

**Advancing Women's Political and Economic Rights in Africa: A case study of
South Africa and Uganda.**

**A dissertation submitted in fulfillment of the Degree of Master of Laws in the
School of Postgraduate Studies and Research, Faculty of Law, Mafikeng Campus
of the North West University.**

**By
Emily Ntambi
LLB (NWU)
Student no: 16966406**

**Supervisor
Prof. Melvin L. M. Mba**

TABLE OF CONTENTS

Candidate's declaration	v
Supervisor's declaration	vi
Dedication	vii
Acknowledgements	viii
List of abbreviations	ix-xi
Glossary of technical terms	xii-xiii
Table of statutes	xiv-xv
Abstract	xvi
Chapter One: Introduction	1
1.1 Background to the study	1-2
1.2. Problem statement and substantiation	2-7
1.3. Aims and objectives of the study	7-8
1.4 Basic hypothesis of the study	8-10
1.5 Literature review	10-14
1.6 Research methodology	15
1.7 Scope and limitation of the study	15-17
Chapter Two: International Discourse and Historical Evolution of Women's Rights	18
2.1 Introduction	18-19
2.2 Tracing the historical development of human rights discourse	19-22
2.3 Instruments adopted by the UN to advance Woman's Rights	22
2.3.1 United Nations Charter; 1945	22-24
2.3.2 Universal Declaration of Human Rights; 1948	24-27
2.3.3 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)	27-29
2.4 United Nations' specialized agencies	30
2.4.1 United Nations General Assembly (UNGA)	30-31
2.4.2 United Nations Economic and Social Council (ECOSOC)	31-32

2.4.3	Commission on the Status of Women (CSW)	33-38
2.4.4	Division for Advancement of Women (DAW)	38-39
2.4.4.1	Women's economic empowerment by DAW	40
2.4.5	UN International Research and Training Institute for Advancement of Women (UN-INSTRAW)	40-43
2.4.6	United Nations Development Fund for Women (UNIFEM)	43-45
2.4.7	United Nations Development Programme (UNDP)	46-49
2.5	International discourse of women's rights	49
2.5.1	Beijing Platform for Action and Beijing+5 process	49-52
2.5.2	Beijing+10 process of 2005	53
2.5.3	Equality-now: Beijing +10 Campaign	53-54
2.5.4	Beijing +15 preparations	54
2.6	Summary	55

Chapter Three: Regional and National Policy Initiatives and Programmes

	of Action	56
3.1	Introduction	56
3.2	Development of women's rights in Africa	56-57
3.2.1	Organization of African Unity	57-58
3.2.2	African Charter on Human and Peoples' Rights	58-60
3.2.3	The Dakar Declaration and Platform for Action	60
3.2.4	The Protocol on the Rights of Women in Africa	61-65
3.2.4.	Advancement of women's political rights in the Protocol	65
3.2.4.2	Advancement of women's economic rights in the Protocol	65-66
3.2.5	UNECA and gender main-streaming	66-69
3.2.6	Solemn Declaration of Gender Equality	69
3.2.7	Sub-regional discourse of women's rights of Africa	69-70
3.2.7.1	Report for Southern Africa on implementation of the BPFA	70
3.2.7.1.1	Southern African Office of the United Nations Economic Commission for Africa	71-74
3.2.7.1.2	Southern African Development Community Protocol on Gender And Development	74-75



3.2.7.2	West African NGOs' report on the implementation of the BPFA	75-77
3.2.7.3	Eastern Africa sub-regional report on implementation of BPFA to advance women's economic and political rights	77-79
3.3	Quota systems and women's participation in African politics	79-84
3.4	National initiatives	85
3.4.1	Uganda	85
3.4.1.1	Governmental institutional development in Uganda	85-89
3.4.1.2	Non-Governmental institutional development in Uganda	90-91
3.4.2	South Africa	91-92
3.4.2.1	Institutional development in South Africa	92-93
3.5	Summary	94

Chapter Four: Gender Mainstreaming in South Africa and Uganda in

	Comparative Perspective	95
4.1	Introduction	95
4.2	Legislative measures to advance women's economic rights in Uganda and South Africa	95
4.2.1	Uganda	96-97
4.2.2	South Africa	97
4.2.2.1	Employment Equity Act 55 of 1998	97-99
4.2.2.2	Broad-Based Black Economic Empowerment Act 53 of 2003	99-101
4.3	Legislative measures in South Africa and Uganda to advance women's political rights	101
4.3.1	Uganda	101-103
4.3.1.1	Challenges to gender main-streaming in Uganda and actions to remedy and address them	103-104
4.3.2	South Africa	104
4.3.2.1	Brief background	104-105
4.3.2.2	Women parliamentarians at provincial level	105-106
4.3.2.3	Women parliamentarians at national level	106-107
4.3.2.4	Challenges to gender main-streaming in South Africa and actions to remedy and address them	107-108

4.3.2.5	Gender gaps in South Africa	108-109
4.4	Summary	109
Chapter Five: Conclusions and Recommendations		110
5.1	Introduction	110
5.2	Summary of the study	110-111
5.3	Conclusions	111-113
5.4	Recommendations	113- 114
List of References		115-117

CANDIDATE'S DECLARATION

I, Emily Ntambi declare that this dissertation for the degree of Master of Laws at the North-West University, Mafikeng Campus, has been exclusively produced by me under the supervision of Prof. M.L.M. Mbaao. I declare to the best of my knowledge that it has been done without plagiarism as all sources of my information have been duly acknowledged.

EMILY NTAMBI

STUDENT NO: 16966406

STATUTORY DECLARATION

I, Professor Melvin L M. Mbao, do hereby declare that Miss Emily Ntambi's dissertation for the degree of Master of Laws be accepted for external supervision.

PROFESSOR MLM MBAO
SUPERVISOR

ACKNOWLEDGMENTS

I first and foremost acknowledge the management and bursaries staff of the North West University for funding this study without which I would not have afforded to further my studies.

My heartfelt gratitude goes to my supervisor, Prof. MLM. Mbao who inspired me to enroll for this study. Thank you for guiding and correcting me and for all the time you spared from your tight schedule to mark and approve each chapter that I drafted.

Dear Daddy, thank you for believing in me and providing for all the material resources that I needed to carry out the research specifically the laptop, internet charges, paper and ink.

Paul and Mummy dearest, you always reminded me that 'winners are not quitters;' thank you for inspiring me to finish. To the rest of my family and friends, I am so grateful for all your support through it all.

Lastly but most importantly, I ascribe praise to the Almighty God for granting me the strength, knowledge and zeal to start and complete this study. I would have given up along the way but for Your sufficient grace.

DEDICATION

I dedicate this study to all women and girls, women's groups and networks in Africa that are committed to the cause and advancement of women's rights. The study is further dedicated to those men that have gone out of their way to protect women by speaking up against the negative effects of gender discrimination, male dominance and stereo-typing.

TABLE OF ABBREVIATIONS

ACGSD	African Centre for gender and Social Development
ANC	African National Congress
APFA	African Platform For Action
AU	African Union
AU-PWRA	African Union Protocol on Women's Rights in Africa.
BPFA	Beijing Platform for Action
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women of 1979.
CWGL	Centre for Women's Global Leadership
CGE	Commission on Gender Equality
CIM	Inter-American Commission of Women
CPRW	Convention on the Political Rights of Women of 1952
CSW	Commission on the Status of Women
DAW	Division for the Advancement of women
EASSI	Eastern African Sub-regional Support Initiative for the Advancement of Women
ECA	Economic Commission for Africa
ECOSOC	United Nations Economic and Social Council.
EPTA	Expanded Programme of Technical Assistance
EOC	Equal Opportunities Commission
FEMNET	African Women's Development and Communication Network

FWCW	Fourth World Conference on Women
GA	General Assembly
GES	Gender Equality Strategy
GBS	Go-to-School, Back-to-School, Stay-in-School
HRC	Human Rights Council of the General Assembly
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICPRW	International Convention on the Political Rights of Women
IDEA	International Institute for Democracy and Electoral Assistance
ILO	International Labour Organisation
IWYPLA	Icon Women and Young People's Leadership Academy
JSE	Johannesburg Stock Exchange
MGLSD	Ministry of Gender, Labour and Social Development
MoFPED	Ministry of Finance, Planning and Economic Development
NAWOU	National Association of Women's Organisations in Uganda
NGM	National Gender Machinery
NGO	Non-Governmental Organisation
NRA	National Resistance Army of Uganda
NRM	National Resistance Movement of Uganda
OAS	Organisation of American States
OAU	Organisation of African Unity
OSAGI	United Nations Office of the Special Advisor on Gender Issues and Advancement of Women
PA	Policy Advocacy

PEAP	Poverty Eradication Action Plan
PMA	Plan for the Modernisation of Agriculture
ROAR	Results Oriented Annual Reports
RSA	Republic of South Africa
SADC	Southern African Development Community
SANLI	South African National Literacy Initiative
SDGEA	Solemn Declaration of Gender Equality in Africa
SDIP	Social Development Sector Strategic Investment Plan
UDHR	Universal Declaration of Human Rights
UG	Uganda
ULRC	Uganda Law Reform Commission
UMWA	Uganda Media Women's Association
UNDP	United Nations Development Programme
UNECA	United Nations Economic Commission for Africa
UNGA	United Nations General Assembly
UNIFEM	United Nations Development Fund for Women
UN-INSTRAW	United Nations International Research and Training Institute for the Advancement of Women
UNO	United Nations Organization
UNSP	United Nations Special Fund
UWONET	Uganda Women's Network
WEDO	Women's Environment and Development Organisation
WILDAF	Women in Law and Development in Africa

GLOSSARY OF TECHNICAL TERMS

- Advancement** The process by which the goals set by the international conventions on women's political and economic rights has been achieved.
- Culture** Customs and beliefs pertaining to women's role in society which exclude their activities from public life or governance.
- Economic rights** Rights of women to work, choose employment and favourable conditions of work and the right to equal pay for equal work.
- Gender** It consists of social classifications and different roles that women and men play in the society.
- Gender parity** Gender parity means equal numbers of men and women at all levels of organization including significant participation of both men and women, particularly at senior levels.
- Human rights** Rights which all human beings are perceived to have, by virtue of their humanity and inherent dignity and not by virtue of human laws and customs.
- International Arrangements** Conventions, action plans, conferences and summits concluded by and held under the auspices of the United Nations Organisation, at an international level to advocate for women's political and economic rights.
- Policy** It is a guiding principle to a cause of action arrived at by decision-makers to address a particular issue or issues.

Political rights Rights of women to vote and stand for elections as candidates at national and international levels.

Regional

Arrangements Conventions, action plans, conferences and summits concluded and held under the auspices of the African Union.

Sex It is the total sum of physical characteristics that distinguish males from females.

TABLE OF STATUTES

1. National Statutes

Number	Year	Short title
	1995	Constitution of the Republic of Uganda
108	1996	Constitution of the Republic of South-Africa
55	1998	Employment Equity Act (RSA)
	2000	Promotion of Equality and Prevention of Unfair Discrimination Act (RSA)
53	2003	Black Economic Empowerment Act (RSA)

2. Regional Conventions

Year	Short title
1963	Organisation of African Unity Charter
1986	African Charter on Human and Peoples' Rights
2000	Constitutive Act of the African Union
2003	Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

2008 Southern African Development
Community Protocol on Gender and
Development.

3. International Conventions

Year	Short title
1945	United Nations Charter
1948	Universal Declaration of Human Rights
1952	Convention on the Political Rights of Women.
1979	Convention on the Elimination of All Forms of Discrimination against Women.

ABSTRACT

The main thrust of this study is to analyse the extent to which women's political and economic rights in Africa have been advanced since the recognition of universal human rights in general. It first lays out the historical development of human rights in general and how this general recognition graduated into specific protection of rights, particularly women's rights. In a general overview, policy initiatives by several African States to advance women's political and economic rights at the regional and national levels will be discussed but South Africa and Uganda are the case study in this regard.

The point of departure of this study is to examine the extent to which the standards that have been set by the United Nations, which include policies, programmes of action, institutional frameworks and conventions, have contributed to the progression of women's political and economic rights in Africa. Several African States including South Africa and Uganda have domesticated some of these conventions and programmes of action; hence this study is intended at establishing whether these initiatives have been successfully implemented. With regard to the fore-going, this study further looks at the obstacles hindering advancement of women's political and economic rights as well as the gaps between policy and practice particularly in South Africa and Uganda.

The study concludes by stating that although some progress has been made as far as women's participation in politics at national levels is concerned, governments still have to support women's involvement at the community levels. The study serves to convey the fact that there is a different outlook women can add to politics and the economy by virtue of being women.

CHAPTER ONE: INTRODUCTION

1.1 Background to the Study

This dissertation is concerned with the question of mainstreaming women's rights in South Africa and Uganda in a comparative perspective. Its focal point is to examine the process through which, and the extent to which, women's rights have been advanced since the recognition of human rights in general. It is however restricted to women's political and economic rights in Africa as a whole but specifically in South Africa and Uganda. In this study, we will attempt to solve the conflict of interests that exists between women's rights and culture and answer the question as to whether women's rights can be protected while still acknowledging cultural practices. My interest in the above question was triggered by the fact that most cultures define women's roles in society to be centred around the homestead and not in public governance or economics. This study intends to address the gender discriminatory stereotypes that perceive women as second-class citizens, and to emphasize that human rights are for all human beings irrespective of gender.

Historically, human rights for all persons were first defined in the Universal Declaration of Human Rights of 1948, one of the post-Second World War developments. Currently, women's rights are one of the major issues under discussion at national, regional and international levels. The main subject of this dissertation will be to examine whether international and regional arrangements advocating for women's political and economic rights have been effectively implemented in the two countries making our case study. These arrangements are in form of conventions, action plans, declarations and resolutions of summits as will be discussed in the proceeding chapters. The conventions include the United Nations Charter of 1945 and the specialized agencies thereunder, the Universal Declaration of Human Rights of 1948, the Convention on the Political Rights of Women of 1952, the Convention on the Elimination of All Forms of Discrimination against Women of 1979 and notably, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa which was adopted in 2003 and entered into force in 2005.

Internationally, specific reference will be made to the outstanding contribution of the United Nations Development Fund for Women (UNIFEM) and the work of the Commission on the Status of Women (CSW). The Commission on the Status of Women is a functional commission of the United Nations Economic and Social Council (ECOSOC) that was assigned with the specific mandate of furthering the objectives of the Beijing Declaration and Platform of Action of 1995; a United Nations programme aimed at advancing women's rights.

The dissertation will further examine whether existing regional arrangements for the advancement of women's rights in Africa, such as the 'Platform for Action in Africa', have been effective not only in increasing awareness but also in the realization of women's political and economic rights. The challenges and limitations to the progression of women in the political and economic sectors will be examined as well as the possible solutions and recommendations towards achieving the set goals. In addition, this study will compare the regional arrangements aimed at empowering women in Africa, with those in Europe and America.

At a national level, this dissertation will investigate as to whether the measures adopted in South Africa and Uganda in order to advance women's economic and political rights have been effective. My choice of Uganda and South Africa as case studies was prompted by the fact that women in both countries suffered marginalization at the merciless hands of culture and political instability. In response to the aforementioned marginalization, both governments embarked on passing laws that prohibit discrimination against women and further adopted the notion of affirmative action in order to cure the ills of the past. The Ugandan and South African governments went further to domesticate international conventions and declarations into national law and to innovate and initiate programmes aimed at advancing women's rights.

