible candidate to represent the African National Congress for the Presidential elections in 2019.²⁸⁸ Despite losing in the bid against Cyril Ramaphosa, women's groups including ANC Women's League had endorsed the former AU Chairperson. It showed that indeed women were rallying behind her while some men made it obvious that they were not in support of the idea that a woman could lead the country. Instead of them focusing on what she stood for, the previous marriage to the current president Jacob Zuma was used to discredit her by many people. Based on all this, the reality of it is that in a politically male-dominated country, it is very difficult for women to hold influential positions without being discredited. Nkosazana Zuma might not have won the race, but her courage has been a motivation for most women and she can be applauded for her courage and hardwork in influencing other women.

Women around the world, particularly in Africa, have left a mark as leaders and influencers. Despite this mark and their efforts, they continue to be disempowered by men who are dominant in the political and business spectrum.²⁸⁹ Despite these obstacles women have had active participation, from being leaders of communities in Stokvels, CEOs of multi-national companies to being Ministers. Africa has proved that it can produce some of the highest female representatives in Parliament if the focus is given to them. Despite some inconsistencies, women continue to thrive, and many African countries intend to follow the footsteps of Rwanda that has 64 % female representation of the country's legislative seats making it one of the highest countries in the world to have female political representation.²⁹⁰

i) Challenges faced by women in leadership and political participation:

Although women's leadership and political participation have significantly improved in Southern Africa, challenges remain that continue to affect women. Some of the most common challenges faced by most of the countries include:

²⁸⁸ The former African Union Chairperson has been endorsed by different structures of the African National Congress (ANC) including the Women's League for the party's December 2017 Conference which nominates its Presidential candidate for the National Elections to be held in 2019.

²⁸⁹ Southern Africa: Women in Politics.

²⁹⁰ Democracy in Africa: 'Women in Politics in Africa today' 9 December 2013.

Patriarchal politics – A perception exists that men are the decision-makers in households and leadership roles. This is linked to stereotypical attitudes that women are not allowed to be outspoken, the more outspoken and vocal they are, the more they are labelled “loose” and “out of control” or disrespectful towards men.²⁹¹ This perception has hindered the progress of women in the public and political sphere, especially married women as women are expected to be submissive to their husbands and his extended family.

Traditional and cultural practices – The prevalence of traditional and cultural practices in Africa have proved to be a barrier for women in politics. Practices such as early marriages have had a negative impact when it comes to women progressing in politics as most of them drop out of school before they even finish secondary education.²⁹² This stems from the cultural belief that women are child-bearers and should be domesticated.²⁹³ Caring for their children and extended families places an extra burden on women, thus leaving little time to venture into politics.

Poverty– Politics requires skills and some form of education which most women lack or get deprived of. To acquire education, this requires finances for which most women are not afforded the opportunities; a belief exists that educating the girl child is a waste of time and resources, as her place is in the home looking after children. It is therefore believed that it is more beneficial to educate the boy child who will carry on the family name and look after the family rather than the girl child and with no education.

*Early childhood marriages*²⁹⁴– The expectation in some African cultures is that when the girl child reaches puberty, she is old enough to get married because it has been a practice that has been ongoing for generations.²⁹⁵ The consequences of early marriages include dropping out of school or not even attending school at all, early pregnancies and little prospects of a better life with a variety of choices.²⁹⁶

²⁹¹ UN Women: United Nations Entity for Gender Equality and the Empowerment of Women

²⁹² (n 249 above).

²⁹³ (n 249 above).

²⁹⁴ (n 38 above).

²⁹⁵ Girls not Brides: ‘Why do child marriages happen?’

²⁹⁶ (n 251 above).

Violence – Politics is considered violent and potentially life-threatening, which results in most women fearing for their lives and being victimised. An example of this was when Thoko Didiza was announced as a mayoral candidate for Pretoria for ANC (African National Congress) in the Local Government elections held in August 2016, and not many people were happy with the political move. This unhappiness led to violence resulting in injuries, deaths, vandalism and damage to property.²⁹⁷ The majority of people were more inclined to vote for a male candidate as opposed to a female candidate.

This fear has not only been experienced in Southern Africa but also in Guinea where 64% of the women claimed that they were afraid to pursue politics due to potential intimidation.²⁹⁸ This fear is not only for themselves, but it extends to their children and family members too. Since women naturally have caring natures, they are concerned about their children and family. As such, many women prefer to step back and protect their families at the expense of their careers in politics.

3.6 Conclusion

With these challenges in mind, it cannot be ignored that violating one right has an adverse effect on another right. All rights are interlinked and are indivisible of rights, and so are the challenges that affect the advancement and development of women. They continue to escalate from one challenge to another, and in most cases very few resources have been reserved to assist women in need and help them progress.

The core issues that have been identified by UN Women have helped in the implementation of feasible frameworks through programmes and policies that are intended to uphold the rights of women in respective countries. Malawi has set precedence in annulling thousands of child marriages, having the perpetrators arrested and with the help of UN Women help in rehabilitating the young victims. Rwanda has also been commended for its efforts in advancing women's political roles as it has been one of the most influential countries in Africa, advocating for women's leadership and political participation.

²⁹⁷ B Nkosi 'Shops remain shut in Tshwane as protests, looting subside' *Times Live* 04 July 2016.

²⁹⁸ UNICEF: Ending violence against women.

Chapter 4: UN Women's Role the Implementation of International Human Rights Instruments Advancing Women

4 Introduction

Discrimination and inequality have always been a challenge for many women in the education sector and politics. To address these issues, states have used various domestic laws and international instruments to try and keep the balance, in fighting against child marriages, women's right to education and politics. Domestic laws have influenced the development and advancement of women, paving the way of other global human rights instruments such as CEDAW and Protocol to the African Charter on the Rights of Women in Africa within their domestic legal system. These instruments have created rules and set global standards to ensure effective implementation of laws and programmes that benefit women in realising their rights and to build resilience.²⁹⁹ Once a country has signed and ratified a treaty or convention, it is bound by its obligations and is accountable if they fail to adhere to it.³⁰⁰ Regional and global human rights instruments are addressing women's rights with the idea of advancement of women.³⁰¹

The international community has played a significant role in creating and establishing women's development programmes that advance women and are against any form of discrimination and inequality.³⁰² An example of such programmes is Women, Gender and Development Directorate established by the AU Commission to coordinate all its activities and programmes relating to gender, as well as to ensure that gender is mainstreamed into all AU programmes and policies in accordance with the Decision on Mainstreaming Gender and Women's Issues within the AU.³⁰³ In light of this, UN Women has also aimed at harmonising national legislation, policies, strategies and programmes with international instruments towards the advancement and development of women. It has further cooperated with regional entities including AU in addressing some of the 12 critical areas

²⁹⁹ Y Sangroula 'International Treaties: Features and importance from international law perspective (2013) 1 *SSRN Journal*.

³⁰⁰ KL Tang & J Cheung '*Guaranteeing women's rights: The UN Women's Convention*'.

³⁰¹ Tang (n 298 above).

³⁰² UNICEF Report: *Women's Rights are Human Rights*.

³⁰³ B Gawanas '*The African Union: Concepts and implementation mechanisms relating to human rights*' 145.

of concern to the Beijing Platform for Action. There have been achievements made in the social, political and economic spheres of life with several policy and legal instruments enacted by numerous governments in Africa, such as Constitutional Amendments to address inequalities in family and criminal law, as well as the AU's new gender policy and the Maputo Protocol (Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa).

This chapter will focus on UN Women's programs and policies considering its international human rights obligations towards the advancement of women. Some notable guiding instruments that will be dealt with include CEDAW, Beijing Platform for Action, African Charter on Human and People's Rights, Protocol on the Rights of Women and Convention on the Rights of the Child. It is important to examine the country constitutions that have to domesticate these instruments first in their legal systems. According to UN Women's Policy Brief (2), country constitutions are crucial in the development and advancement of women because of their authoritative expressions of states' systems for governance and accountability.³⁰⁴

4.1 Recognition and Implementation of Instruments in Constitutions

4.1.1 South Africa

Country constitutions play an influential role in enforcing international human rights instruments. The South African Constitution³⁰⁵ has been described as one the most accommodating constitution in Africa, especially when it comes to the protection and promotion of people's rights and the domestication of international instruments.³⁰⁶ The Constitution embraces international laws and the emergence of various human rights jurisprudence that has gained international prominence.³⁰⁷ It further sets out fundamental rights that are at everyone's disposal, with the focus on women and children. Chapter 2 of

³⁰⁴ UN Women Policy Brief: *Why and how constitutions matter for advancing gender equality: Gains, gaps and policy implications* (2017).

³⁰⁵ South African Constitution Act 108 of 1996.

³⁰⁶ H Mohamed 'South Africa's Constitution is a roadmap for the future' 5.

³⁰⁷ CH Heyns & Steffens (ed) *Human rights, peace and justice in Africa: A reader* (2006).

the Constitution known as the Bill of Rights set out several rights including the right to equality.³⁰⁸ It also set out rights of children and the right to political participation.³⁰⁹ Furthermore, everyone has the right to education³¹⁰ and the right to practice their cultural and religious practices.³¹¹ However, any right that is inconsistent with the Constitution is considered null and void.³¹² The Constitution further stipulates that the state shall be bound by its international obligations in the form of treaties and conventions.³¹³ This stipulation has assisted UN Women in addressing its mandate and work with state parties by implementing programmes in the country.

4.2.2 Zimbabwe

A new Constitution in Zimbabwe came into effect in 2013, replacing the 1979 Lancaster House Constitution, which had failed to effectively cater for women's rights. The new Constitution was well received as many women were actively involved during the drafting process which took almost ten years to finalise.³¹⁴ UN Women was involved in negotiating with the drafting committee to have women's rights included in the Constitution. The organisation aimed at having the document reflect people's voice and commitment to true equality of a society that nurtures and supports everyone's ability to reach their full potential.³¹⁵

The Constitution now accommodates and acknowledges several key international human rights instruments that are signed and ratified by the country as part of its domestic laws.³¹⁶ Having a Constitution that is flexible enough to accommodate these instruments has assisted the organisation in enforcing the implementation of its policies and programs. The Declaration of Rights section includes a section that focuses on women's rights, to socio-economic and cultural rights, providing for opportunities that afford women access to jobs

³⁰⁸ Section 9 of South African Constitution.

³⁰⁹ Section 19 (n 304 above).

³¹⁰ Section 29 (n 304 above).

³¹¹ Section 31 (n 304 above).

³¹² Section 2, see also JC Mubangizi *The protection of human rights in South Africa: A legal and practical guide*

³¹³ Section 231 (4) (n 304 above).

³¹⁴ UN Women: 'Zimbabweans say yes to new Constitution strong on gender equality and women's rights'

³¹⁵ UN Women Zimbabwe: 'A new coalition takes the lead on women's constitutional rights in Zimbabwe

³¹⁶ (n 304 above).

and education.³¹⁷ The Constitution also provides for special measures that increase women's representation in Parliament. A cumulative number of 60 seats have been reserved to accommodate women in the National Assembly.

Despite having such reservation in its Constitution, the country is still falling short of women in the National Assembly. The current Zimbabwean cabinet has less than five women, which shows the lack of women enforcement by the government. At this point, other than Joyce Mujuru, there are no female Presidential candidates for the 2018 elections. The goal for UN Women is to have more women running for lucrative positions in politics.

4.3 Regional and global instruments

Every progress is associated with challenges; there has been significant progress over the years at regional and international levels in ensuring gender equality across the continent.³¹⁸ UN Women merged four previously distinct parts of the United Nations system that focused exclusively on GEWE. These include the Division for the Advancement of Women (DAW); International Research and Training Institute for the Advancement of Women (INSTRAW); Office of the Special Adviser on Gender Issues and Advancement of Women (OSAGI) and United Nations Development Fund for Women (UNIFEM).³¹⁹ Upon its inception, UN Women had the basis of landmark international agreements and instruments such as the Beijing Declaration and Platform for Action and CEDAW in creating UN Women's framework.³²⁰ These instruments have assisted in shaping UN Women's policies and programmes in line with their commitments to the people all over the world. The UN Charter has also been an influential instrument of UN Women as the founding treaty of the United Nations system. At regional level there have been instruments such as the African Charter on Human and People's Rights; the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa; the African Charter on the Rights and

³¹⁷ Chapter 4 of The Constitution of Zimbabwe 2013.

³¹⁸ Report on 'Women's Rights in Africa' available at http://www.ohchr.org/Documents/Issues/Women/WRGS/WomensRightsinAfrica_singlepages.pdf accessed on 25 July 2017.

³¹⁹ (n 4 above).

³²⁰ (n 304 above) par 3.

Welfare of the Child and the Protocol on the Statute of the African Court of Justice and Human Rights have made their mark in advancing women. UN Women started the HeForShe campaign in line with the intentions of these treaties that are committed towards the development and advancement of women's rights on the continent.³²¹ Many African organisations including SADC³²² and Economic Community of West African States (ECOWAS) have also been issuing declarations in support of the advancement and development of women in the region³²³

States have been urged to ratify international human rights instruments and make provisions in their domestic laws to accommodate women's rights and ensure gender equality. It is important to note that there is the need to continue to advocate towards women's development to achieve an equal result (substantive equality) as men.³²⁴ Development can only be achieved through equality which is one of the most fundamental principles of human rights. In an endeavour to realise development and advancement it is important to remember the existence of discrimination and negativity that still cripples the role of women in the African society.³²⁵ CEDAW has called upon states to adhere to their obligations and to advance the rights of women.³²⁶ It has established monitoring bodies, special rapporteurs to investigate and report to the body about their findings. Various commissions have also held governments accountable for their international obligations to

³²¹ (n 158 above).