1.2. Problem Statement and Substantiation

In most African countries, women lack proper representation in politics and normally, the question of gender equality is ignored in the development of economic policies. It is upon the foregoing fact, that I based my choice of South Africa and Uganda as case studies since women in both countries have suffered from the bitter effects of

patriarchy in the political and economic sectors. Hence the objective of this dissertation is to investigate whether the international and regional instruments under the auspices of the United Nations have been effective in realizing women's political and economic rights in Africa as a region, with specific reference to South Africa and Uganda. In addition to the aforementioned developments, a critical analysis of developments at national levels in South Africa and Uganda will be carried out. Therefore, the fulcrum of this work will be to answer the question: to what extent has modern society, particularly in South Africa and Uganda, gone towards attaining the goals set out by the United Nations Organisation, through its various international and regional arrangements to further women's political and economic emancipation?

Notwithstanding international and regional developments aimed at advancing women's rights in Africa, this research will argue that there is still a gap between policy and practice in many African countries. This is due to lack of access to finance and insufficient resources on one hand, and unwillingness by governments to innovate and implement programmes directed at empowering women on the other.¹ The above challenge was confirmed by Isatou Touray, the former Chairperson of the African Commission who at the time was the Secretary General of the African Union. He identified lack of political will by governments, judicial issues and gender insensitivity as some of the formidable challenges in the realization of women's rights in Africa.² Lack of political will is common in nations whose civilizations are rooted in static cultural beliefs and thus not conforming to the concept of women's rights since it is perceived as an idea of western civilization. In South Africa, prior to 1994, women, particularly black women, suffered from the triple curse of racial discrimination, gender discrimination³ and patriarchy⁴. This observation can be related to a statement in the book, *Women and the Law*, "it is necessary to recognize that the best law reforms can

¹ Reported by the United Nations Secretary General, Ban Ki-Moon, at the 2007 World Summit on review on the implementation of the Beijing Platform for Action.

² Touray, I, the former Secretary General of the African Union, "In Preparation of the Seventh African Union Summit" in Banjul., 24th-27th June 2006.

³ The Convention on the Elimination of All Forms of Discrimination Against Women defines gender discrimination as "any distinction, exclusion or restriction on the basis of sex..."

⁴ It is a system of male domination over women.

be undermined by poor enforcement and that victories are reversible.”⁵ According to the above observation, it is imperative for all governments to recognize the need to advance women’s rights and thus get involved in the struggle.

Bearing the above hindrances in mind, it is clear that there is a need to invest in women empowering schemes. In order to foster women’s rights financially, the United Nations Development Fund for Women has led multi-stakeholder consultations on gender equality and aid effectiveness since 2005. It provides financial and technical assistance to innovative programmes and strategies aimed at advancing women’s rights. This dissertation will investigate whether such programmes have been effective in Africa and if so, whether what they advocate has been effectively implemented particularly in South Africa and Uganda. For instance in South Africa, all people belonging to the black race suffered due to the economic imbalances that existed on grounds of race. However, black women suffered from double discrimination economically due to the then existing policies that were based on race and gender. In Uganda, women and girls suffered patriarchy and gender inequality in that education was for men and boys only under the justification that women as child-bearers and home keepers did not need to enroll into a school to learn such duties.⁶ They had no right to challenge men at public meetings or even in their homes and they were taught to accede to the wishes of their fathers, brothers and husbands.

On the same note, the fact that the impact of globalization on the world economy is disproportionately borne by women is indisputable especially in developing countries such as Uganda and South Africa. Accordingly, the concept of feminization of poverty,⁷ which addresses the deep-rooted institutional barriers that keep women caught in the vicious cycle of poverty, will be analyzed.⁸ This discussion will serve as an appeal to governments and private sectors to initiate programmes that are aimed at investing in

⁵ Jagwanth, S, Schkwikkard, P.J and Grant, B., Women and the Law., p 21

⁶ Wikipedia., Women in Uganda., [http://en.wikipedia.org/wiki/women in Uganda](http://en.wikipedia.org/wiki/women%20in%20Uganda)

⁷ Feminization of poverty is generally understood as referring to the situation of the growing proportion of women below the poverty line.

⁸ United Nations General Assembly Special Rapporteur., “The Role of Women in the Fight against Poverty and the Right to Participation.”

women and girls and to also set aside funds towards meeting the special needs and aspirations of women.

Another factor leading to the marginalization of women in Africa is cultural diversity amongst nations. It is a challenge to the universality of human rights, in particular women's rights based on the fact that even within a nation, the people may differ according to tribes, languages and customs; as is the case in South Africa and Uganda. Many governments are often guilty of gross violations of women's rights yet they are expected to be at the forefront of political and economic emancipation of women. Over a number of centuries, women accepted the images constructed of 'woman' and did not question the fact that their 'difference' resulted in their subordination and confinement within the domestic sphere. Women's role in pre-colonial African society was essentially focused on the house, homestead and on reproduction and production within the homestead. By remaining true and committed to the foregoing cultural practices and activities, women were assured of protection from cultural institutions and personnel.⁹

The aftereffects of independence from colonialism brought some degree of freedom for women but at the expense of losing the protection afforded them by cultural structures and institutions. African men seeking to secure their dominant position in society challenged the little autonomy gained by women with the fear that even autonomy would divert women's attention from their 'male constructed roles' as homemakers and mothers.¹⁰ These male images of women can be classified under one concept; stereotyping, which is defined by Michelle O'Sullivan as the tendency to label a particular individual. O'Sullivan makes reference to three contradicting stereotypes of the supposed nature of women, two of which are classified under two symbolic women in religion; the Virgin Mary, Eve and Superwoman, which is a combination of the former one. Mary is symbolic of women who are good, chaste, asexual, domestic and unsuited to positions of authority since she is a housewife and mother.¹¹

⁹ Murray, C and Nagamas, F., Rights in South Africa: An Overview., 1994., Cape Town., Juta., p7 at par 1 and 2

¹⁰ Murray, C and Nagamas, F., *ibid* n 9 at p7

¹¹ O'Sullivan, M., Gender and the New South African Legal Order., Stereo-typing and Male Identification 'Keeping Women in Their Place' (1994) at p 187

This stereotype is true especially in most African cultures and women who always adhered to such a stereotype were assured of protection from cultural institutions and society. This being a hindrance to women's advancement, in the Vienna Declaration and Program of Action it was enunciated that human rights are indivisible, inter-dependent and inter-related and thus State parties were mandated to promote and protect them regardless of cultural, historical or religious backgrounds.¹² Despite this Vienna Declaration, there was need for a more comprehensive instrument protecting women in this regard.

Accordingly, the African Union adopted a Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa on 11 July 2003 in Maputo, Mozambique. The Protocol's main aim is to improve the status of African women by bringing about gender equality and elimination of discrimination.¹³ The Protocol lays down a determination to protect and realize women's rights, and enable them to fully enjoy all their human rights.¹⁴ The Protocol contains an Article on the elimination of harmful practices¹⁵ which negatively affect the human rights of women and which are contrary to recognized international standards.

Harmful practices are defined in the Protocol¹⁶ as all forms of behaviour, attitudes, and/or practices which negatively affect the fundamental rights of women and girls such as their right to life, health, dignity, education and physical integrity. Article 5 obliges State Parties to prohibit and condemn all forms of harmful practices which negatively affect the human rights of women and are contrary to recognized international standards, specifically by taking all necessary legislative and other measures backed by sanctions, to eliminate such practices, for instance, the creation

¹² Vienna Declaration and Program of Action, 1993, Part II., par 3

¹³ Ebeku, K.S.A., "A New Hope for African Women," 2004, Overview of Africa's Protocol on Women's Rights., *Nordic Journal of African Studies.*, River State University of Science and Technology., Nigeria., p 264
www.njas.helsinki.fi

¹⁴ Preamble to the Protocol on Women's Rights in Africa., par 14

¹⁵ Art 5 of the Protocol on Women's Rights in Africa

¹⁶ Art 1(g)

of public awareness in all sectors of society through information, formal and informal education, and outreach programmes.

Therefore, it is important to understand the need to reform the cultural beliefs in societies that are posing great resistance to the advancement of women in the political and economic sectors as will be discussed later on in this dissertation.

In justification of my choice of South Africa and Uganda as case studies, the two countries are numbered amongst those that have demonstrated a willingness to advance women's rights. Women in both countries suffered from discrimination on grounds of gender and patriarchy and the governments have responded positively to heal the wounds of the past through affirmative action. The notion of affirmative action is demonstrated through the Constitutions¹⁷ of both countries that provide for gender equality in the political, economic and social spheres. The two countries are also parties to remarkable international and regional conventions protecting women's rights; they have also innovative programmes aimed at advancing women's rights.

1.3. Aims and Objectives of the Study

This dissertation aims at highlighting the plight of women in Africa as a whole but particularly in South Africa and Uganda. Furthermore, the dissertation will explore ways and means by which the plight of women vis-à-vis their political and economic standing can be overcome in order to improve their status and realize their political and economic rights. Such ways include holding informative and educative programmes on women's rights, which would increase awareness and thus encourage women to join the struggle for their advancement.

Additionally, it shall point out the necessity of holding national public polls on women's issues, this being a means of discovering what their needs, conditions and aspirations are, hence working towards meeting and achieving them. This objective would be achieved more promptly when governments intervene by passing and implementing legislation in favour of those needs and aspirations.

¹⁷ S 9 of the Constitution of the Republic of South Africa Act 108 of 1996 and Art 33 of the Constitution of the Republic of Uganda Act of 1995.

To appeal to the whole populace of women about the need to assert their rights by taking advantage of affirmative action and thus make effective use of their potential by engaging in the political and economic spheres. Despite some changes brought about by affirmative action, this dissertation will help in addressing issues that are still disregarded, such as women in politics, in Africa as a whole and nationally with reference to South Africa and Uganda.

To encourage the establishment of structures that would safeguard, protect and educate the girl-child about her rights. This would improve the girls' self-esteem as they approach womanhood, prevent future marginalization of women and thus afford them the liberty to maximize their abilities and thus rise above mediocrity without feeling inferior to men or threatened with discrimination on the ground of gender.

Further, to establish whether the international conventions on women's rights that have been signed and ratified by the South African and Ugandan governments have actually been domesticated into municipal law. Moreover, international and regional developments on women's political and economic rights will be examined to establish whether what they advocate is simply a shopping list but one not realizable in a male dominated world.

1.4. Basic Hypothesis of the Study

In my opinion, cultural practices and beliefs are at the centre of all the stereotypes against women because women's status as defined by culture, is subordinate to that of men and their roles in society do not include participation in public life. Female subordination runs so deep that it is still viewed as inevitable or natural rather than as a politically constructed reality maintained by patriarchal interests, ideology and institutions. From an economic point of view, the capacity of a woman worker to fully enjoy her freedom to work, receive equal pay or to acquire a leadership position in an organisation is restricted by the prescription clearly defined for her within the family community, social expectations that these fulfil her role as a house wife, and mother combined with cultural sanctions that impose restrictions on her mobility and her ability to interact on equal footing with male colleagues in public spheres. Accordingly,

hindering the advancement of women's economic rights in the public sphere are social expectations which confine women to work within the homestead.¹⁸

In Africa, violations of women's rights and gender inequality are evidenced in socio-cultural attitudes and practices that have evolved over the years. Addressing gender inequality has thus proved to be a challenge to many African countries, as it involves challenging the deep-rooted cultural stereotypes that typically tend to relegate women to the lower echelons of society, regardless of what they may be contributing politically and economically.¹⁹ African women perhaps more than in other parts of the world, have for long been suffering a great deal of human rights abuses due to various customary practices and custom-oriented stereotypes which see women as being subordinate to men.²⁰ This is worsened by the fact that in the African region, cultures not only vary from nation to nation but also from society to society within a nation. Therefore, the guiding argument for this dissertation is whether universal advancement of women's political and economic rights can be achieved while still acknowledging the marginalizing effects of cultural practices on women.

The first step in answering the above statement would be to acknowledge the fact that women are still politically and economically marginalized in many countries. Secondly, ways of ameliorating the situation will be analyzed. In Uganda and South Africa, the governments based their involvement of women in politics and economics on affirmative action, which is a notion aimed at working in the best interests of the previously disadvantaged; women in this case.²¹

It is imperative to admit that the inherent nature of the human race is diverse. Each nation comprises various societies, which in turn have diverse patterns of behaviour,

¹⁸ University of Minnesota and the Human Rights Resource Center., Module 4., *Circle of Rights, Economic, Social and Cultural Rights Activism., A training Resource.*

www1.umn.edu/humanrts/educational/HRIP/Modules/module4.htm . Accessed on 18/03/2008.

¹⁹Gender Equality in Africa: Inclusive Goal and a Persistent Challenge., p 1
http://www.unesco.org/African_union_commission. Accessed on 16/03/2008.

²⁰ Ebeku., K.S.A., op cit n 13 at p 264. http://www.njas.eisinki.jilpdf_files/vol_3/num3/ebeku.pdf.

²¹ For South Africa, see S9 of the South African Constitution and the Employment Equity Act 55 of 1999. For Uganda, see S 32 and S 33(5) of the 1995 Constitution of Uganda.

each society with a lifestyle peculiar to it. With the above in mind, it is an indisputable fact that arriving at a unity of nations concerning women's political and economic rights is a big challenge, however not impossible.

Notably, the creation of the United Nations Organisation (UNO) served as the momentous move towards the unification of nations, but most importantly, of humankind. This is because it brought about the realization that all human beings, irrespective of gender, are equal and thus the founding fathers "reaffirmed their faith in fundamental human rights" on the basis of universality.²²

This dissertation will focus primarily on the work done by the United Nations through its organs and structures, namely the General Assembly (GA), Economic and Social Council (ECOSOC), the United Nations Development Fund for Women (UNIFEM) and the Beijing Platform for Action in the advancement of women's status and protection of their rights. In addition, it will demonstrate how the work done by the above mentioned organs as well as other international and regional conventions on women, that have been alluded to in the introduction, have influenced modern development and realization of women's rights.

1.5. Literature Review

In a general review, previous researchers and authors in the field of human and women's rights concentrated their works on universalism and relativism of human rights and governments' implementation of the Beijing Declaration and Platform for Action's critical areas of concern. In general, their work shows that recognition and advancement of women's rights cannot be achieved independent from the concepts of universalism and relativism of human rights. With regard to implementation of the BPFA, the most researched in Africa of the twelve critical areas of concern are poverty, education, health and violence against women and how they influence women's participation in the economy and decision-making as will be discussed below.