³²² Southern African Development Community is an inter-governmental organization that was established with the goal to further socio-economic cooperation and integration as well as political and security cooperation among 16 southern African states. It was established first as SADCC in 1980, then as SADC in 1992.

³²³ Economic Community of West African State is a regional organisation of 15 West African countries established with the goal of promoting economic integration among its members. It was established on 28 May 1975.

³²⁴ Report of the Expert Group Meeting: Equal Participation of Women and Men in Decision-Making Processes, with Emphasis on Political Participation and Leadership.

³²⁵ Heyns (n 305 above.)

³²⁶ CEDAW Preamble: The States Parties to the present Convention, 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.

the specific instruments.³²⁷ This accountability has helped women’s development and advancement by addressing challenges that they face, creating awareness.

4.3.1 Convention on the Rights of Children (CRC)³²⁸

International conventions declare that allowing or forcing young children to get married is a violation of human rights.³²⁹ This practice robs children of their future and denies them the right to decide when and whom to marry.³³⁰ The rights of children have been set out in the CRC.³³¹ In terms of article 16(2) of the Universal Declaration of Human Rights, “marriage shall be entered into only with the free and full consent of the intending spouses.”³³² This Declaration means that both parties have to agree to the marriage, if one party does not fully consent, then it is a violation of that person’s freedom of choice. Article 16 of CEDAW stipulates that women should have the same rights as men to “freely choose a spouse and to enter into marriage only with their free and full consent”, and that the “betrothal and marriage of a child shall have no legal effect.”³³³ Any departure from these obligations is a violation of human rights by becoming a party to these conventions; states agree to hold themselves accountable for violations of such rights.³³⁴

States have committed under CRC to abolish “traditional practices prejudicial to the health of children” as well as to protect children from “all forms of sexual exploitation and sexual abuse”³³⁵ These marriages despite being given the official name, cannot be defined as marriages as young girls are forced into the union, they are regarded as sexual abuse and a criminal offence. The CRC Committee has continuously dealt with child marriage in its Concluding Observations to governments that have ratified the CRC even though the

³²⁷ The Committee on the Elimination of Discrimination against Women (CEDAW) is the body of [independent experts](#) that monitors implementation of the [Convention on the Elimination of All Forms of Discrimination against Women](#). CEDAW Committee consists of [23 experts](#) on women’s rights from around the world.

³²⁸ United Nations Convention on the Rights of Children of 1990.

³²⁹ The law library Congress *‘International Laws: Children’s Rights’* (2007)

³³⁰ UNFPA: ‘Marrying too young, End Child Marriage.

³³¹ (n 328 above).

³³² Article 16(2) of the Universal Declaration of Human Rights of 1948

³³³ Article 16 of CEDAW

³³⁴ D Guba, *‘Violation of human rights & deterrent to development* (2017).

³³⁵ UN Women: Sources of international human rights law on Female Genital Mutilation

Convention itself does not have a specific article that mentions marriage.³³⁶ It has made it its mandate to operate within the ambit of the marriages in trying to protect the young girls who are victims of such unions.

South Africa and Zimbabwe have both ratified the CRC, recognising the minimum age of consent to a marriage to be 18 and 21³³⁷ in their national legislation. In South Africa, in the requirements for the validity of customary marriages have been set out in terms of section 3 of the Recognition Customary Marriages Act of 1998 which stipulates that both parties must be above the age of 18.³³⁸ However, there is no prescribed minimum age under Zimbabwean customary law, although the Marriage Act stipulates that the minimum age for girls is 16.³³⁹ Due to the absence of a specific minimum age for girls under customary law, this has resulted in many young girls getting married as early as 10 years old, and in some instances, a child is born into an arranged marriage commonly known as '*kizvarirwa*'.³⁴⁰

The Convention protects children from early marriages and insists on their right to education with the view of achieving this right progressively.³⁴¹ Progress can be attained provided that young girls be protected and rescued from such marriages. It is important that efforts be made to annul the marriage, arrest the perpetrators involved and rehabilitate the young girls through counselling and sending them back in schools. UN Women has through "Girls' Progress=Goals' Progress: A Global Data Movement" called for action for increased investments in collecting and analysing girl-focused, girl relevant and sex-disaggregated data.³⁴² This data helps in determining the numbers of girls that are trapped in these

³³⁶ Equality Now Child marriage report, 'UN CEDAW and CRC Recommendations on minimum age of marriage laws around the world' (2013)

³³⁷ Tomas C 'Childhood and Rights: Reflections on the UN Convention on the Rights of the Child' Catarina Tomás
³³⁸ Section 3 (1) of the Customary Marriages Act 120 of 1998.

³³⁹ Child Marriage, Human Rights 'Existing laws in Zimbabwe fail to protect the rights of children' (2017).

³⁴⁰ C Nyoni, "Socio-cultural factors and practices that impede upon behavioural change of Zimbabwean women in an era of HIV/ Aids." The practice of *kuzvarirwa* is when parents pledge on behalf of their unborn daughter to give her hand in marriage to a much older man. The man starts paying lobola before birth and when the child reaches a certain age in accordance to their agreement, the man then takes her as his wife.

³⁴¹ Article 28 of CRC.

³⁴² UN Women: International Day of the Girl Child available @ <http://www.unwomen.org/en/news/in-focus/girl-child> (accessed 20 September 2017).

marriages and calling upon other entities to help in any possible way such as funding and counselling.

4.3.2 SADC Protocol on Gender and Development³⁴³

South Africa and Zimbabwe have both ratified the SADC Protocol on Gender and Development to eliminate discrimination and achieve gender equality and equity through the implementation of gender-responsive legislation, policies and programs.³⁴⁴ Article 11 provides for the adoption of laws that develop and protect girls from any forms of discrimination in the family or community and ensure that they have access to education.³⁴⁵ Article 13 further provides for political participation of women,³⁴⁶ inclining states to adopt legislative measures and strategies that enable women to have equal opportunities with men.³⁴⁷

4.3.3 Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa

The Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa, better known as the Maputo Protocol guarantees comprehensive rights to women including the right to take part in the political process, to social and political equality with men. This Protocol has assisted in advancing and developing women’s rights in Africa. The AU Commission has cooperated with UN Women, in implementing the provisions of the Protocol to achieve women’s development goals set for women. Their rights and essential role in community development have been reaffirmed in the Constitutive Act of the AU as well as the New Partnership for Africa’s Development, relevant Declarations, Resolutions

³⁴³ The SADC Protocol on Gender and Development is a unique sub-regional instrument that brings together African and global goals on gender equality and enhances these through targets and timeframes.

³⁴⁴ Article 3 Protocol on Gender and Development.

³⁴⁵ Article 13 Protocol on Gender and Development.

³⁴⁶ Article 13 (1) (a) and (b) Protocol on Gender and Development.

³⁴⁷ Gender Links *The SADC Protocol and post 2015 Agenda* (2015).

and Decisions. These entities underline the commitment of African States to ensure full participation of African women as equal partners in Africa’s development.³⁴⁸

UN Women in partnership with the AU Commission has enhanced the leadership of women in the transformation of Africa, focusing on governance, peace, and stability by launching the African Women Leaders Network.³⁴⁹ The network has aimed to harness the wealth of African women’s experiences of leadership, to build on other existing and emerging networks of women leaders, as well as to develop new partnerships to strengthen the capacity of women.³⁵⁰ The network further intends to support the advancement of more women leaders on the continent, through peer learning and mentoring, to enhance their contributions to building and sustaining peace, security and political processes for sustainable economic and social transformation, towards the realisation of 2030 Agenda for Sustainable Development and Africa Agenda 2063.³⁵¹

4.3.4 Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)

The establishment of CEDAW marked a turning point towards the development and advancement of women’s rights. The Convention has been described as the international Bill of Rights for women, and has not only pushed the agenda for women, but has accelerated women’s rights.³⁵² The Convention has defined what constitutes discrimination against women and has set up an agenda for national action to end any form of discrimination.³⁵³ The Convention urged for States to commit themselves to undertake a series of measures to end discrimination against women in all forms by incorporating the principles of equality of men and women in their legal systems, to abolish all discriminatory laws and adopt appropriate ones.³⁵⁴

³⁴⁸ Guba (n 333 above).
³⁴⁹ UN Women Press Release: *New platform launched to galvanize and boost women’s leadership of Africa* (2017).
³⁵⁰ Convention on the Elimination of All Forms of Discrimination against Women.
³⁵¹ *UN Women, Women’s Rights in Africa*
³⁵² UN Women: Convention on the Elimination of All Forms of Discrimination against Women
³⁵³ Preamble of Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).
³⁵⁴ (n 350 above).

Article 16 of CEDAW states that women should have the same rights as men to “freely choose a spouse and to enter into marriage only with their free and full consent”, and that the “betrothal and marriage of a child shall have no legal effect.”³⁵⁵ This article shows the commitments of the Convention in protecting young girls from early marriages by giving them the power to choose.

Furthermore, Article 7 stipulates that State parties should take all appropriate measures to “eliminate discrimination against women in the political and public life”, “to vote in all elections and be eligible for election to all publicly elected bodies”.³⁵⁶ Article 8 mandates state parties to take appropriate measures to “ensure that women are on equal terms with men and without discrimination, the opportunity to represent governments at international level and to participate in the work of international organisations”³⁵⁷.

It is evident from the above that female political representation and participation is an important task that all state parties should enforce seriously and substantively. The political climate in South Africa has progressed, particularly with regards to the representation of women in politics.

CEDAW Committee set up 25 General Recommendations for state parties to elaborate the views and obligations assumed under the Convention.³⁵⁸ The Convention also has a reporting mechanism that allows state parties to critically analyse situations faced by women in their countries and report back to the committee their findings. Through the reporting mechanism, every country is expected to submit a country report that must be submitted every four years to the Committee. This report is a way of presenting a transparent and realistic picture of their achievements, practices, challenges, ongoing commitments and measures needed to advance the cause of women.

UN Women has been involved in the implementation of the provisions of the CEDAW through the working groups and CEDAW Committee, to ensure that CEDAW is brought to

³⁵⁵ (n 350 above).

³⁵⁶ Article 7 (a), (b) and (c) Convention on the Elimination of All Forms of Discrimination against Women, 1981.

³⁵⁷ Article 8 of CEDAW.

³⁵⁸ UN Women ‘CEDAW General Recommendation’

life. UN Women and UN Inter-Agency Network on Youth Development's Working Group on Youth and Gender Equality launched CEDAW for Youth in 2016 to advance gender equality and human rights for women and girls around the world.³⁵⁹ This working group is a youth-friendly version of CEDAW, because the future of the world lies in the hands of young people and they should be drivers of gender equality.

4.3.5 Beijing Declaration and Platform for Action³⁶⁰

The 1995 Beijing Declaration and Platform for Action, is the world's first universal, comprehensive and transformative development agenda.³⁶¹ Women from all over the world flocked to Beijing to witness the transformative moment for women all over. The UN through this Declaration, mandated governments to be all-inclusive and have a fair representation of women in all aspects of life.³⁶² The targets set have assisted governments to implement different quotas to ensure representation of women. In the decades leading up to 1995, only six countries in Sub-Saharan Africa had adopted the quotas, while today more than half (25 out of 48) of all Sub-Saharan African countries have adopted gender quotas with measures that increase the chances of women being elected to office³⁶³.

Governments and civil societies were called to come together and ensure women and children's rights are enjoyed and that all necessary measures are taken to eliminate all forms of discrimination against women and the girl child.³⁶⁴ In the past twenty-two years, BPA has brought some transition in women's lives in South Africa and Zimbabwe. The main goals include the advancement of women's equality, development, and peace in the interest of all humanity³⁶⁵ All efforts are to be made for the equal enjoyment of all rights and fundamental freedoms for all women and girls who face barriers. The Declaration also emphasised on the development of women and girls of all ages of their full potential and

³⁵⁹ P Khanna & Z Kimmel, R Karkara 'Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) for Youth'

³⁶⁰ Beijing Declaration and Platform for Action of 1995

³⁶¹ "We need a global movement of solidarity for gender equality"- Deputy Executive Director available @ <http://www.unwomen.org/en/news/stories/2014/11/ded-speech-from-africa-regional-b20-review>.

³⁶² The Fourth World Conference on Women: Action for Equality, Development, and Peace was the name given to a conference convened by the United Nations during 4–15 September 1995 in Beijing, China.

³⁶³ (n 360 above).

³⁶⁴ (n 360 above)

³⁶⁵ (n 360 above).

equal participation in building a better world for all and enhances their role in the development process. Poverty was addressed in the Declaration as a manifestation faced by women, such as early marriages, no access to education, social and political discrimination and exclusion.