²² Preamble to the United Nations Charter of 1945

While some authors like Melville Herskovitz²³ have rejected the universality of international human rights norms and have advocated for relativism of human rights arguing that allowing the notion of universalisation of rights is accepting alien values and western imperialism, ²⁴others like Fox Diana have maintained that human rights should be integrated, adapted and built on what is universally human and gender sensitive. Relativism of human rights is criticized by Fox Diana, a human rights feminist and author of "*Women's Rights*" on the basis that "national institutions reflect the burgeoning awareness of the limitations to relativism and the necessity of developing a truly universal human rights discourse, one which recognizes that women's rights are indeed human rights, and that African women's rights need to recognize that African women exist as "singular-universals".²⁵

El Obaid Ahmed El Obaid, a universalist, argues that culture endangers human rights by diluting the notion of rights through its harmful practices. He submits that 'it is more important and more useful to think about what aspects of a given culture can assist us in promoting and implementing international human rights, rather than engaging in abstract discussions as to whether human rights are universal or culturally relative.'²⁶

Ms Francoise Nduwumana, an independent consultant focuses her discussions on how cultural relativism is used to negate the rights of women. She argues that the concept of rights has no meaning unless rights are universal and that the concept of cultural relativism emerges from the assertion of the right to be different. She goes on to say that rights cannot attain universality without a certain social anchoring which means that rights must be founded upon equality of access to economic, social, cultural, civil and political rights. On a sad note, Nduwumana contends that it is dishonest dealing for

²³ In a statement distributed by the American Anthropological Association in 1948 against the adoption of the UDHR.

²⁴ Herskovitz, M., *Universalism and Cultural Relativism.*, 18 June 2004

²⁵ Quarterly report on Women's Human Rights in Africa: Beyond the Debate Over the Universality or Relativity of Human Rights.

²⁶ Herskovitz, M., *op cit* n 24 at p 6

those who wish to maintain patriarchy and sexist discrimination to use cultural reasons to justify the situation.²⁷

According to Ann Elizabeth Mayer, cultural relativists condemn the notion of universal standards by which all cultures may be judged and the fact that values from western culture are used to judge institutions of non-western cultures.²⁸ Danfred Titus observed that cultural relativists argue that ethical and moral standards differ in different places and times, and thus culture determines the amount of attention that is given to human rights. Cultural relativists further contend that universal morality is not supposed to exist because 'the world has been characterized by a plurality of cultures'.²⁹

In my considered opinion, universality of human rights is the first step to the realization of women's rights. However, I concur with Rhoda Howard³⁰ who although advocating for universality of human rights recognizes that universal acceptance of these rights has not yet been achieved.

Recent South African authors such as Venter and Landsberg, emphasized illiteracy and historical attitudes of paternalism and male prejudice as the major factors that contribute to women's occupation of minority positions in the power relations in South Africa. The average person in the South African society is in all likelihood a poorly educated, impoverished, rural black peasant woman.³¹ The point of illiteracy was further addressed at the Fourth Session of the Social Forum of the United Nations General Assembly as one of the main causes of feminization of poverty. Accordingly, it was stated that "literacy is a fundamental skill, one that can empower women to take control of their lives, to engage directly with authority and to gain access to the wider

²⁷ Herskovitz, M., op cit n 24 at p 4

²⁸ Johan D., et al., eds., Buffalo Human Rights Law Review., *Universality and Relativity of Human Rights: American Relativism.*, 1998., Vol 4., p 61

²⁹ Nel, F and Bezuidenhout, I., eds., Chap 9., Cultural diversity and human rights; Policing and Human Rights., 1997., 2nd ed., Cape Town., Juta., p 123 at par 3.4.1.2

³⁰ A Canadian Africanist and Critic of Relativism of Human Rights.

³¹ Venter, A and Landsberg, C., (2006) Government and Politics in the New South Africa., 3rd ed at p 10-11

world of learning.”³² In a nutshell, educating women and the girl child is one of the keys to their advancement in the economic and political sectors.

Notably, the United Nations Organisation has been instrumental in advocating for the advancement of women in all spheres through its adoption of the Beijing Declaration and Platform for Action in 1995 at the First World Conference on Women, where the twelve critical areas³³ of women’s concern were raised. Current debates on women’s rights are focused on the assessment of the implementation of the afore-mentioned Beijing Declaration and Platform for Action.

Augusto Lopez-Claros and Saadia Zahidi reported that “even in light of heightened international awareness of gender issues, it is a disturbing reality that no country has yet managed to eliminate the gender gap.”³⁴ From an economic point of view, Claros and Zahidi went on to report that although women may gain employment with relative ease, they are usually concentrated in poorly paid or unskilled jobs and feminized professions such as nursing, teaching, officework, care of the elderly and the disabled and most often with lower pay.³⁵

In a report that was prepared by Kakooza and Kawuma wherein they assessed implementation of the Beijing Declaration and Platform for Action in nine countries, including South Africa and Uganda, they observed that all these countries put in place national gender machineries that are aimed at promoting the enhancement of the status of women and at guiding gender main-streaming. However the major and common challenge that was identified in the report was lack of political will by

³² United Nations Special Rapporteur on the Rights of Women to Participate and their Role in the Fight Against Feminization of Poverty.

³³ The twelve critical areas of concern are women and poverty, education and training of women, women and health, Violence against women, women in armed conflict, women and the economy, women in power and decision making, Institutional mechanisms for the advancement of women, human rights of women, women and the media, women and the environment and the girl-child.

³⁴ Claros, A L., and Zahidi, S., Women’s Empowerment: Measuring the Gender Global Gap., World Economic Forum., 2005. http://www.weforum.org/pdf/Global_Competitiveness_Reports/Reports/gender_gap.pdf. Accessed on 17/11/2009.

³⁵ Claros, A L., and Zahidi, S., op cit n 34



governments in that national gender budgets are not allocated to advance women's rights and most governments have not enacted legislation to give effect to the guidelines of the Beijing declaration and Platform for Action.³⁶

Kakooza and Kawuma further reported that feminization of poverty in the majority of African countries hinders women from participating in politics because of the commercialized nature of contests for elective positions. As far as women's advancement in the economy is concerned, they reported that women are limited by lack of access to productive resources, credit and financial support. Similar to Venter and Landsberg's submission, Kakooza and Kawuma went on to say that the high illiteracy levels amongst women in Africa and their family roles as nurturers and caregivers limit their mobility and advancement in politics and economics.³⁷

Although the issue of women in power and decision-making has been addressed by at least three sub-regions in Africa, women's participation in the economy has not been closely paid attention to. The West African NGO's Report on the implementation of the Beijing Platform for Action reported that their work had been mainly in the area of awareness raising, training sessions for capacity building of women in government leadership and advocacy to improve their position in public life.³⁸

Accordingly, this study's point of departure is to address the need for economic emancipation of women and how it can be progressively achieved especially during these times of economic depression world-wide, which seem to affect women more than men.

³⁶ Kakooza and Kawuma., Report on Women in Policy Making and the Legislative Process., Assessment of the Implementation of the Beijing Platform for Action by Commonwealth Parliaments in the Africa Reform., December 2006

www.cpañq.org/uploadingFiles/Information-

[Services/Publications/CPA_Electronic_Publications/Women%20in%20Policy%20Making%20and%20the%20Legislative%20Process](http://www.cpañq.org/uploadingFiles/Information-Services/Publications/CPA_Electronic_Publications/Women%20in%20Policy%20Making%20and%20the%20Legislative%20Process).

³⁷ Kakooza and Kawuma., op cit n 36 at p xiv

³⁸ Women in Law and Development in Africa., Report by the West African NGOs on the Implementation of the Beijing Platform for Action., 27 August 2004. www.wildaf.africa.org/eng/IMG/pdf

1.6. Research Methodology

The approach to this case study is comparative in nature since it entails examining the implementation initiatives by various African States but particularly South Africa and Uganda, which are situated in different sub-regions; Southern Africa and East Africa respectively. This comparative approach towards the advancement of women's political and economic rights, is advantageous because it is a yardstick by which the gap between policies and their implementation will be measured and thus a platform on which to address the neglected issues relating to women's rights and progression. In order to enable appreciation of the past difficulties and the present challenges to the advancement of women's rights, a historical review and analysis of international, regional and national instruments, policies and frameworks will be adopted.

This dissertation will be prosecuted by means of qualitative and descriptive methods. It involves electronic retrieving of data and library bound analysis of existing literature on women's political and economic rights. Retrieving data electronically from the internet is a preferable method for this study because it will enable a follow-up of current debates and developments and how they have accelerated awareness by women, at regional and national levels (South Africa and Uganda), concerning the need to engage in the struggle for their political and economic rights. Newspaper articles, law reports and journal articles advocating for women's political and economic rights will also be of paramount importance to this study.

A qualitative method of research was decided on for this study in order to examine whether the measures laid out at international, regional and national levels have been effectively implemented by governments and private stakeholders so as to empower women and advance their status. Descriptively, the current situation in Africa and more specifically in South Africa and Uganda will be explored in order to ascertain aspects that are hindering the advancement of women in the political and economic spheres.

1.7. Scope and Limitations of the Study

This dissertation will explore the extent to which women's political and economic rights have been advanced in Africa as a whole but specifically in South Africa and Uganda since women's rights in both countries were trampled on, on basis of their status as

women, by dictatorial governments and at the need to uphold discriminatory cultural practices. The study will be divided into five chapters as follows;-

Chapter One is the introduction and layout of the study as stated in the preceding paragraphs. It comprises the objectives, methodology and basic hypothesis, scope and limitations of the study and review of literature as used in this study. This chapter of the study intends to crush the concept which suggests that a woman's place is in the kitchen and not in the political or economic sectors. The concepts of universality and relativism of human rights will also be tackled. It will further highlight the need for governments, as public protectors, to acknowledge that women have the same potential as men and thus should not be barred from pursuing their political and economic aspirations in the name of preserving harmful cultural practices.

Chapter Two will deal with the historical evolution of human rights in general but more specifically women's political and economic rights. The discussion will include the standards set by the United Nations Organisation through its respective organs and human rights bodies in advancement of women's political and economic rights. In particular, the efforts of the General Assembly and Economic and Social Council in realizing women's rights will be analysed. A detailed discussion will be made on the Commission on the Status of Women (CSW), a functional commission of ECOSOC, the Division for Advancement of Women and the UN International Research and Training Institute for the Advancement of Women (INSTRAW). In addition, the work of the United Nations Development Fund for Women (UNIFEM) and the United Nations Development Programme in the advancement of women's status will be discussed. It will further explore current international developments and debates on women's rights since the 1995 Fourth World Conference on Women that led to the adoption and proclamation of the Beijing Declaration and Platform for Action. In addition to the Beijing Declaration, the regional Platform for Action in Africa known as "End Women's Economic Inequality Working Group" and subsequent national initiatives and innovations in Uganda and South Africa aimed at empowering and advancing women's economic and political rights will be discussed.

Chapter Three will focus on women's development schemes and policies in Africa as a region and its sub-regions. It will further highlight the legislative measures that have been implemented by the South African and Ugandan governments in the advancement of women's political and economic rights in their respective countries. Since South Africa and Uganda have domesticated several international and regional conventions on women's rights and further extended them into municipal law by passing legislation to that effect, this study will make a follow up on the implementation processes of those conventions and legislations.

The Fourth Chapter will examine the gender main-streaming measures that have been adopted by South Africa and Uganda, in a comparative perspective. Such measures include the concept of affirmative action and how it has influenced women's advancement in the political and economic spheres.

The Fifth Chapter will consist of a summary of the main lines of argumentation in this study as well as my conclusions and recommendations to the governments of South Africa and Uganda and how women's participation in politics and economics can be accelerated.

CHAPTER TWO: INTERNATIONAL DISCOURSE AND HISTORICAL EVOLUTION OF WOMEN'S RIGHTS

2.1. Introduction

This Chapter deals with the historical development of women's rights in general but particularly women's political and economic rights. In this Chapter, conventions and other instruments which have been developed under the auspices of the United Nations, at the international level for the advancement of women's rights will be discussed. It is however imperative to note that protection of women's rights was only subsequent to the recognition of human rights for all human beings without distinction as to race, gender, religious, social or ethnic group. Therefore the most appropriate starting point will be human rights developments after the end of the First and Second World Wars by the League of Nations and the United Nations, particularly the adoption of the United Nations Charter, the Universal Declaration of Human Rights, the Convention on the Political Rights of Women, the Declaration and Convention on the Elimination of All Forms of Discrimination against Women and subsequent regional developments on women's rights in North America, Europe and Africa.

The chapter will further explore current international developments and debates on women's rights since the 1995 Fourth World Conference on Women, particularly the Beijing Declaration and Platform for Action (BPFA). We will look into the achievements and challenges in the implementation of the BPFA. The Chapter further discusses the institutional framework set by the United Nations through two of its principal organs established under the UN Charter and the human rights bodies which were established by those organs in order to advance women's political and economic rights. We will particularly analyze the work of the United Nations General Assembly (UNGA), the UN Economic and Social Council (ECOSOC), the United Nations Commission on the Status of Women (CSW), the Division for Advancement of Women, the UN International Research and Training Institute for the Advancement of Women (INSTRAW), the United Nations Development Programme (UNDP) and the United Nations Development Fund for Women (UNIFEM).

The General Assembly was mandated to 'establish such subsidiary organs as it deems necessary for the advancement of its functions'³⁹ whereas the United Nations Economic and Social Council was mandated to 'set up commissions in economic and social fields and for the promotion of human rights, and such other commissions as may be required for the performance of its functions'.⁴⁰

2.2. Tracing the Historical Development of Human Rights Discourse

According to Kleyn and Viljoen, human rights are defined as rights which human beings are perceived to have by virtue of their humanity and inherent dignity and not by virtue of human laws and customs.⁴¹ The Universal Declaration of Human Rights in its Preamble recognises human rights as universal, inalienable and indivisible rights of all members of the human family. They are derived from each human being's inherent dignity and equality and thus are inalienable and inviolable.

It is important to note that for many centuries, States violated their subjects' human rights under the veil of state sovereignty, which granted States absolute power over their nationals. During this period, the notion of human rights was completely absent; citizens suffered at the mercy of dictatorial regimes not only in Africa but also in Europe and the Americas. In response to such gross human rights violations, citizens made concerted efforts to stand up for their rights to equality, liberty and fraternity by revolting against their dictatorial regimes. The most spectacular of these uprisings were the French Revolution of 1770 and the American Revolution of 1779. Gradually, limits were placed on absolute sovereignty of states in order to protect the human rights of individual subjects. After the First World War, the League of Nations of 1919 adopted the Minority Treaties which provided some form of protection for the basic rights of minorities in Europe, such as equality before the law and non-discrimination. Despite the efforts of the League of Nations, it was still clear that international law covered relations between states and not the relation of the citizens within the state and thus this contributes to the outbreak of the Second World War in 1939. After the Second

³⁹ Art 22 of the United Nations Charter

⁴⁰ Art 68 of the Charter

⁴¹ Kleyn and Viljoen., *Beginner's Guide for Law Students.*, 1995., Juta.

World War (WW II) and the sorrow it caused to both combatants and civilians, international law recognized the concept of humanitarian intervention.⁴²

Accordingly, states were permitted to intervene forcibly in states whose treatment of their own nationals shocked the conscience of human kind particularly the atrocities committed by the Nazis in Germany under the leadership of Adolf Hitler against the Jews.⁴³ The reaction to such atrocities was the driving force behind the formation of the United Nations Organization⁴⁴, with the principal goal of promoting human rights and fundamental freedoms. The United Nations at its First General Assembly Session agreed in London to establish an International Military Tribunal to try the major Nazi leaders for crimes against humanity. The Tribunal sat in Nuremberg and the main significance of its precedent is that national leaders and government officials are no longer able to claim immunity from prosecution for egregious human rights violations by invoking the protection of municipal law or superior orders.⁴⁵

The United Nations developed and adopted several human rights and women's rights treaties and mechanisms in order to ensure respect for human rights and to protect women's rights. According to Brunch and Frost,⁴⁶ in the West, human rights bodies focused on violations of women's rights within the civil and political realms. The predominance of civil and political rights eclipsed the ways in which women often did not enjoy the social and economic conditions that made possible the exercise of the former rights through participation in public life.