Governments were urged to eliminate disparities between women and men in accessing education and educational outcomes at all levels in all forms of education. Prior to the amendment of the rules regulating basic and tertiary education in Zimbabwe, girls and women (including those who were married) who fell pregnant during their studies faced expulsion from the institution without any guarantee or possibility of re-admission.³⁶⁶ Unfortunately, such restrictions did not affect male students if they were at the same institutions. If they were at the same institution, they only faced a few weeks of suspension or would be allowed to write final exams only. Many women opted not to proceed with higher education or postpone it, making it difficult at times to return to school. The old regulations faced some backlash from many human rights activists and women at large, and new regulations were passed allowing women to attend classes while pregnant or resuming classes soon after giving birth without being expelled.³⁶⁷

South Africa has also been battling with young women falling pregnant in schools and being shamed, so much that they would opt to stay at home instead of going back to school.³⁶⁸ The government has allowed women and young girls to finish examinations or come back to school after giving birth, for them to adequately enjoy their right to education. This allowance has improved the number of female enrolment in secondary education and tertiary education.³⁶⁹ The progress in enrolment has led to reduced levels of illiteracy; particularly for young women, assisted women to finish tertiary education and attain employment in the cooperate world.

³⁶⁶ Educational provisions in Zimbabwe: An overview available @ http://www.bridge.ids.ac.uk/sites/bridge.ids.ac.uk/files/docs_genie/DFID/dep25e/ch07.htm

³⁶⁷ Khanna (n 358 above)

³⁶⁸ A Chigona & R Chetty 'Teen mothers and schooling: lacunae and challenges' (1998) *South African Journal of Education*.

³⁶⁹ Chigona & Chetty (n 367above).

It is from the spirit of the Declaration that UN Women has attached its highest priority to the regional review of Beijing Platform because Africa is the most important theatre for gender equality and women's empowerment project.³⁷⁰ The continent has evolved with Pan – African institutions especially the AU as it has forged regional normative frameworks and agendas.³⁷¹ These regional agendas enrich and draw upon national and global frameworks that have included the provisions of CEDAW and the Beijing Platform for Action.

The Beijing Conference helped spur trends by adopting a platform of action that encouraged countries to advance women's political leadership. Some examples include Burkina Faso and Uganda that have constitutional provisions reserving a certain number of parliamentary seats for women. Kenya also has special seats for women representatives in Parliament, while political parties in South Africa and Mozambique have adopted internal rules to ensure a certain percentage of women can run for office³⁷². While most African countries are progressing with female representation in politics, there are those that are still falling short such as Botswana and Madagascar. These countries have less than 10% of women's representation in their lower house of Parliament or National Assembly following their last elections³⁷³. Other countries such as Zambia and Zimbabwe have female representation between 10 to 14% which shows much needed attention to boost women's political participation.³⁷⁴

4.4 Conclusion

UN Women has been working hard with host states in ensuring that its programs and policies conform with standards set by international instruments, and international standards. Both regional and global agreements have assisted the work of UN Women, as

³⁷⁰ Khanna (n 358 above).

³⁷¹ (n 361 above)

³⁷² K Ighobor 'A celebratory rise in women's political participation - Number of women legislator's inches upward in Africa; *Africa Renewal* (April 2015) page 14.

³⁷³ Gender issues: Women's representation in the Lower House of Parliament," by the Electoral Institute for the Sustainability of Democracy in Africa (EISA), last updated November 2010.

³⁷⁴ (n 372above)

strategic directions, objectives and approach to support efforts in achieving gender equality and the developing and advancing women and girls. UN Women has further endorsed a new Strategic Plan 2018 – 2021, which supports the implementation of The Beijing Declaration and Platform for Action and a contribution to the gender-responsive implementation of the 2030 Agenda Sustainable Development.

The implementation of various instruments by the UN Women has strengthened how countries address challenges they encounter towards the development and advancement of women. This implementation is evidenced by different programs that have been set specifically for various countries. However, despite having all these instruments in place, women continue to suffer daily at the hands of their communities. Countries have been failing to adhere to the basic requirement of the instruments by not submitting country reports which are an indication of how women's needs are being dealt with. To date many countries' CEDAW are due, and the ones that have been submitted are outdated and are not a reflection of the current position of women.³⁷⁵

³⁷⁵ Byrens, Andrew & M Freeman 'The impact of the CEDAW Convention: Paths to equality'(2011) *World Development Report 2012: Gender equality and development*

Chapter 5: An Evaluation of the Work of UN Women Towards Their Obligations of Regional and Global Instruments

5. Introduction

The UN system has long been addressing women's human rights, and there seems to be notable progress in some areas.³⁷⁶ However, important gaps currently exist despite major efforts by the organisation in advancing and developing women across the globe. The entity's guiding principles on various instruments have been discussed in chapter 4. However, challenges have been identified in the implementation and domestication of the instruments to achieve their mandate. Some of the challenges encountered by UN Women include inadequate funding, conflicting state policies and poor legal frameworks. There has also been resistance from civil societies that the organisation has been inconsistent as it has focused on other states at the expense of others. Most of the ambassadors that represent some programmes and campaigns do not relate to the challenges of the ordinary person. Most of them have been appointed because of their celebrity status, but not as a true reflection of the victims of abuse or women who have been discriminated against. Moreover, the progress of an organisation can only succeed provided Local Government can effectively and rapidly create rights protective settings.³⁷⁷

UN Women has been unable to work in some areas due to the complexity, resource-intensive, sensitivity, the technical and absence of substantive expertise on many fronts.³⁷⁸ These challenges have affected the effectiveness of programmes and implementation of international instruments resulting in the partial success of the organisation in advancing women's rights. The purpose of this chapter is to evaluate UN Women's work in manifesting its regional and global obligations. It will also assess the achievements made at country level in implementing the instruments and identifying challenges encountered.

³⁷⁶ UN: Women's Rights are Human Rights.

³⁷⁷ CE Welch 'The NGO Revolution' (1995), Heyns and Stefiszyn (ed) 'Human Rights, Peace and Justice in Africa: A reader Pretoria University Law Press Pulp 2006.

³⁷⁸ UN Women: Accelerating gender equality worldwide: A Challenge for UN Women

5.1 Progress established by UN Women

The works of the organisation can be applauded for in terms of progress achieved in making sure that states abide by their international obligations. Some notable achievements include supporting the annulment of child marriages in Malawi by Chief Inkosi Kachindamoto.³⁷⁹ The female chief rescued young girls and boys from the marriages and with the help of UN Women have returned the victims to schools to continue living a healthy childhood.³⁸⁰ This progress shows the commitment of the organisation and efforts implementing provisions of the Convention of the Rights of the Child by protecting and rescuing young girls from the scolds of early marriages.

i) National laws and policies

The progress of an organisation is perceived by how it supports the policy formulation and legal frameworks of a country in implementing international obligations.³⁸¹ Legal systems and public policy frameworks have often overlooked the advancement and development of women leading non-governmental organisations pushing for the agenda of women. UN Women assisted in the founding, coordination and comprehensive approach towards women in all spheres from any form of violence and discrimination. Measures have been taken to strengthen the effective implementation and training of officials who work with women in giving effect to national laws and policies. Through these efforts, laws and policies have been amended to align with international human rights standards that advocate towards the advancement and development of women as contained in CEDAW.³⁸² The amendment of laws and policies have changed the attitudes and behaviours of societies towards women.

South Africa saw an introduction and amendment of laws that accommodate and advance women in the employment sector, with women rising to the positions of CEOs of large

³⁷⁹ UN Women: Malawi Chief annuls 330 child marriages.

³⁸⁰ (n 378 above)

³⁸¹ OECD Draft Report, *Regulatory policy and the road to sustainable growth*

³⁸² UN Women: Passing and implementing effective laws and policies.

companies.³⁸³ The partnership between UN Women and the South African government has seen the implementation, adoption and strengthening of national laws, policies and strategies that are pro-women.³⁸⁴ The government also made commitments through its grassroots programmes to review the commitments of the Beijing Declaration and the progress at national level.³⁸⁵ It has further reviewed its “progress towards women’s empowerment and gender equality” on how some laws and policies can be developed to close identified gaps.³⁸⁶ This partnership precluded the country to develop laws and policies that compel both public and private sectors to work towards achieving gender targets for SDGs, AU Agenda 2063 and the Commission on the Status of Women.³⁸⁷

UN Women has also advised and supported government departments on issues such as the integration of national planning of respective instruments that support the advancement of women. In Zimbabwe, the organisation has been working together with the Swedish government to assist the Ministry of Women Affairs, Gender and Community Development in implementing the JPGE.³⁸⁸

UN Women has also been working with some donors from different countries, for instance, the Swedish and Norwegian governments.³⁸⁹ Technical and financial support was given to the Zimbabwean Government by UN Women to form Group of 20 (G-20), a gender equality and women’s rights constitutional lobby group.³⁹⁰ The group assisted in strategising, drafting constitutional provisions and lobbying the constitutional drafters to have key sources of gender equality, advancement and development incorporated in the Constitution.³⁹¹

³⁸³ UDFW Congress *History of women’s struggle in South Africa* (2017).

³⁸⁴ (n 381 above).

³⁸⁵ Statement by South Africa at the Global leaders meeting on gender equality and women empowerment: A commitment to Action.

³⁸⁶ United Nations Department of Economic and Social Affairs, *achieving gender equality, women’s empowerment and strengthening development cooperation* (2010)

³⁸⁷ (n 385 above).

³⁸⁸ UN Women: Zimbabwe Joint Programme for Gender Equality.

³⁸⁹ (n 385 above).

³⁹⁰ UN Women Zimbabwe: Zimbabwe say yes to new constitution strong on gender equality and women’s rights.

³⁹¹ (n 387 above)

5.2 Challenges Encountered

Progress has been identified in some areas of UN Women's work. However, gaps still exist between women and men, with women still battling at the bottom of the pyramid as they continue to suffer discrimination and remain less developed and advanced. The implementation of international instruments remains extremely poor, despite the organisation trying to uphold the mandate given to states at the Beijing Platform for Action. SDGs remain far-fetched for most women, and the previous MDGs have failed to eradicate challenges faced by women. In the race to meet targets, many states focused on the easiest to reach goals, instead of on the harder goals, which has resulted in slow progress. Some of the challenges that have affected the organisation include poor reporting mechanisms of instruments which provide the progress and shortcomings faced by states, lack of funding and government cooperation.

5.2.1 Obstacles in Reporting Mechanisms for Regional and International Instruments

Most instruments including CEDAW and the Beijing Platform for Action, established reporting mechanisms for states to submit and show their progress in implementing the obligations set out by the instruments. There are 25 General Recommendations under CEDAW that have been guiding principles in developing and advancing women.³⁹² These have also assisted UN Women in establishing programmes. However, state parties have failed to adhere to these reporting mechanisms. The aim of submitting the reports is mainly to assist the committee to evaluate progress and establish action plans to address shortcomings.

Article 21 of CEDAW³⁹³ empowered the Committee to make suggestions, and general recommendations based on the examination of state reports and information received. Each state is expected to submit its report every four years, giving a detailed and comprehensive description of their women's positions at the time of submission and

³⁹² CEDAW General Recommendations.

³⁹³ Article 21 of CEDAW.

progress made.³⁹⁴ A second and subsequent national report is intended to be the update of the previous report, detailing significant developments that have occurred over the last four years, and identifying obstacles against full achievements of the Convention. These help the Committee's concluding comments which outline factors and difficulties affecting the implementation of the Convention for state parties, positive aspects and principal subjects of concern. Suggestions and recommendations are made to enhance implementation of the Convention.³⁹⁵

Unfortunately, States have outstanding reports, and this has posed a challenge in identifying where attention is needed to achieve the advancement of women. The last submission of reports by State parties was in August 2006, and this shows that even after the establishment of UN Women in 2010 no state reports have been submitted.³⁹⁶ This lack of reports is a challenge for the organisation as its goal is focused on the implementation of the Convention.

South Africa, submitted its initial report in 1998,³⁹⁷ two years before the establishment of UN Women. There has not been any report in the past 20 years, and this results in distorted figures presented due to unavailability of current statistic or progress that reflect on the needs of women. The influence of UN Women in the country cannot be determined regarding its obligations set out by the Convention. The reports reflect the state of women at that time, and they are normally based on initial reports submitted by national departments thus including shortcomings experienced by the departments advancing and developing women's rights.

According to some reports by UN Women, its main challenges have been centred on the unavailability and effectiveness of institutional mechanisms, capacity gaps of key actors as well as critical contextual factors, which include budget transparency and the political climate.³⁹⁸ Other challenges also include sustaining the momentum of gender-responsive

³⁹⁴ (n 377 above).

³⁹⁵ (n 377 above.)

³⁹⁶ S Menon 'UN: Prospects and challenges'

³⁹⁷ CEDAW REPORT CEDAW/C/ZAF/1 (February 1998).

³⁹⁸ UN Women: New UN Women report finds progress but also big challenges.

budgeting (GRB) in countries where it does not exist given the fact that there are processes that need to be done for setting up governance structures.

5.2.2 Unavailability of Funds

Most of UN Women's projects are funded by countries, companies, and other organisations to implement community development projects and for sustainability. This funding means that it is a donor-funded entity just like the AU. UN Women and other United Nation agencies have noted that to realise their full potential and fulfil the high expectations set forth by their mandates; they require the adequate financial and human resources necessary for sustainability. Donors have been urged to prioritise funding towards women's advancement and development. With most organisations competing for donor resources, the situation in Zimbabwe has left many organisations struggling for funding, as they must work with constraint budgeting.³⁹⁹

5.2.3 Challenges in Cooperation with Governments

For an organisation to achieve its goals, there must be cooperation of various entities; this includes the government as the host entity that represents the country and the communities. For many years, since the establishment of UN Women, it faced many challenges towards its contribution towards various policies and programmes. However, the progress made by UN Women should not be misconstrued with the challenges, failures and shortcomings it has experienced. Over the years many issues have been raised. For instance, geographical location and the various ambassadors who have been appointed for specific programmes, along with budget and politics that have had a negative impact towards the advancement and development of women. States have failed to adhere to their international commitments to uphold the visions of the instruments.