The period between 1976 and 1985 was declared the United Nations "Decade for Women" and women from many geographical, cultural and racial backgrounds engaged themselves in organizing to improve their status. Apart from the adoption of

⁴² Historical Development of Human Rights., [www.fahamu.org/historical development of human rights](http://www.fahamu.org/historical%20development%20of%20human%20rights) . Accessed 02/04/2008

⁴³ Dugard J., *International Law; A South African Perspective.*, 2nd edition., 2000., Cape Town., Juta., p 234-235

⁴⁴ United Nations at that time comprised of fifty one founding members amongst which were the Second World War victor powers, namely USA, UK, the Soviet Union (Russia) and France and the Republic of China.

⁴⁵ Dugard J., *op cit n 43* at p235-236. See the Statute of the Tribunal, the Nuremberg Charter, 1946.

⁴⁶ Bunch, C and Frost, S., *Women's Human Rights: An Introduction.*, www.cwgl.rutgers Accessed 05/05/2008

international treaties on women's rights, the United Nations Organisation has been sponsoring women's conferences with an agenda to evaluate the status of women and to formulate strategies for women's advancement. Through these conferences, women had an opportunity to debate their differences and discover their commonalities and gradually they began learning how to make concerted efforts aimed at creating a global movement.⁴⁷

The First World Conference on Women was held in 1975 in Mexico City and in the same year, the United Nations observed an International Women's Year. In 1980, the Second World Conference on Women was held in Copenhagen and the Third Women's World Conference was held in Nairobi (Kenya) in 1985. At the Nairobi Conference, Forward-Looking Strategies for the Advancement of Women to the year 2000 were laid out and the entire spectrum dealt with women's role in society. The Fourth Women's World Conference was held in Beijing, the Peoples' Republic of China in 1995, this conference, advancement of women in the light of the guidelines handed out at the Nairobi Conference was reviewed. A Platform for Action was adopted as a measure through which challenges and demands of the 21st Century would be addressed.⁴⁸

In regard to the steps taken after the 1975 World Conference on Women, the creation of two UN bodies, the United Nations Development Fund for Women (UNIFEM) and the United Nations International Research and Training Institute for the Advancement of Women (INSTRAW) stand out. In 1975, the UN General Assembly established INSTRAW on the recommendation of the First World Conference on Women. INSTRAW is an autonomous body within the UN system with a mandate to carry out research, training and information activities worldwide to promote women as key agents for sustainable development. It performs research projects to identify barriers that impede women's equality in the process of social, economic and political development and further analyzes existing research material by interacting and

⁴⁷ Women World Conferences. www.un.org/conferences/women . Accessed on 29/03/2008

⁴⁸ Women in Development. www.un.org/Women-in-Development.htm . Accessed on 29/03/2008

working with Governments, UN agencies and academic institutions and non-governmental organizations.⁴⁹

In 1976, the UN General Assembly established UNIFEM to provide direct support to development projects for women. Originally, UNIFEM was set up as the Voluntary Fund for the Decade of Women (1976-1985) and it was to help improve the living standards of women in developing countries. It was to address women's concerns through providing direct technical and financial support and by promoting the inclusion of women in the decision-making process of mainstream development programmes. In 1985, the Voluntary Fund became an autonomous body in association with the UN Development Programme (UNDP) and was renamed UNIFEM.

According to Bunch and Frost, in the late 1980s and early 1990s, women in diverse countries took up the human rights framework and began developing the analytic and political tools, which together constitute the ideas and practices of women's human rights. This development brought about a change in discourse in that human rights were looked at from a female perspective. From a female point of view, conventional human rights definitions and practices fail to account for the ways in which human rights abuses often affect women differently because of their gender.⁵⁰

2.3 Instruments adopted by the United Nations to advance Women's Rights

The instruments comprise the United Nations Charter, the Universal Declaration of Human Rights and the Convention on the Elimination of All Forms of Discrimination against Women.

2.3.1 United Nations Charter

In 1945, the United Nations Organisation took responsibility for setting international human rights standards. In the Preamble to the UN Charter, the founding fathers proclaimed their commitment to human rights. They were determined to "reaffirm faith in fundamental human rights, in the dignity and worth of the human person and in the

⁴⁹ www.un.org/Women-in-Development.htm. Accessed on 29/03/2008

⁵⁰ Bunch, C and Frost, S., op cit n 46.

equal rights of men and women...” One of the purposes of the United Nations as stipulated in Article 1 of the Charter is “to promote and encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion.”⁵¹ Notably, one of the grounds upon which such distinction is prohibited is sex; hence, bringing about a change in perspective as far discrimination against women and patriarchy is concerned. The above provision was intended to offer protection to all human beings from previously disadvantaged social, ethnic, political and economic groups such as women. Accordingly, this provision was a step towards advancing the status of women and thus they were not to be treated like second class citizens.

Chapter four of the United Nations Charter stipulates the functions and powers of the General Assembly, a principal organ of the UN, and amongst others is the initiation of studies and recommendations for the purpose of assisting in the realization of human rights and fundamental freedoms for all without distinction as to, among others, sex.⁵² While Article 1(3) obliges the United Nations to promote and encourage respect for human rights, Article 13 (1) (b) obliges the UN General Assembly to “assist in the realization of human rights.” It is imperative to note that although the ‘General Assembly’s recommendations concerning the realization of human rights are not legally binding, they may acquire the force of a customary norm as a result of an accumulation of resolutions and repetition of recommendations on a particular subject’.⁵³ One of the landmark resolutions passed by the UN General Assembly led to the formation of the International Bill of Human Rights which will be discussed in detail in the proceeding paragraphs.

Chapter nine of the UN Charter likewise obliges member states of the UN “to promote universal respect for human rights and fundamental freedoms without distinction,” but proceeds to say that this should be done with “a view of creating conditions of stability and well-being based on respect for the principle of equal rights and self-determination of peoples.”⁵⁴ This provision is important to this study as it advocates for equality

⁵¹ Art 1(3) of the UN Charter.

⁵² Art 13 (1) (b) of the UN Charter.

⁵³ Dugard J., op cit n 43 at p32.

⁵⁴ Art 55 (c) of the UN Charter.

between men and women, accordingly women have the full support of the United Nations to participate in political and economic sectors in order to advance their status.

Although the UN Charter is significant for bringing about the realization that all people are equal and that human rights for all should be respected, it did not define human rights. In order to effectively promote universal respect for human rights, the United Nations drafted an International Bill of Rights through one of its principal organs known as the Economic and Social Council. The developments that were brought about by the Bill will be discussed under the next sub-heading.

2.3.2. Universal Declaration of Human Rights

In 1946, the United Nations Economic and Social Council (ECOSOC) established a Commission on Human Rights whose first task was to draft an International Bill of Rights, comprising a declaration and a multi-lateral treaty. As a result, the Universal Declaration of Human Rights (UDHR) was drafted and adopted by the United Nations General Assembly on 10 December 1948 through resolution 217 A III of 1948.⁵⁵ The UDHR is not a treaty and thus not legally binding on states but a recommendatory resolution of the General Assembly. As stipulated in its Preamble, the UDHR was proclaimed by the General Assembly 'as a common standard of achievement for all peoples and all nations.'

It proclaims both first generation rights, which include civil and political rights and second generation rights which comprise economic, social and cultural rights. While the former are directed at restricting the powers of the state over the individual, the latter oblige the state to create conditions necessary for human development such as employment and education.⁵⁶ The first generation rights provide a shield for individuals to protect themselves against state authority. They guarantee freedom from unlawful interference by the state.⁵⁷ For the purpose of this study, women's political rights are classified under first-generation rights while women's economic rights fall under second-generation rights.

⁵⁵ Dugard J., op cit n 43 at p 240.

⁵⁶ Nel, F and Bezuidenhout, J., op cit n 29 at p 8 at par 7.4.1.1.

⁵⁷ Nel, F and Bezuidenhout, J., op cit n 29 at p128-129 at par 8.2.

The UDHR's definition of human rights as universal, inalienable and indivisible is worth examining to determine its relevance to the advancement of women's rights. According to Charlotte Bunch and Samantha Frost⁵⁸, these rights are tremendously important for women's human rights because universality means that human rights apply to each person equally by virtue of their humanity. By invoking universality of human rights, women demand that their very humanity be acknowledged. Further more, this idea challenges the contention that the human rights of women can be limited by culturally specific definitions of what counts as human rights and of women's role in society. We concur with the foregoing argument mainly because in most African countries, cultural beliefs are contained in indigenous laws and customs. Some of these laws undermine women's rights due to their patriarchal nature. Accordingly, cultural practices pose a threat to the advancement of women's rights given that the integrity of culture is also guaranteed by the UDHR.⁵⁹ The conflict that exists between cultural relativism and universality of human rights and the solution thereto will be elaborated on in Chapter Five.

Bunch and Frost further argue that the idea of inalienability of human rights means that it is impossible for anyone to ignore women's human rights since every person is accorded those rights by virtue of being human. They are of the view that human rights cannot be sold, ransomed or forfeited for any reason. On the notion of indivisibility of human rights, the above authors argue that none of the rights is more important than others since they are all inter-related. They further submit that indivisibility of human rights is important to women due to the fact that their political rights were historically compromised by their economic status, social and cultural limitations placed on their activities.⁶⁰ In accordance with the above notions, the Universal Declaration of Human Rights is remarkable for the respect it brought to women's rights in recognizing the inherent dignity of all human beings and equality of men and women.

The Universal Declaration of Human Rights has inspired the formulation and adoption of other human rights instruments internationally, regionally and nationally, amongst which are the International Covenant on Civil and Political Rights (ICCPR) and the

⁵⁸ Bunch, C and Frost, S., op cit n 46

⁵⁹ Art 27 and Art 29 of the Universal Declaration of Human Rights

⁶⁰ Bunch, C and Frost, S., op cit n 46

International Covenant of Economic, Social and Cultural Rights (ICESCR). The UDHR has served as a model for national Bills of Rights in many states, amongst which is South Africa⁶¹ and Uganda.⁶²The UDHR has been used by the organs of the UN as a yardstick by which to measure the conduct of states regarding respect and observance of human rights. This study intends to investigate the effectiveness of the above measure because there is no guarantee in assuming that nations with Bills of Rights have implemented what is provided therein and do protect the rights of their citizens, particularly women.

Despite the changes brought about by the UDHR in declaring that all human beings have rights which are inalienable, inviolable and indivisible by virtue of being human, human rights abuses still occur and women are often more affected because of their gender. As a result, there is need for specific protection to be accorded to women's rights. This is in addition to the general protection provided by the UN Charter, UDHR, conventions providing specific protection were adopted by the UN General Assembly and amongst them were conventions protecting women's political rights and prohibiting all forms of discrimination against women. These will be discussed below.

In order to protect women's political rights, the International Convention on Political Rights of Women was drafted in 1952 and adopted in 1954. This Convention was adopted to advance women's political rights since in most nations women were not allowed to hold any public office but were rather confined to house keeping. In its Preamble, the Convention states that its objective is to implement the principle of equality of rights for men and women contained in the UN Charter. The Convention prohibits discrimination against women in the political sphere and demands political powers for them such as the right to vote,⁶³ right to stand for election⁶⁴ and the right to hold public office on the same basis as men.⁶⁵

⁶¹ Chapter 2 of the Constitution of the Republic of South Africa, Act 108 of 1996.

⁶² Chapter 4 of the Constitution of the Republic of Uganda of 1995.

⁶³ Art 1 of the Convention on the Political Rights of Women

⁶⁴ Art 2 of the Convention on the Political Rights of Women

⁶⁵ Art 3 of the Convention on the Political Rights of Women

Notwithstanding the efforts of the Convention on Women's Political Rights to advance the status of women in the political field, it was not so fruitful. In my view, the restriction on membership to members of the United Nations was a major setback since other states had to wait for an invitation from the General Assembly.⁶⁶ On the other hand, this Convention's protection was limited to political rights yet women's rights were still violated in other fields such as the economic and social fields. Following this Convention, the UN intended to provide an all rounded protection for women by prohibiting discrimination against them and thus drafted and adopted the Declaration on the Elimination of Discrimination against Women in 1967. This Declaration elaborated on the implicit prohibition on any distinction on the ground of sex in the UN Charter.⁶⁷

2.3.3. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

Following the Declaration on the Elimination of Discrimination against Women of 1967, a Convention on the Elimination of All Forms of Discrimination against Women was adopted by the General Assembly in 1979. It came into force in 1981 and is often described by human rights activists as the International Bill of Rights for women. By the 1 of January 1998, 45 African States, including South Africa and Uganda, out of the 53 had ratified and signed this Convention. CEDAW went beyond protecting women's political rights which the Convention on the Political Rights of Women had attempted to, and set a standard for protecting all the rights and aspirations of women. It consists of a Preamble and 30 Articles, it defines what constitutes discrimination against women and sets up an agenda for national action to end all forms of discrimination against women.

CEDAW defines discrimination as 'any distinction 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'.⁶⁸ It is the only human rights treaty which affirms the reproductive rights of

⁶⁶ Art 4(1) of the Convention on the Political Rights of Women

⁶⁷ Art 1(3), Art 13 (1) (b) and Art 55 (c) of the UN Charter

⁶⁸ Art 1 of CEDAW

men⁶⁹ and targets culture and tradition as influential forces shaping gender roles and family relations. CEDAW condemns all forms of discrimination against women and urges states to ensure that their legal systems guarantee equal rights and opportunities to women in all spheres of life such as political and economic life, education, employment and health.⁷⁰ In order to accelerate factual equality between men and women, states are permitted to adopt temporary special measures based on affirmative action.⁷¹

The Convention on Elimination of All Forms of Discrimination against Women is enforced by the Committee on the Elimination of Discrimination against Women. It consists of 23 persons and its duty is to enforce the application of the provisions in CEDAW through receiving and considering reports from member states at least every four years, pertaining to violation and advancement of the Convention. The Committee was established to monitor the implementation of the Convention and to work with other United Nations bodies for the advancement of women everywhere.⁷² CEDAW sets a standard for all nations in that before ratifying it, such nations must first undertake a series of measures to end all forms of discrimination against women. Such measures include passing legislation and special innovations which would ensure that women enjoy all their human rights and fundamental freedoms. Accordingly they are bound to put its provisions into practice in terms of their treaty obligations.

Whereas Uganda ratified the CEDAW in 1990, South Africa ratified it in 1995 after she had previously adopted the General Law Fourth Amendment Act 132 of 1993. The adoption of this Act removed all traces of legislative discrimination against women and thus qualified South Africa to ratify CEDAW. Although discriminatory legislations no longer exist in South Africa, Chapter Three will examine the extent to which women's political and economic rights have been advanced. In 1999, an Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women was adopted. Its purpose was to permit the Committee to receive and consider individual

Article 4 of CEDAW provides that special measures aimed at protecting maternity 'shall not be considered discriminatory.'

Article 3 of CEDAW

Article 4 (1) of CEDAW

Uganda J., *op cit* n 43 at p250

petitions relating to alleged violations of the Convention and to investigate any systematic violations.⁷³

Since ratification of a convention by nations does not automatically guarantee the implementation of its provisions, the Optional Protocol to the Convention came in handy. This is because it puts a check on governments in member states with regard to the implementation of the Convention. This check is ensured by the fact that individuals can submit petitions to the Committee regarding non-compliance in any form of discrimination against women by their own state leaders, institutions and other human rights bodies.

In addition to international human rights conventions, there was regional interest in human rights that resulted into the creation of special human rights mechanisms in the United States of America, Europe and African regions. The European Convention on Human Rights which adopted in 1950; the Inter-American Convention on Human Rights of 1969; the African Charter on Human and Peoples' Rights which was adopted in 1986; and more recently, the Protocol to the Human and People's Rights on the Rights of Women in 2003.⁷⁴

The principle of affirmative action has been adopted in most African countries, particularly in South Africa and Uganda to protect women from further marginalization which they painfully endured in the name of cultural beliefs and patriarchy, at governmental, societal and family levels. Through affirmative action, many women have managed to rise above cultural and gender stereo-types by participating in political and economic spheres. Although the existence of such a measure is no guarantee for curing all the stereo types in different communities especially in Africa as per the inferior status of women to men, its implementation by governments assures women of protection, recognition and equality, at least in theory.

⁷³ Dugard J., op cit n 43 at p 250

⁷⁴ Historical Development of Human Rights., www.fahamu.org/historical-development-of-human-rights . Op cit n 42

2.4 The United Nations' Specialised Agencies

These specialized agencies and sub-agencies include the United Nations Commission on the Status of Women, the United Nations Division for the Advancement of Women, the United Nations International Research and Training Institute for the Advancement of Women, the United Nations Development Fund for Women and the United Nations Development Programme. Below is a detailed discussion on policies of these agencies in the implementation of women's economic and political rights.

2.4.1 United Nations General Assembly (UNGA)

According to the United Nations Charter⁷⁵ and the Women-Watch Directory of the United Nations Resources on Gender Equality and Empowerment of Women, the General Assembly is the main deliberative organ of the United Nations that is composed of representatives of all member states. As the highest inter-governmental body in the United Nations system, it is also the principal policy-making and appraisal organ on matters relating to follow-up actions to the major World Conferences on Women. The General Assembly also coordinates the work of the Human Rights Council and the Sub-Commission on the Promotion and Protection of Human Rights.⁷⁶

With regard to women's participation in the economy, the United Nations General Assembly's Sub-Commission on the Promotion and Protection of Human Rights passed a resolution on the 8 August 2005, with a theme "the fight against poverty and the right to participation: the role of women." In August 2006 at the fourth session of the Social Forum, a working paper was presented by Ms. Chin-sung Chung, in pursuit of the afore-mentioned resolution of the Sub-Commission. In this working paper, the increasing "feminization of poverty"⁷⁷ was recognized and the fact that women are the main actors in organizations combating poverty and social exclusion. In this working paper, one of the factors responsible for feminization of poverty is identified as the dominant macroeconomic paradigm that prioritizes economic growth over equality,

⁷⁵ Art 13 of the UN Charter.

⁷⁶ Women Watch Directory of the UN Resources on Gender Equality and Empowerment of Women www.un.org/womenwatch/directory/general_assembly Accessed on 20/05/2008

⁷⁷ Feminization of poverty is generally understood as the situation of the growing proportion of women below the poverty line.

rights and development. The Sub-Commission was of the view that while economic growth is critical, economic policies that seek to meet the needs of poor people must start with a human rights-based framework, with specific attention to the rights of women.⁷⁸

In the same working paper considered at the fourth session of the Social Forum, the World Bank recognized the gender dimensions of poverty and addressed general challenges impeding women's participation in economic affairs. According to the World Bank, poverty reduction strategy programmes are prepared by Governments through a participatory process involving domestic stakeholders and development partners to ensure that the views of all groups were reflected in poverty diagnosis. Notwithstanding the fore-going submission, the World Bank identified the following challenges to women's participation: women's representation in national consultations is generally lacking, their participation is not considered by organizers, they lack information, they do not attend meetings or do not speak due to cultural limitations and when they speak their views are not heard nationally.⁷⁹

Another outcome of the Social Forum was the recognition that effective participation of women in poverty reduction strategies was a vital factor, which could only be achieved by removing the deep-rooted structural barriers, violations of women's human rights and by creating an enabling environment for women to enjoy their rights as a whole. This is because differential power relations between women and men impede women's empowerment in the context of transformational change.⁸⁰

2.4.2 United Nations Economic and Social Council (ECOSOC)

ECOSOC co-ordinates the work of the 14 UN specialized agencies and 10 functional commissions which include the Commission on the Status of Women. It also promotes and monitors the implementation of gender main-streaming by making follow-ups to the

⁷⁸ UN General Assembly's Special Rapporteur on Feminization of Poverty. <http://hauchen.org/A.HRC.Sub> . Accessed on 10/06/2008

⁷⁹ UN General Assembly's Special Rapporteur on Feminization of Poverty., op cit n 78

⁸⁰ UNGA., op cit n 78

major World Conferences on Women.⁸¹ It may make recommendations in respect of promoting the observance of human rights and fundamental freedoms for all, which must be submitted to the General Assembly for approval.⁸² Below, we will analyze the work done by the above organs through their respective subsidiary organs and commissions to advance women's political and economic rights.

In fulfillment of its mandate to set up commissions for the promotion of human rights, the United Nations Economic and Social Council set up the UN Commission on Human Rights in 1946. The Commission was to be assisted by the Sub-commission on Prevention of Discrimination. The Commission and Sub-commission had confined their duties to preparing human rights instruments and promotion of human rights. However ECOSOC authorized the Commission and Sub-commission to examine information relating to gross violations of human rights and to investigate situations which revealed a consistent pattern of human rights violations, as was the case in South Africa during the apartheid⁸³ era. The Commission and Sub-commission were further mandated to make recommendations to ECOSOC pertaining to their findings. According to Dugard, the procedure set for investigation of human rights violations was ineffective because of the requirement that such investigation be undertaken only with the consent of the state being investigated and to keep it confidential until ECOSOC made a report.⁸⁴

Since the above Commission and Sub-commission provided general protection for human rights, the United Nations Economic and Social Council in order to provide specific protection, passed a resolution in June 1946 that resulted into the establishment of the Commission on the Status of Women (CSW).

⁸¹ Women Watch Directory of the UN Resources on Gender Equality and Empowerment of Women www.un.org/womenwatch/directory/ecosoc . Accessed on 20/05/2008

⁸² Functions and powers of ECOSOC; Art 62

⁸³ Apartheid was political system in South Africa prior to 1994, which was characterized by racial segregation in that the Coloured, Indian and especially the Black population were forced to live in poor conditions away from the White population.

⁸⁴ Dugard J., op cit 43 at p252-253

2.4.3 Commission on the Status of Women (CSW)

The Commission on the Status of Women is a functional Commission of the United Nations Economic and Social Council that is dedicated exclusively to gender equality worldwide. It was established to promote the advancement of women in the political, economic, civil, social and educational fields by preparing recommendations and reports which it then submits to the United Nations Economic and Social Council for approval. The Commission on the Status of Women also makes recommendations on urgent problems requiring immediate attention in the field of women's rights. Notably, the Commission on the Status of Women ensured that provisions for equality between women and men were included in the Universal Declaration of Human Rights of 1948. After its establishment in June 1946, the Commission on the Status of Women met for the first time in February 1947 and since then it has been holding annual sessions to evaluate progress on gender equality, identify challenges, set global standards and formulate concrete policies to promote gender equality and advancement of women. The CSW held its fifty second session from 25 February to 7 March 2008.⁸⁵

Initially, the CSW focused on legal measures to protect the human rights of women and awareness-raising on the status and situation of women worldwide, which attracted the interest, participation and support of the growing international women's movements. By the mid 1960s, the CSW had begun to address the role of women in economic and social development. In developing countries, delegates drew special attention to the situation of women in rural areas and the need to enhance their contributions and address their priorities and needs.⁸⁶

The afore-mentioned development by the CSW to address women's role in the economy is remarkable because at that time most countries, especially in Africa, were patriarchal in governance. It was therefore unheard of for a woman to participate in the economy or politics especially in a position that afforded her to lead other than serve men. The work of delegates in rural societies of Africa provided a benchmark against

⁸⁵ Fifty Second Session of the Commission on the Status of Women., 25 February-7 March 2008.

<http://daccessdds.un.org/UNDOC> . Accessed on 10/05/2008

⁸⁶ Commission on the Status of Women., UN report on 60 years of Work for Equality, Development and Peace.

www.un.org/womenwatch/daw/csw60yrs . Accessed on 10/05/2008

which the extent of women's marginalization could be measured. This is due to the fact that women succumbed to marginalization and male domination under the guise of upholding customary law.

In 1975, at the urging of the Commission on the Status of Women and non-governmental organizations (NGOs), the UN observed International Women's Year with the theme "Equality, Development and Peace." It was as a result of this observation that the First World Conference on Women was convened and a Global Plan for Action to improve the status of women adopted. The Commission on the Status of Women further contributed in organizing and following-up the Second, Third and Fourth World Conferences⁸⁷ on Women.⁸⁸

Following the Fourth World Conference on Women that was held in 1995, the UN General Assembly, in its resolution 50/203 of 22 December 1995, invited ECOSOC "to review and strengthen the mandate of the Commission on the Status of Women, taking into account the Platform for Action as well as the need for synergy with all other related commissions and conference follow-up and for a system-wide approach to its implementation." The General Assembly decided that "the Commission on the Status of Women, as a functional commission assisting ECOSOC, shall have a central role in the monitoring of the implementation of the Platform for Action within the UN system and advising the Council thereon."⁸⁹ In response to the fore-going resolution of the General Assembly, ECOSOC modified the terms of reference of the CSW in its resolution 1996/6 to include, inter alia, identifying emerging issues, trends and new approaches to issues affecting equality between women and men.⁹⁰

In response to the United Nations Economic and Social Council's Resolution 1996/6, the Commission on the Status of Women has played a critical catalytic role in

⁸⁷ See Chapter One for full discussion on the four World Conferences on Women.

⁸⁸ The Commission on the Status of Women., op cit n 86

⁸⁹ UN ECOSOC report of the Secretary-General on the follow-up to the Fourth World Conference on Women and the Platform for Action during the forty-eighth session of the CSW., <http://daccessdds.un.org>. Accessed on 10/05/2008.

⁹⁰ UN Commission on the Status of Women, follow-up to Beijing and Beijing +5

promoting gender mainstreaming at national level and within the UN system. The CSW continues to provide unique opportunities for the exchange of ideas, experiences, good practices and lessons-learned to enhance the implementation of commitments at national level, through interactive expert panels on the themes under consideration and roundtables for high level representatives attending the annual sessions.⁹¹

During its special session entitled 'Women 2000', the General Assembly re-examined key issues namely; gender equality, development and peace for the twenty-first century otherwise known as 'Beijing +5'. This re-examination showed a commitment to the Beijing Platform for Action. The above-mentioned issues are further explored in the work conducted under the auspices of the Commission on the Status of Women and the Division for the Advancement of Women.⁹²

Over the past ten years since the Beijing Declaration in 1995, the CSW has in its annual sessions systematically reviewed progress in the implementation of the twelve⁹³ critical areas of concern that were identified at the Beijing Conference of 1995 and made follow-ups to the implementation of the Beijing Plan and Platform for Action. Among the twelve critical areas of concern, only five are relevant to this study; namely women and the economy, women and decision-making, women and poverty, human rights of women and gender equality. The CSW acted as the Ad-hoc Preparatory Committee for the five-year review of implementation of the Platform for Action in the 23 special session of the General Assembly in June 2000. The outcome identified persistent gaps and challenges and provided new recommendations for action to ensure the full implementation of the commitments made at the Fourth World Conference on Women in 1995.⁹⁴

⁹¹ UN ECOSOC Report of Secretary General., op cit n 89

⁹² Smith, R.K.M., Textbook on International human Rights (2005) 2 edition., New York at p 348.

⁹³ Women and armed conflict, women and decision making, women and the economy, women and the environment, women and the media, education and training of women, human rights of women, women and poverty, violence against women, gender equality, institutional mechanism for the advancement of women and the girl child and development and peace for the 21st century.

⁹⁴ UN ECOSOC Report of Secretary General., op cit n 89

In 2004, at its forty-eighth session, the CSW made a follow-up to the Fourth World Conference on Women and to the Special Session of the General Assembly entitled 'Women 2000: Gender Equality, Development and Peace for the Twenty First Century.' During the forty-eighth session, the CSW made recommendations for future development of its working methods. One of them was the recommendation to develop ways and means of increasing the contributions of the regional commissions in the work of the CSW and in particular the review and appraisal of the implementation of the Beijing Declaration and Platform for Action and the outcome of the Twenty-Third Special Session of the General Assembly during its Forty-Ninth session.⁹⁵ At this Session, governments of participating countries, including South Africa, made formal commitments to implementing a range of recommendations aimed at "involving men and boys in achieving gender equality."⁹⁶

In 2005, during its Forty-Ninth session, the CSW held the ten year review of implementation of the Beijing Declaration dating from 1995 to 2005. This review indicated that while progress in the implementation of previous resolutions had been made at national level, the CSW's major challenge was ensuring accountability for implementation of existing policy recommendations and human rights standards at national level. As a step towards resolving this challenge, a Declaration was adopted during this session, in which member states re-affirmed the Beijing Declaration and Platform for Action and also re-affirmed the outcome documents of the 23rd special session by pledging their full and accelerated implementation. Likewise, although gains could be seen in relation to each of the 12 priority areas in all regions, serious obstacles and challenges were reported in every area.⁹⁷ The challenges and obstacles to implementation of the Beijing Declaration and Platform for Action will be discussed in detail in chapter four.

The CSW held its Fiftieth Session from the 27th February till the 10th March 2006 in New York. Present at this Session were women's organizations, namely; the "Center for Women's Global Leadership (CWGL), UN Committee on the Status of Women,

⁹⁵ UN ECOSOC Report of Secretary General., op cit n 89

⁹⁶ Sonke Gender Justice Network., South African Country Report to the UN Commission on the Status of Women.

⁹⁷ The Commission on the Status of Women., op cit n 90.