The challenges are not only in relation to governments but also within the organisation, as some of its programs and policies are not tailored for African countries. There is under-representation in most areas that reflect on the affected people in the decision-making

³⁹⁹ Summary of the Challenges and Opportunities facing NGOs and the NGO sector.

processes which leads to dysfunctionality. UN Women in Zimbabwe, has been battling because no specific evidence has been provided to specify, staff actions, and support systems or infrastructure needed to deliver the service across its different channels.

The strategic plans have been central to other continents with little reference to Southern Africa; thereby affecting the country ownership of programmes and policies. This focus on other continents further affects the networking processes that encourage organisations to come together in mobilising resources and effectiveness at community level.

5.2.4 Policy Implementation

i) Challenges in Zimbabwe

Zimbabwe has been battling economically and politically, which has affected the rate of development and advancement of women in the country. The weak economy escalated the challenges of non-governmental organisations because their operation had been regarded by the old government of ZANU PF as the operations of civil societies, non-governmental organisations, triggering regime change.⁴⁰⁰ The hyper-inflation plunging the country's economy has also affected the implementation of projects and facilitation of programmes leading to termination or other projects not reaching completion.⁴⁰¹ This hyper-inflation has made the works of the organisation very difficult, as people are looking more into survival than a violation of rights. Young girls are being married off to older men so that families can survive. Education has become a thing of the past, with many failing to proceed to secondary and tertiary level due to lack of finances. Young people are '*hustling*' to survive. Poverty has become the order of the day with many young women in the rural areas being left to work in the fields (*maricho*).

The challenging part for UN Women Zimbabwe has been the slow implementation of laws and policies which resulted in the inability to focus on some proposed programmes that

⁴⁰⁰ CS Tegura 'An analysis of the challenges faced by Non-Governmental Organizations in the implementation of community development projects in Zvishavane. The case of Adventist Development and Relief Agency (ADRA).

⁴⁰¹ (n 370 above) 3.

were aimed at advancing women. The country has been battling with the absence of well-resourced legal aid programmes.⁴⁰² This absence has had an impact on young girls being forced into early marriages, failing to get legal recourse both in rural and urban areas since many people have no access to legal aid services. Furthermore, illiteracy amongst women and communities has resulted in most people being unaware of the rights and recourse at their disposal due to a weak referral system between the police, legal aid providers and the justice delivery system.⁴⁰³

Zimbabwe today is regarded as a country that is in transition, with some impressive gains that have been observed over the past few years that have been guided by the vision to transform a deeply unequal society into one that guarantees the advancement and development of women through quality education.⁴⁰⁴ There are opportunities for advancement, the attainment of gender equality and empowerment provided in the country is gender sensitive to the development and implementation of national, regional and continent-wide commitments.⁴⁰⁵ Rural areas have seen an increase in child marriages despite the practice being considered a criminal offence.

The education system has deteriorated over the years due to the economic and political instability the country has faced for the past decade. The number of female dropouts has been increasing with many of them opting to resort to informal trading and looking for jobs in informal trades for survival.

Cultural gender norms have also restricted women in taking up positions within councils and being involved in the policy-making decisions that affect communities due to under-representation in local governance. The low level of female councillors is a continuation of this trend that results in decisions taken by councils being gender sensitive towards women's development and advancement.

⁴⁰² UN Women Africa: Zimbabwe available @ <http://africa.unwomen.org/en/where-we-are/eastern-and-southern-africa/Zimbabwe> accessed;

⁴⁰³ (n 402 above).

⁴⁰⁴ UNGEI: Gender review of education in Zimbabwe, Summary Report 2010.

⁴⁰⁵ (n 389 above).

ii) Challenges in South Africa

South Africa's efforts in Southern Africa have been commended for in some areas of women's advancement and development; However, despite progress made, challenges still exist for women, more especially violence against women. The levels of abuse have increased the numbers of women that fall victims of murder by their partners or family members.

Furthermore, development and advancement have been affected by the state's recession in the previous year that saw its economy shacking and increasing the rate of unemployment. This recession has also increased the number of people dependent on government's grants.

Constraining factors such as lack of resource and proper mandate have also affected the capacity of the organisation in the country. Another challenge faced is the political resistance to elements of development and effective implementation of policies and programmes for women.⁴⁰⁶ There is also the lack of proactive intergovernmental engagements and coordination work of the organisation and some government departments that have seen slow progress in advancement of women.

Furthermore, gaps exist in technical areas of expertise in some thematic areas relating to child marriages, education and women's leadership and political participation. These gaps are due to inadequate reporting mechanisms as most reports both at the regional and international level are outdated or outstanding. South Africa last submitted its initial CEDAW report in 1998,⁴⁰⁷ with a further government report in 2008.⁴⁰⁸ No further reports have been submitted even after the establishment of UN Women in 2010 to date, except for the NGO South Africa Shadow Report that was submitted at the CEDAW Committee 48th Session in 2011. This lack of reports shows the ineffectiveness of the implementation of the reporting

⁴⁰⁶ UN Women: Terms of Reference Evaluation of UN WOMEN's contribution to Prevent Violence against Women and Expand Access to Services.

⁴⁰⁷ CEDAW Country Initial Report South Africa 1998 available @ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N98/065/49/IMG/N9806549.pdf?OpenElement> (accessed 13 September 2017).

⁴⁰⁸ South Africa CEDAW Report: Progress made on the implementation of the convention for the period 1998 to 2008.

mechanisms and lack of efforts by the government in advancing and developing women regardless of its CEDAW commitments.

5.4 Conclusion

Since the establishment of UN Women in 2010, it has emphasised the implementation of international instruments universally. This emphasis has been reluctantly implemented thereby affecting the progress of some of its work in eradicating the scolds of child marriages and advocating towards women's education and political participation. The main challenges have been the unavailability of funds, poor cooperation and implementation of policies with governments' entities.

In pursuing its regional and international mandate, the organisation has indeed created space for more effective engagement of women, though South Africa and Zimbabwe are signatories to various instruments, implementation by governments is important without having to rely on organisations like UN Women to do all their work for their people. The states are also not in a financial position to alienate the efforts of the organisations. However, the responsibility rests on the governments to work together. It is important to consolidate the work of existing partnerships and regional intergovernmental bodies that is the AU, SADC and ECOWAS to assist each other in effecting their mandate.⁴⁰⁹

⁴⁰⁹ Domingo P, @Evaluation of UN Women's Contribution to Increasing Women's Leadership and Participation in Peace and Security and Humanitarian Response

Chapter 6: Conclusion and Recommendations

6 Introduction

The research sought to assess the role of UN Women towards the development and advancement of women in Southern Africa, with reference to South Africa and Zimbabwe. It looked at various policies and programmes considering its mandate and how it has progressed over the years. The challenges that the entity has been working on to eradicate have been researched. However, there has been little work on how the organisation has been progressing except for its internal reports. Bearing this in mind, it prompted the study, analysing how the organisation deals with challenges affecting women. These challenges are early marriages, access to education and political participation. This chapter now synthesises the findings of the different chapters to respond to the main research questions. Key findings are identified, and recommendations will be given on how the organisation can improve to implement its current programmes and future ones to realise the development and advancement of women in Southern Africa.