Women's Environment and Development Organization (WEDO) and Women's International League for Peace and Freedom. These organizations expressed disappointment and outrage at the failure of the UN reform program to address women's equality agenda and women's machineries as its central part.⁹⁸

Charlotte Bunch, the CWGL Executive Director said, "*the UN must make it a priority to strengthen the bodies that work for women's rights. What is being called the UN 'gender architecture' is more like a shack. Women need a bigger global house if equality is ever to become a reality.*"⁹⁹ The women's organizations further addressed an Open Letter to the UN Secretary General and Member States, in which they repeated a call previously made at the 2005 World Summit that UN systems and mechanisms should be significantly strengthened, upgraded and resourced in order to advance gender equality at international and national levels.¹⁰⁰

The principal output of the CSW is the so-called 'Agreed Conclusions' on priority themes set for each year. Agreed Conclusions contain an analysis of the priority theme of concern and a set of concrete recommendations for Governments, inter-governmental bodies, institutions, civil society actors and other relevant stakeholders to be implemented at the international, regional, national and local levels.¹⁰¹ In March 2009, the CSW held another session following which women's organizations in Africa formed the Africa Regional Task Force for the Beijing + 15 Review Process, which will be discussed later on in this chapter.¹⁰²

The CSW has been an untiring advocate for gender equality and empowerment of women across the globe. It has provided a unique space for exchange of national experiences and good practices and for bringing the voice of the women's movement

⁹⁸ CSW Press Conference (2006), United Nations, New York., www.cwgl.rutgers . Accessed on 10/05/2008

⁹⁹ CSW Press Conference., *ibid* n 98

¹⁰⁰ CWS Press Conference., *op cit* n 98

¹⁰¹ UN Commission on the Status of Women, follow-up to Beijing and Beijing +5., *op cit* n 90

¹⁰² Mavic., C.B and Sajor I., Report by the International Women's Tribune Centre Women's Globalnet# 359 on Activities and Initiatives of Women Worldwide on the Beijing + 15: African NGOs., p 2 at par 3 www.hrea.org/wv/index.php?base_id=116&list_id=27. Accessed on 26/10/2009

to the UN. The CSW will continue to play a critical leadership role to ensure that the work of the UN has a positive impact on the lives of women at national level. It also remains a driving force for advancement of women, as it has dealt with issues such as women's participation in political life and in decision-making. It has also recommended women's rights in employment and their role in the economy.¹⁰³

2.4.4 Division for Advancement of Women (DAW)

The Division for Advancement of Women is a division within the UN Secretariat. As stated in its mission statement, DAW is grounded in the vision of equality of women as provided for in the United Nations Charter and advocates the improvement of women's status worldwide and the achievement of their equality with men as equal actors, partners and beneficiaries of sustainable development, human rights, peace and security. In the advancement of the global agenda on women's rights, gender equality, women's empowerment and ensuring that women's voices are heard in international policy arenas, DAW works together with governments, entities of the UN system and non-governmental organizations.¹⁰⁴

DAW consists of three sections namely Gender Analysis Section, Women's Rights Section and the Coordination and Outreach Unit. Under the Gender Analysis Section, DAW is responsible for substantive servicing of the Commission on the Status of Women in fulfilling its mandate to promote the advancement of women worldwide. It acts as secretariat during UN World Conferences on Women and monitors implementation of relevant recommendations made at such conferences. The Division prepares periodic reports, analyzes progress and offers advisory and technical cooperation services to developing countries on the implementation of the 1995 Beijing Platform for Action and on the outcome of the Twenty Third Special Session of the General Assembly of 2000. Under this section, DAW also prepares and contributes to

¹⁰³ UN CSW., op cit 90

¹⁰⁴ Department of Economic and Social Affairs under the UN Division for Advancement of Women; www.un.org/womenwatch/daw . Accessed on 10/05/2008.

the UN Secretary-General's reports and other entities of the UN with a view to ensuring attention to gender perspectives.¹⁰⁵

In terms of the Women's Rights Section, DAW services the CSW in fulfilling its mandate in regard to the human rights of women and implements the communications procedures of the CSW, which allows the consideration of confidential and non-confidential communications on the status of women at country level. It also provides advisory and technical assistance to member states on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women.¹⁰⁶

Under the Coordination and Outreach Unit, DAW carries out outreach and communication activities on gender equality. The Division is also responsible for facilitating the participation of civil society representatives in the annual sessions of the CSW as well as for the co-ordination of parallel events held at the UN during the Commission's sessions. DAW maintains regular outreach with non-governmental organizations and academic and national institutions working for women's advancement. As a whole, the Division is the focal point for co-ordination of activities for women in the UN system as a whole.¹⁰⁷ DAW disseminates information on the United Nations' work for the advancement of women and gender equality through an internet website that provides full text access to relevant UN policy documents, country reports and other key information on empowerment of women and gender equality.¹⁰⁸

In the following paragraph, women's economic empowerment by the Division on Advancement of Women will be tackled.

¹⁰⁵ UN Women Watch document on the Organization of the Division for Advancement of Women; www.un.org/womenwatch/daw . Accessed on 13/07/2008

¹⁰⁶ UN Women Watch on DAW., op cit n 105

¹⁰⁷ United Nations entities of the Women's Watch. www.un.org/womenwatch/directory/UN-entities . Accessed on 13/07/2008

¹⁰⁸ UN Women Watch on DAW., op cit n 105

2.4.4.1 Women's Economic Empowerment by DAW

From 12-14 November, 2008 the Department of Economic and Social Affairs under the UN Division for the Advancement of Women held an 'expert consultation on the 2009 World Survey on the Role of Women in Development.' The consultation was entitled "Women's Control over Economic Resources and Access to Financial Resources, including Micro-finance." In this consultation, the concept of empowerment was defined as the '*ability to make choices and to change all components of societal structures that shape and reproduce power relations and the subsequent unequal distribution of society's resources and opportunities.*' Empowerment is said to comprise resources such as material assets, finances, skills, knowledge and expertise on one hand and of agency on the other hand, which refers 'to the ability of people to define their goals and objectives and then act upon them'.¹⁰⁹

With regard to women's economic empowerment, some scholars argue that economic resources create a condition of empowerment and thus stress the importance of access to resources. On the other hand, other scholars argue that economic resources are a source of power and thus advocate for redistribution of resources within the family and community at large in order to improve women's social status and their capability to generate wealth. Notably, these two arguments have a common ground as they both advocate for women's ownership of tangible assets or resources which would ultimately result in mobilization of additional financial resources for starting up businesses and expanding existing ones.¹¹⁰

2.4.5 United Nations International Research and Training Institute for Advancement of Women (UN-INSTRAW)

The First World Conference on Women that was held in 1975 recommended the creation of a research and training institute dedicated to the advancement of women and as result, UN-INSTRAW was established in 1976 by the UN Economic and Social Council. INSTRAW's mission is to promote applied research on gender, facilitate

¹⁰⁹Kapitsa, L.M., A Consultation Paper by the UN Division for the Advancement of Women on Women's Economic Empowerment., p 2., 12th November 2008., <http://www.un.org/womenwatch/daw/ws2009/> . Accessed on 09/02/2009.

¹¹⁰ Kapitsa, L M., op cit n109 at p 4

information sharing and support capacity building through networking mechanisms such as multi-stakeholder partnerships with UN agencies, governments, academia and civil society. Since its inception, INSTRAW has carried out research and training activities at international, regional and national levels in collaboration with governments, civil society and the UN system. One of its objectives is to shape a sustainable institution that is sound and innovative by highlighting the gender perspective as an essential element in the analysis and implementation of programmes and projects aimed at achieving good governance and sustainable development.¹¹¹

Among its research activities over the years, INSTRAW has developed conceptual frameworks and methodologies for measuring and valuing women's household production and including such contributions into the system on national accounts. This helps to monitor governance and women's political participation at local, national, regional and international levels. In many of its studies, INSTRAW has highlighted the gendered effects of globalization in processes such as the impact of structural adjustment policies on women's access to work and education. It further stressed that violence against women is an obstacle to development and the achievement of international commitments such as the Beijing Platform for Action and the Millennium Declaration and Development Goals.¹¹²

INSTRAW's other objective is applied research, which it conducts on existing gender responsive policies to access the gaps, promote the application of lessons learned and replication of best practices and feed back into local, regional and global policies. Through its applied research approach, the Institute is able to tackle both existing challenges and new issues. INSTRAW has facilitated the generation and dissemination of key gender-related information, which has been used in the elaboration of development policies, programmes and projects. It has also encouraged civil society, academic groups and agents to continue with research and in-depth reviews of themes related to gender equality and the advancement of women.¹¹³

¹¹¹Reported by the University of Santiago., www.usc/United-Nations-International-Research-and-Training-Institute for the Advancement of Women. Accessed on 30/07/2008.

¹¹² Reported by the University of Santiago., op cit n111

¹¹³ Reported by the University of Santiago., op cit n 111

In December 2003, UN-INSTRAW initiated a process of revitalizing and strengthening its work on certain key areas and re-establishing its position as a recognized and respected body within the fields of research and training on women's and gender issues, and as a central component of the United Nations' gender equality architecture. INSTRAW further instituted a Strategic Framework 2004-2007 which emphasizes the importance of articulating research, training and information distribution in a continuous cycle of analysis, learning and action. In 2004, the United Nations General Assembly reaffirmed its commitment to eliminating gender inequalities by approving the Institute's Strategic Framework 2004-2007.¹¹⁴

In February 2008, UN-INSTRAW launched two new projects in Africa aiming at supporting the implementation of the UN Security Council Resolution 1325. The launch took place in Addis Ababa, Ethiopia during the High-Level Policy Dialogue on National implementation of the above resolution, where INSTRAW called for the full and equal participation of women in peace and security initiatives and gender main-streaming issues. In her address, Nicola Popovic, the Gender, Peace and Security Advisor at the UN-INSTRAW stated that INSTRAW's projects will focus on assessing the current situation and future opportunities to ensure their implementation at national level and advocating for greater attention to women. She added that one of the objectives was to bring together policy makers and civil society to build consensus and establish a common agenda on these issues.¹¹⁵

As part of a year-long project in Burundi and Liberia, INSTRAW is conducting assessments of women and supporting the implementation of full and equal participation of women in gender mainstreaming issues by generating national consensus on these issues and promoting a national action planning process. INSTRAW also pledged to stimulate awareness-raising and capacity-building activities through tools and workshops to relevant stakeholders which is one of its objectives. In

¹¹⁴ Reported by the University of Santiago., op. cit n 111

¹¹⁵ UN Press Release on 'Women Act for Sustainable Peace and Gender Equality in Africa., 8th February 2008. www.un.org/INSTRAW.htm. Accessed on 21/04/2008.

Somalia, INSTRAW presented its projects in order to evaluate and strengthen the role of Somali women in the on-going conflict-resolution and peace building.¹¹⁶

In support of the above-mentioned projects of INSTRAW, Nicola Popovic further submitted that rather than portraying all women as helpless victims of war and violence, it was essential to take into account the active roles that they play as combatants, peace builders, politicians and activists. She continued to say that by accepting the challenge of turning policy into practice, commitment to building national gender sensitive processes is made.¹¹⁷

It is respectfully submitted that it is imperative to note that through its above mentioned projects, UN-INSTRAW has endeavored to respond to the call¹¹⁸ made at the 2005 World Summit and by women's organizations during the Fifth Session of United Nations Commission on the Status of Women that was held in 2006. This is evident through INSTRAW's various projects in Africa aimed at implementing the full and equal participation of women in gender mainstreaming issues in their respective countries, unfortunately not yet in South Africa and Uganda.

2.4.6. United Nations Development Fund for Women (UNIFEM)

UNIFEM is the Women's Development Fund at the United Nations, which was established as a result of the enthusiastic advocacy of women at the First Global Conference on Women to provide direct support to development projects for women. It was named as such in 1985 after being originally known as the Voluntary Fund, which was established in 1976 by the United Nations General Assembly. UNIFEM is sometimes described as the bridge between international organizations, policy makers and disadvantaged women in developing countries. This is because it not only works at international level but also at regional and national levels through its 10 regional offices.¹¹⁹ The Fund's mission is to advance women's empowerment and gender

¹¹⁶ UN Press Release., *ibid* n 115

¹¹⁷ UN Women Watch on DAW., *op. cit* n 105

¹¹⁸ The call was for UN systems and mechanisms to be significantly strengthened, upgraded and resourced in order to advance gender equality at national and global levels.

¹¹⁹ www.un.org.women/in.development.htm . Accessed on 19/03/2008

equality through providing financial and technical assistance to innovative programmes and strategies at regional and national levels. As a means of ensuring that gender is included in international human rights policies, UNIFEM targets critical issues on the global agenda such as feminization of poverty, ending violence against women and achieving gender equality in democratic governance in times of war and of peace.¹²⁰

For effective advancement and empowerment of women, UNIFEM has been working in association with the United Nations Development Programme (UNDP) since 1985. While UNIFEM is committed to providing finances to innovative programmes and strategies aimed at advancing women's status, UNDP has a responsibility to upscale and expand the innovative models that are developed and tested by UNIFEM. UNDP is collaborating closely with UNFEM in support of gender-sensitive budgeting since no commitment speaks louder than financial commitment.¹²¹ A detailed discussion on UNDP's work on gender mainstreaming will follow under the next subheading.

Since November 2005, UNIFEM has led multi-stakeholder consultations on gender equality and aid effectiveness. The consultations have brought together representatives from governments that are engaged in planning, finance and national women's machineries. As a result of these consultations, donor agencies and civil society have explored strategies to ensure that aid effectively delivers for gender equality in the context of nationally determined development planning and programming processes.¹²² One of the consultations can be cited from UNIFEM's Regional Office for the East and the Horn of Africa, with a theme: 'Engendering Governance and Promoting Transformational Leadership.' These consultations are aimed at enhancing women's political participation and decision-making at all levels. The report from this regional office stated that in spite of growing trends towards democracy and calls for increased levels of participation of civil society in governance and decision making, all countries in East and the Horn of Africa reflected lower

¹²⁰ United Nations Development Fund for Women., www.unifem.org . Accessed on 19/03/2008

¹²¹ UNDP Gender Equality Practice Note., November 2000

¹²² Equality and Aid Effectiveness Discussion Papers-Resources Publication Series., www.unifem.org/Gender - Accessed on 27/03/2008.

representation of women.¹²³ Women's participation in African politics will be discussed in detail in Chapter Four.

The 2005 Paris Declaration on Aid Effectiveness outlines five partnership commitments for greater effectiveness, namely; ownership, alignment, harmonization, managing for results and mutual accountability. However, countries, especially in Africa, face challenges in promoting gender equality under these principles owing to weak participatory mechanisms, limited collaboration among stakeholders and insufficient capacity and resources. The Declaration further advised that the goal of development effectiveness should be implemented through engaging in the political process otherwise it will be limited to administrative and financial procedures. Therefore, to ensure that this goal is not lost, gender equality advocates are engaging in a series of consultations in order to find ways to engage in technical and political processes at all levels.¹²⁴ Such engagement will involve using existing national gender action plans and strategies and broadening political participation and accountability by governments to involve women.

On the 4 March 2008, UNIFEM and Avon Products Inc.¹²⁵ sponsored the Global Summit for a Better Tomorrow whose focus was on tools and resources needed for women's empowerment around the world. The Summit was held in celebration of International Women's Day, which was globally recognized on the 8 March 2008. At the Summit, UNIFEM and Avon, a global beauty company, announced a public-private partnership to promote women's empowerment and end violence against women. As a result of the partnership, Avon made a contribution worth US \$ 1 million to the UNIFEM-managed UN Trust Fund to End Violence against Women and it is reported to be the largest one-year corporate contribution ever received by the Fund.¹²⁶

¹²³ UN report from UNIFEM Regional Office for East and the Horn of Africa. (Uganda, Kenya and Eritrea)

¹²⁴ UN Press Release., op cit n 115

¹²⁵ Avon is a global beauty company that markets beauty products, fashion jewelry and apparel for women in over 100 countries and thus empowering them to own businesses and achieve economic independence.

¹²⁶ UNIFEM release by Nanette Braun the Communications Specialist at UNIFEM Headquarters., www.unifem.org . Accessed on 19/04/2009

2.4.7. United Nations Development Programme (UNDP)

The United Nations Development Programme was founded in 1965 to combine the Expanded Programme of Technical Assistance (EPTA) and the United Nations Special Fund (UNSF). EPTA and UNSF were fully combined into the UNDP in 1971, which has been in partnership with UNIFEM since 1985. UNDP is the United Nations' global development network and an executive board within the United Nations General Assembly. Its Administrator is the third highest ranking member of the United Nations after the UN Secretary-General and Deputy Secretary-General. The development programme operates at national level within 166 countries, where it provides expert advice; training and grant support to developing countries with emphasis on assistance to the least developed countries especially in Africa, which include South Africa and Uganda.¹²⁷

The United Nations Development Programme was the first United Nations agency to define the competencies required in working for gender equality and how to develop them. For over a decade, UNDP has been a leader in staff capacity development for gender mainstreaming.¹²⁸ Based on the previous extensive capacity and needs assessment completed in 2001, a UNDP Gender Equality Practice Note was prepared in November 2002 through a consultative process by the UNDP Gender Programme Team¹²⁹, the UNDP Gender Knowledge Network¹³⁰ and UNIFEM. These consultations provided insights on the challenges and strategies emanating from UNDP's work on gender mainstreaming especially at regional and country levels. This Note identified some facts that hamper women's progress such as gender discrimination, unequal access to resources and opportunities and women's paltry representation in politics and business. On the other hand, gender discrimination was pointed out as the source of feminization of poverty, inequitable and low economic growth, inadequate

¹²⁷ UNDP article from Wikipedia, the free encyclopedia., <http://en.wikipedia.org> . Accessed on 06/07/2008

¹²⁸ Report of the UNDP Gender Equality Strategy; November 2002. www.unpd.org/women/docs/GenderEquality-Strategy . Accessed on 06/07/2008.

¹²⁹ This Team guides UNDP policies and programmes on gender equality and women's empowerment. It also promotes the core objective of gender equality across practice areas, regional bureaux and through existing UN inter-agency networks.

¹³⁰ This network includes over 400 colleagues and the 166 gender focal points in country offices and 20 United Nations Volunteer gender specialists.

governance and thus a denial of women's human rights. Accordingly, gender discrimination does not only hamper women's progress but the society's too.¹³¹

In order to address the above hindrances to women's advancement, UNDP is committed to making gender equality a reality. It pursues gender equality through two complementary approaches; gender mainstreaming and promoting women's empowerment. Women's empowerment is central to human development since the process of enlarging people's choices cannot occur when the choices of half of the human race are restricted.¹³² According to the document prepared by the UN Secretariat, "women's empowerment has five components namely; women's sense of self-worth, their right to have and to determine choices, their right to have access to opportunities and resources, their right to have the power to control their own lives, both within and outside the home and their ability to influence the direction of social change to create a more just social and economic order both nationally and internationally."¹³³

The UNDP Practice Note defines gender main-streaming as a process of being deliberate in giving visibility and support to women's contributions rather than making the assumption that women benefit equally from gender-neutral development interventions. The Note highlights six practice areas of gender main-streaming and amongst them is democratic governance. This practice area indicates that the full participation of women is a prerequisite for governance that is truly democratic. It further noted that although women are increasingly active in community support systems, gender disparities¹³⁴ persist in public positions at all levels due to the fact that women are under represented in formal decision-making structures.¹³⁵

¹³¹ United Nations Development Programme., www.undp.org/gender-9dec02.doc

¹³² Ibid

¹³³ Guidelines on Women's Empowerment; Inter-agency task force on the implementation of the ICPD Programme of Action. www.un.org/popin/unfpa/taskforce/guide

¹³⁴ Gender parity means equal numbers of men and women at all levels of organization including significant participation of both men and women, particularly at senior levels.

¹³⁵ UN Report from UNIFEM Regional Office for East and the Horn of Africa. (Uganda, Kenya and Eritrea)

In addressing the fore-going issue, UNDP has been supporting greater participation of women in election processes and providing leadership training and relevant skills that enable them to understand and influence decision-making. For instance, in South Africa where women reached the 13 per cent threshold in local council elections, UNDP provided capacity building for women's political participation. UNDP further plays a key role in promoting legislative, electoral and judicial reform to ensure that women's rights are protected in law and in practice; and in bringing women's voices into the national dialogue.¹³⁶

As already indicated that UNDP is in close partnership with UNIFEM, this partnership allows the former to draw on gender expertise in areas of UNIFEM's comparative advantage and also provides opportunities to mainstream gender into the practice areas. As a means of integrating gender concerns in the practice areas, UNDP's agenda includes development of capacity both at country and in-house levels. It provides training in gender awareness to demystify the concept of gender mainstreaming and raise the level of gender responsiveness. Statistically, the UNDP Results Oriented Annual Reports (ROAR) of 2000 and 2001 showed signs of increased gender activities in UNDP, both in terms of number of country reports and activities which included South Africa and Uganda. While in 2000 there were seventy five programme countries, they increased to ninety in 2001 and the 2001 global staff survey showed an increase in the number of staff who believed that UNDP supports the advancement of women.¹³⁷

The 2005 evaluation of gender mainstreaming noted grave shortcomings in staff capacity and since then, UNDP has been committed to providing staff training and learning commensurate with the Gender Equality Strategy (GES). In its Gender Equality Strategy, UNDP has demonstrated that where there is leadership, oversight and resources, stronger gender equality results will follow. The second gender equality evaluation will take place in 2010 but meanwhile, annual reports on the advancement

¹³⁶ UNIFEM Regional Office for East and the Horn of Africa., Ibid n 135

¹³⁷ UNIFEM Regional Office for East and the Horn of Africa., op cit n 135

of women through the gender equality strategy are prepared by the country programmes in 166 countries.¹³⁸

In summarizing UNDP's work on gender mainstreaming and women's empowerment, we will highlight a statement made in the practice note that "holding hostage the talents, energies and aspirations of half the society impedes human development." This chapter has been concerned with the institutional framework promoting gender mainstreaming and women's empowerment. We submit that through the efforts of the seven principal organs discussed above, subsidiary organs and agencies, the United Nations Organisation has demonstrated its commitment to advancing women's status through technically, practically and financially supporting gender equality programmes at global, regional and national levels. Particularly, UNDP's commitment to providing training should be adopted by governments in their national gender mainstreaming programmes. We believe that it is not enough to simply increase the statistics of women in politics and the economy at face value while they are not equipped with the relevant knowledge and training to influence decision-making and transformation in those areas.

2.5. International Discourse of Women's Rights

This sub-heading consists of initiatives and innovative measures that have been set by the international community to ensure the advancement of women's economic and political rights as will be discussed below.

2.5.1 Beijing Platform of Action and Beijing +5 Process

In September 1995, the United Nations Fourth World Conference on Women was held in Beijing, Peoples Republic of China with the theme 'Equality, Development and Peace'.¹³⁹ At the Conference, a Platform of Action was agreed upon whereby NGOs, the Private Sectors, governments, the International community and civil society were called upon to take action in addressing issues of concern to women. Amongst the twelve critical areas of concern to women that were highlighted in the Beijing Plan was

¹³⁸ Report of the UNDP Gender Equality Strategy, p 35-37. www.undp.org/women. Accessed on 06/07/2008.

¹³⁹ Fourth World Conference on Women., Action for Equality, Development and Peace., Beijing Declaration. www.un.org/womenwatch/law/beijingdeclaration.html. Accessed on 22/04/2008

'women and the economy' which covers 'inequality in economic structures and policies, in all form of productive activities and in access to resources', human rights of women and women in power and decision-making. At the Conference, state parties agreed to review the progress made in the implementation of the Platform for Action every 5 years.¹⁴⁰

At the Fourth World Conference on Women which was held in September 1995 in Beijing the Peoples Republic of China, the Beijing Declaration and Platform of Action was adopted. The BPFA is the most comprehensive agenda for women's empowerment. Comprising 38 paragraphs, it strove to protect women's health, social economic, political, educational, religious and cultural rights. The governments that participated at the Fourth World Conference on Women, amongst which are Uganda and South Africa, adopted a solemn declaration termed the Beijing Declaration. The governments that participated reiterated their determination to advance the goals of equality, development and peace for all women everywhere in the interest of all humanity. Consequently, an extraordinary session of the General Assembly named the Beijing+5 was held in New York in June 2005 towards the first review of the actions undertaken.¹⁴¹

In the Declaration, the participating governments recognized that the status of women had advanced in some important respects in the past decade but that progress had been uneven, inequalities between women and men still persisted and major obstacles remained.¹⁴² In the Beijing Declaration, governments were convinced that women's rights were human rights¹⁴³ and that women's empowerment and their full participation on the basis of equality in all spheres of society such as decision-making processes and access to power, were fundamental for the achievement of equality, development and peace.¹⁴⁴ They also recorded their determination to promote women's economic independence including employment and eradication of the persistent and increasing

¹⁴⁰ Fourth World Conference on Women., *ibid* n139

¹⁴¹ Fourth World Conference on Women., *op cit* n 139 at par 8.

¹⁴² Fourth World Conference on Women., *op cit* n 139 at par 5

¹⁴³ Fourth World Conference on Women., *op cit* n 139 at par 14

¹⁴⁴ Fourth World Conference on Women., *op cit* n 139 at par 13

burden of poverty on women by ensuring equal access of all women, including those in rural areas, to productive resources, equal opportunities and public services.¹⁴⁵ Although this Declaration was adopted more than 12 years ago, women are still marginalized economically especially in Africa, where feminization of poverty is more dominant.

At the Fourth World Conference, the participating nations made a determination to ensure the success of the Platform of Action through strong commitment to equal rights, equal responsibilities and opportunities on the part of governments, international organizations and institutions at all levels. They further agreed that the success of the Platform of Action would also require adequate mobilization of resources at the national and international levels, as well as new additional resources the developing countries from all available funding mechanisms, including unilateral, bilateral and private sources for the advancement of women.¹⁴⁶

Consequently, the Extraordinary Session of the General Assembly in Resolution 52/231 was to act as the preparatory committee for the special session. The Division for the Advancement of Women was to serve as the substantive secretariat under the guidance of the Special Advisor on Gender Issues and the Advancement of Women. In the implementation of the 1995 Beijing Declaration and Platform of Action, the General Assembly encouraged inter-governmental processes and regional preparatory meetings, in preparation for the special session where regions and governments were to account on their implementation of the Beijing Declaration and Platform of Action.¹⁴⁷

At regional level, the General Assembly in Resolution 54/142 of 17 December 1999 encouraged all regional commissions and other inter-governmental regional organizations to hold meetings to ensure a regional perspective on implementation and further actions and initiatives, and to make their reports available to the ESWC preparatory commission in 2000 at the Special Session. Subsequently, preparatory

¹⁴⁵ Fourth World Conference on Women., op cit n 139 at par 26

¹⁴⁶ Fourth World Conference on Women., op cit n 139 at par 36

¹⁴⁷ Beijing +5 – Women 2005., Gender Equality; Development and Peace for the Twenty-First Century., New York 5-9 June 2000.,par 3. www.un.org/womenwatch/law. Accessed on 20/04/2008.

meetings were held under the auspices of the five regional commissions and amongst others was the regional meeting of the Economic Commission for Africa (ECA), which was held in Addis Ababa from 22-26 November 1999, and issued a Declaration that reaffirmed the commitments of the ECA countries to the Beijing and Dakar¹⁴⁸ Platforms of Action.¹⁴⁹

In December 1999, member states held informal consultations where they agreed on the structure of the outcome document on “further actions and initiatives to implement the Beijing Declaration and Platform for Action”. The document was to consist of four sections; Introduction; achievement and obstacles in implementation of the Platform for Action; current challenges affecting the full implementation of the Beijing Declaration and Platform of Action; actions and initiatives to overcome obstacles and to achieve the full and accelerated implementation of the Beijing Declaration and Platform For Action. The outcome document was adopted on 10 June 2005 at the Beijing+5 Conference as a Political Declaration. In the following paragraphs, we will explore the regional developments in Africa and inter-governmental developments and initiatives in South Africa and Uganda in the implementation of the Beijing Declaration and Platform for Action.

At the 2000 Special Session (Beijing+5) governments and the International Community re-affirmed their commitment to the Beijing Platform of Action and a Common Development Agenda with gender equality as an underlying principle. The outcome document recognized that the efforts towards ensuring women’s advancement needed to combine the focus on women’s conditions and basic needs with a holistic approach based on equal rights, promotion and protection of all human rights and fundamental freedoms. It further recognized that policies, programmes and budgetary processes should adopt a gender perspective, be based on clear research based knowledge on women’s situation and follow up mechanisms to assess progress.¹⁵⁰

¹⁴⁸ The Dakar Platform for Action was adopted by the Fifth Regional Conference on Women at Dakar, Senegal from 16 to 23 November 1994

¹⁴⁹ Fourth World Conference on Women., op cit n 139 at par 16

¹⁵⁰ Klomen., Beijing +5; 2000 Gender Equality, Development and Peace for the 21st Century., Twenty-Third Special Session of the General Assembly., para 37

2.5.2. Beijing+10 Process of 2005

The Beijing+10 process is the ten year World Conference on Women review and appraisal of the Beijing Platform for Action. It was held from the 28 February until 11 March 2005, with the objective of identifying achievements, gaps and challenges in implementing the Beijing Platform for Action and the outcome documents as well as the Beijing+5 Political Declaration.¹⁵¹

2.5.3 Equality Now: Beijing+10 Campaign

Equality Now is a non-governmental organization which was founded in 1992 by three attorneys, Jessica Neuwirth from the United States, Navanethen Pillay from South Africa and Feryal Gharahi from Iran. Its head office is in New York. The organization provides an international framework for spreading awareness of issues and providing support to local grass root groups working to address issues of concern to it. Among its primary concerns is equal access to economic opportunities and political participation. Equality Now operates through a Women's Action Network of concerned groups and individuals around the world who document women's rights abuses and violations, distribute the information, take action to protest the violations and thus bring public attention to violation of women's human rights.¹⁵²

Equality Now, works for the protection and promotion of the human rights of women around the world through its Women Action Network. In 2000, a Regional Office in Africa was opened in Nairobi, Kenya, to enhance the organisation's ability to respond to and coordinate with other organizations working at the national and regional levels across Africa. In 2005, Equality Now launched a global Beijing+10 campaign for the repeal of discriminatory laws with respect to the commitments made in the Beijing Platform for Action.¹⁵³

As a way of highlighting the gap between women's realities in countries around the world and the commitments made by governments at the Second World Conference on

¹⁵¹ Social Watch., Report on Gender Equity Index 2008., Progress and Setbacks.

<http://www.choike.org/nuevoeng/informes/1665.html>.