6.2 Conclusion

Women's development and advancement have been an integral issue around the world, with Africa facing challenges in the transition of women. Women's future is at stake if action is not taken. Progress has been identified through government efforts, civil societies and women themselves, but how effective the progress can be solely depends on the attitude of the world. Positive attitude in society plays an important role; if it does not change, girls will continue to get married at an early age, they will drop out of school, women will not progress in politics. An organisation is unable to meet its goals without the cooperation of the community and government, if it faces resistance from people and above all if the practices are not in conformity with the laws. Furthermore, the effectiveness of an organisation requires that programmes and policies need not be generalised. Each continent and its countries must be treated differently. Child marriages may be taking place in Europe, but the causes differ from those perpetuating the practice in Africa. Measures and the attitude dealing with such issues should be determined on a case by case basis.

This determination should also include how to protect and take care of victims of child marriages.

Supporting progress towards the advancement of women in leadership and political participation roles can be taken as a political undertaking. This support requires the cooperation of the state, political parties and interested parties. As seen above, the challenge is more on women's participation, and this is no longer about the check-list of what is required of women as leaders and politicians but requires politically strategic action.⁴¹⁰ Women's advancement and development with the guidance and output of UN Women is more complex. Hence, issues revolving around women's advancement require a transformation process that has support and appropriate programming and action. Several issues need to be considered in dealing with these challenges such as gender gaps, poverty, communities affected, women and the political economy. Based on this, more can be done towards the advancement of women such as improved knowledge management to have theories implemented in action.

UN Women has made efforts over the years to assist towards the development and advancement of women in Southern Africa, but there is still a long way to go, its existence is important and needed. Child marriages are still prevalent, access to education is still a challenge and women are still struggling to penetrate the political arena. Challenges exist because the organisation is battling to mobilise funding; very few African governments are funding the organisation, yet they are the ones that require the financing of projects and funding of programmes.⁴¹¹ The institutions of the organisation do not emphasise some countries to show its diversity and influences in going beyond being a development organisation, but a universal one.

The first chapter began by highlighting the historical background of UN Women, its formation and introduced the study that is its role of towards the development and advancement of women. It also identified the problem statement and gave a brief history of the organisation and raising questions for subsequent chapters.

⁴¹⁰ S Markham 'Women as agents of change: Having voice in society and influencing policy'

⁴¹¹ RC Batti 'Challenges facing local NGOs in resource mobilization '(2014.)

The second chapter gave an overview of the organisation's selected policies and programs and how it came into existence, looking at its predecessor and its components. A detailed analysis of the programmes and campaigns within the specified countries was provided in relation to what the organisation does to advance women.

The third chapter looked at the core issues that affect the advancement of women in Southern Africa, and despite the challenges women face, there is some progress. It has been evidenced that it is a continuous chain of child marriages that impact education and women's leadership and political participation. The chapter identified the causes of these challenges and how they are perceived.

The fourth chapter looked at the role of UN Women in adopting and implementing regional and international instruments. It also found that country constitutions have made provisions in accelerating the implementation of the instruments and how UN Women assists countries in upholding their commitments. However, it was found that despite having such instruments UN Women did not create adequate mechanisms in assisting countries more, especially in realising their obligations. This is seen by the absence of current CEDAW reports since its establishment. This shows that despite challenges faced, the organisation has emphasised the means of implementing crucial obligations of the Convention and its General Recommendations that realise women's development.

The fifth chapter was an evaluation of the organisation's work considering their obligations of regional and international instruments. The work might have been done to some extent, progress has been seen, but unfortunately, the challenges are still there and are accelerating. Consequently, the research assessed the way the organisation has been integrating its regional and international obligations in its agendas.

6.3 Recommendations

The research elaborated on the role of UN Women in realising the development and advancement of women. It also provided the basis to motivate how the organisation can implement programmes that are tailored to African countries and resources. It can be deduced from the above that the organisation can do better in Africa because of the

influence that it holds. It is important that the organisation continues to advance and develop the role of women in all spheres and coordinate various partnerships, more especially by tackling the roots of the problems rather than the branches. UN Women should continue to engage state departments and private sectors to continue to proactively advance its main goals as it ensures that states take ownership without feeling neglected. Full normative policy frameworks, programmes and organisational capacities should be upheld to capacity to improve it's the organisation's works and women's advancement in Southern Africa.

1. It is important that the organisation identify root challenges to avoid generalisation of programmes, what works in one country may not work in another. This way it will be able to focus on the needs of women in different communities.
2. The organisation must create influential policies that are relevant to national frameworks and institutions as these will be able to capture the attention of women.
3. The organisation should also include victims of various challenges to be part of their grassroots programmes to encourage the participation of other victims. This should also include the inclusion of victims as ambassadors of causes and campaigns as they relate more to ordinary people.
4. Diversity should be a priority to engage the public and wider international policy.
5. The organisation should have firm advisory and research facilities that assist states in implementing of policies and programmes.
6. General and specifically equitable representation of women in decision-making processes should be adhered to that are pro-women. Programmes should not be imposed on women in communities; they should be engaged to avoid situations where they do not participate in the implementation of projects.
7. There is a need for development policies that are required to place more emphasis on their contribution to the economy because most of these challenges are rooted in poverty. Government contributions are important for the development of projects without having to rely on donor funding.
8. UN Women needs to ensure that states comply with their regional and international instruments and to take their commitments seriously and have them implemented at national level.

9. The Strategic Plan has not given much focus on African countries, more especially Southern Africa. The Strategic Plan needs to involve countries that are facing challenges instead of donor funding states only. This will not only focus on states that provide donations.
10. The organisation and States are recommended to consider resource allocation for the realisation of women's, development and advancement as a right. States are recommended to put their differences aside with organisations and effectively engage with the advisory services of organisations to ensure strategic implementable projects and consider adopting laws concerning the budgeting of resources with a non-governmental organisation to realise women's development.

During this research interesting observations were established that should be taken into consideration. It was difficult to have access to UN Women MCO in Pretoria office for interviews despite making efforts to communicate with them. The difficulty faced by the researcher was enough evidence to show how difficult it is for other people to have access to the organisation. It is important that such an organisation can open its doors for young female researchers who are in an endeavour to assist towards the advancement and development of other women.

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