¹⁵² Beijing + 10 Campaign., About Equality Now., <http://www.equalitynow.org/english/abouten.html>., 07/05/2009

¹⁵³ Beijing +10 Campaign., About Equality Now., op cit n152

Women of 2000, Equality Now issued a report entitled "Words and Deeds; Holding Governments Accountable in the Beijing+10 Review Process". The report highlights a representative sampling of discriminatory laws in countries around the world and calls on the governments to rescind these laws in accordance with their commitments to the BPFA.¹⁵⁴

2.5.4 Beijing + 15 Preparations

Beijing + 15 is the anticipated fifteenth anniversary of the Beijing World conference on Women. It is a follow-up on the 15 years in implementation of the Beijing Declaration and Platform for Action. According to the report by the International Women's Tribune Centre, on the activities and initiatives of women worldwide, it was stated that from the 1-12 March 2010, government delegations attending the UN Commission on the Status of Women will assess progress made in the implementation of the BPFA, 15 years after its adoption in 1995. It is further reported that on the 27-28 February 2010, women from all over the world will gather in New York to celebrate 15 years of implementation of the BPFA at the Global Beijing + 15 NGO Forum for Women.¹⁵⁵

In anticipation of the Beijing + 15 processes, governments and NGOs around the world are engaged in preparatory activities to assess progress made at both national and regional levels and to identify the gaps and challenges to women's emancipation that will need to be addressed. In order to give effect to the above preparations, the International Women's Tribune Centre put in place a Women's GlobalNet to track and organise activities among NGOs in Africa and other regions towards the implementation of the BPFA. As already mentioned under the discussion of the CSW, women's organisations in Africa formed the Africa Regional Task Force which is responsible for mobilizing women's organizations and individuals in different countries to participate in national review activities and compilation of shadow reports on implementation of the BPFA, in preparation for the Beijing +15 Review Process.¹⁵⁶

¹⁵⁴Beijing +10 Campaign., About Equality Now., op cit n 152

¹⁵⁵ Mavic, C.B and Sajor I., op cit n 102 at p 1-2

¹⁵⁶ Mavic C.B an Sajor I., op cit n 102 at p 2

2.6 Summary

This Chapter laid out the efforts made by individuals to fight for their rights through revolutions, the United Nations' mechanisms through the adoption of conventions that have advocated for human rights for all in general and specifically for women and the formation of United Nations agencies that have assisted in the realization of women rights through the adoption of the BPFA. The commitment by the international and regional community to the implementation of the BPFA as discussed above cannot go unnoticed. In the next Chapter, we will look at more mechanisms that were put in place by the African region to advance women's political and economic rights in the region.

CHAPTER THREE: REGIONAL AND NATIONAL POLICY INITIATIVES AND PROGRAMMES OF ACTION

3.1 Introduction

This Chapter will explore the regional platform for action in Africa and subsequent national initiatives and innovations by the governments of South Africa and Uganda as well as NGOs in advancing women's political and economic rights. The African region has only recently achieved total liberation from colonial rule but the vast majority of the people, especially women, are still struggling for their dignity and genuine independence with regard to respect for human rights. In many African societies, stereotypes against women still exist in labeling them as homemakers and mothers who should not get entangled in the conduct of public affairs and in the economic and political spheres.

3.2. Development of Women's Rights in Africa

Within the African region, the first instrument to be adopted by the Organisation of African Unity was the Charter of the Organization of African Unity of 1963, which comprised of a Preamble and thirty- three Articles. The purposes and principles of the Organisation of African Unity were directed at promoting unity amongst African States and at eradicating all forms of colonialism from the African continent. The OAU spelt out in Articles 2 and 3, the need to protect human rights and equality in the Preamble, which also specifically refers to the Universal Declaration of Human Rights. Following the adoption of the 1963 Charter was the African Charter on Human and Peoples' Rights of 1981, which contained a Preamble and sixty eight Articles. However, just like its predecessor, the 1981 African Charter did not make any specific provision for women's rights protection.

As a means of redressing the above mentioned gap and ensuring the advancement of women's rights, the new African Union adopted one of the most comprehensive and integrationist human rights instruments on women's rights; the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. It was adopted in July 2003 through a resolution at the Second Ordinary Session of the

Assembly of the African Union in Maputo, Mozambique; hence sometimes the Protocol is referred to as the Maputo Protocol.¹⁵⁷ The Protocol provides for the elimination of all forms of discrimination against women,¹⁵⁸ the right to dignity for women,¹⁵⁹ the elimination of harmful practices which negatively affect the human rights of women,¹⁶⁰ access to justice, participation in political decision-making, education and training. The Protocol further states that women are to be protected in armed conflicts in accordance with prevailing international humanitarian law. Notably, a specific inclusion of widows' rights, protection of elderly women and those with disabilities and special protection for women in distress including impoverished women and those in detention while pregnant or nursing.¹⁶¹

Below is an elaboration of the women's rights in Africa.

3.2.1 Organization of African Unity

The Organization of African Unity (OAU) was established on 25 May 1963 with the adoption of the Organisation of the African Unity Charter by 32 African states in Addis Ababa, Ethiopia. The OAU was designed as a regional inter-governmental organization with the aim of promoting unity and solidarity among African states. The provisions of the OAU Charter reflect the overriding concerns of Africa in the late 1950s and 1960s namely, to ensure the rapid decolonization of Africa and resultant self-determination for those African peoples that were still being ruled by colonial masters,¹⁶² to protect newly acquired statehood by stressing sovereign equality of states¹⁶³ and the principle of non-interference in the internal affairs of other states.¹⁶⁴ From the above provisions, it is clear that the OAU Charter only protected states, not individuals.¹⁶⁵ It was mainly under the notion of sovereignty and non-interference in the internal affairs of other states that

¹⁵⁷ Smith, R. K. M., op cit n 92 at p349., par 22.3.4.2

¹⁵⁸ Art 2 of the Protocol on the Rights of Women in Africa

¹⁵⁹ Ibid., Art 3

¹⁶⁰ Ibid., Art 5

¹⁶¹ Ibid., Art 20., Art 22., Art 23 and Art 24

¹⁶² Preamble to the OAU Charter

¹⁶³ Ibid., Art 3(1)

¹⁶⁴ Ibid., Art 3(2)

¹⁶⁵ Dugard, J., *International Law; A South African Perspective.*, 3rd ed., p 546

many dictatorial governments relied to justify the atrocities they committed against their own subjects. Examples include Uganda when it was under Idi Amin and the Central African Republic under the self-styled Emperor Jean-Bedel Bokasa.

3.2.2. The African Charter on Human and Peoples' Rights

In order to protect human and peoples' rights, the OAU began the process of establishing a regional commission on human rights in 1979. Two years later, the OAU Assembly adopted the African Charter on Human and Peoples' Rights in 1981 and it came into force in 1986. The African Charter is also known as the Banjul Charter because it was drafted and agreed to in Banjul, in the Gambia.¹⁶⁶ All the 53 African countries are state parties to the Charter. While Uganda ratified the Charter soon after it came into force on the 10 May 1986, South Africa ratified it on the 9 July 1996.¹⁶⁷ Although the Banjul Charter was inspired by United Nations human rights instruments, declarations and conventions such as the UN Charter of 1945, the Universal Declaration of Human Rights of 1948 and CEDAW of 1981, it has a distinctively African character.¹⁶⁸

In its Preamble, the Banjul Charter recognizes that "fundamental human rights stem from the attributes of human beings which justify their national and international protection and that the reality and respect of peoples' rights should necessarily guarantee human rights."¹⁶⁹ The Charter further pays "particular attention to the right to development" and also states that "civil and political rights cannot be fully enjoyed without recognizing and protecting economic, social and cultural rights."¹⁷⁰ Thus recognizing the inter-relatedness between indivisibility and universality of human rights In Article 2, the Charter provides that "every individual is entitled to the enjoyment of

¹⁶⁶ Dugard, J., 2nd ed., op cit n 43 at p261

¹⁶⁷ Gender parity means equal numbers of men and women at all levels of organization including significant participation of both men and women, particularly at senior levels.

¹⁶⁸ Preamble to the United Nations Charter states that "taking into consideration the virtues of their historical tradition and the values of African civilization which should inspire and characterize their reflection on the concept of human and peoples rights.

¹⁶⁹ Preamble to the Banjul Charter., par 6. www.africa-union.org

¹⁷⁰ Ibid., paragraph 8

the rights and freedoms¹⁷¹ recognized and guaranteed in the Charter without distinction as to sex.” Article 2, the Charter prohibits discrimination on the ground of sex and further states that ‘nothing shall justify the domination of a person by another since all are equal and thus are to enjoy the same respect and rights.’ Although not specifically mentioned, it is clear that the fore-going Articles protect women’s rights and freedoms and acknowledge that women and men are equal. Accordingly, domination by men over women under the guise of cultural and religious beliefs is prohibited.

Article 13 protects the ‘right of every citizen to freely participate in the government of her country either directly or through freely chosen representatives and the right to equal access to the public service of his country.’ In my interpretation, the phrase ‘every citizen’ should be deduced to include women and thus it nullifies the stereotypical tendency of men to treat women like second-class citizens. Accordingly, African women have the right to stand for elections and to vote for their preferred representatives in politics. Article 15, if read together with Article 22, protects economic rights of all peoples and every individual and further provides for the right to development and to work under equitable and satisfactory conditions. Also provided is that equal pay should be received for equal work. Therefore, these Articles are deemed to protect women against exploitation in employment relations and discrimination on the basis of gender that hinders women’s advancement in the economic field.

With specific regard to women, only one¹⁷² out of 62 Articles in the Banjul Charter mentions women’s rights. While Article 18(3) obliges the state to ensure the elimination of discrimination against women and to protect their rights, Article 18(2) obliges State Parties to assist the family in upholding traditional values. Accordingly, upholding traditional values accentuates all the marginalization women have endured historically. This is so because generally women are under men’s control and thus are forbidden from leading men. According to Lisa Kois, the implicit and explicit identification of discrimination against women as an obstacle impeding the full enjoyment of the human

¹⁷¹ Fundamental human rights and freedoms are protected by Articles 3 to 22 of the Banjul Charter

¹⁷² Article 18 of the Banjul Charter



rights of women¹⁷³ is proof that the drafters of the Banjul Charter were not entirely incognizant of the situation of women. Implicitly, the drafters identified the existence of sex-based discrimination¹⁷⁴ while explicitly; Article 18 which specifically addresses the family also directs State Parties to eliminate all existing forms of discrimination against women and to protect their rights.

I concur with Lisa's opinion because realistically in Africa, the traditional values upheld by Article 18(2) are, to a great extent, responsible for shoring up the discrimination against women and thus hampering the realization of Article 18(3). In the light of all Articles discussed above, the efficacy and impact of the Banjul Charter with respect to women's rights has been minimal.

3.2.3. The Dakar Declaration and Platform for Action

In 1994, Ministers and representatives of the African Governments held the Fifth African Regional Conference on Women in Dakar, Senegal from the 16 to 23 November. At the Conference, the participating Governments made a declaration to consider and adopt the African Platform for Action¹⁷⁵ in preparation for the 1995 Fourth World Conference on Women.¹⁷⁶ The participating Governments 'reaffirmed their commitment to the realization of the Nairobi Forward-Looking Strategies for the promotion and advancement of women through accelerated action for equality, development and peace.'¹⁷⁷ The African Platform for Action was adopted to provide an African common position on the advancement of women at regional, sub-regional and national levels.¹⁷⁸

¹⁷³ Kois, L., Women's Human Rights in the African Regional Framework. www.undp.org/hrd Accessed on 03/06/2009.

¹⁷⁴ Preamble to the Banjul Charter and Article 2

¹⁷⁵In its Mission Statement, the Dakar Declaration defines the African Platform for Action as a synthesis of regional perspectives and priorities and a framework for action for the formulation of policies and implementation of concrete and sustainable programmes for the advancement of women.

¹⁷⁶ Declaration of the African Platform for Action., Dakar., 1994., par 1

¹⁷⁷ Ibid., Par 5

¹⁷⁸ Ibid., Par 19

Protocol on the Rights of Women in Africa

to eradicate discrimination and marginalization against women in Africa, the African Union adopted a Protocol to the African Charter on Human and Peoples' Rights of Women in Africa, which is also referred to as the Maputo Protocol.¹⁷⁹ The Protocol on the Rights of Women in Africa was adopted in Maputo, Mozambique on the 15th of August 2003 and entered into force on the 25 November 2005. The Protocol on the Rights of Women in Africa was adopted by the Second Ordinary Session of the Assembly of the African Union based on the recommendations, resolutions, and decisions of the African Union on the need and role of women in development.¹⁸⁰ It was also adopted in line with the United Nations Security Council's Resolution 1325 of 2000 on the Role of Women in Promoting Peace and Security.¹⁸¹ The Protocol is aimed at ensuring that the rights of women are promoted, realized and protected in order to enable them to enjoy their human rights.¹⁸² The Protocol was also adopted as part of the African Union's commitment to the Beijing Platform for Action of 1995, the Platform for Action of 1994 and the African Platform for Action.¹⁸³

As of 2008, 25 out of the 45 signatory States had ratified the Protocol¹⁸⁴ and on 15th August 2011, Cameroon¹⁸⁵ ratified the Protocol thus bringing the number to twenty six ratifications out of the forty eight (48) signatory States. A call to ratify the Protocol

The African Union replaced the Organisation of African Unity on 9 July 2002, which transformation has brought about a new dawn in the area of gender development and women empowerment. Its vision is that of an Africa that is united, peaceful and people driven Africa with a mission to promote rights and equality for all. This is enshrined in the Preamble to the Constitutive Act of the African Union.

the Preamble to the Protocol on Rights of Women in Africa

7

14

9

Encyclopedia, 21 July 2009. www.wikipedia.org/wiki/Maputo_Protocol

Eden Newspaper

www.edennewspaper.com/index.php?option=com_content&view=article&id=10199:384&catid=13:society&Itemid=1
Accessed on 21/07/2009.

When Nigeria has ratified the Maputo Protocol, the Bishops vehemently protested its ratification which they see as a step towards legalising homosexuality and abortion yet they are taboos in Africa and go against biblical teachings.

was made to the 22 signatory States, to the five non-signatory States and further to all African States, to implement and domesticate the Maputo Protocol at national level.¹⁸⁶

The 11 July 2009, marked the sixth anniversary of the adoption of the Maputo Protocol.¹⁸⁷ South Africa ratified the Maputo Protocol on the 17 December 2004¹⁸⁸ whereas Uganda is one of the 27 States that have not yet ratified it as of the 11 July 2009 due to the controversy pertaining to Article 14 that permits medical abortion¹⁸⁹ which is illegal in Uganda. Although Uganda was among the first 23 African countries to sign the Protocol on 18 December 2003, there has been opposition to its ratification, led by the Uganda Joint Christian Council whose argument is that the Protocol is an importation of western-style women's rights at cultural odds with Africa and against the Biblical values.¹⁹⁰

Nevertheless, the Protocol is notable for its broad approach to women's rights in Africa, and it is generally hailed as one of the most comprehensive and integrationist human rights instruments in the African region.¹⁹¹ It is also hailed as an innovative instrument that seeks to move towards the goal of securing the indivisibility of women's rights as it attempts to build on CEDAW by addressing gaps therein, with a view to making human rights more relevant to African women.¹⁹²

The Maputo Protocol seeks to improve on the status of African women by bringing about gender equality and eliminating discrimination. According to Kaniye Ebeku, the

¹⁸⁶Winyi, N.M., Africa: A Call to Action-Implement the Africa Women's Rights Protocol., <http://allafrica.com/stories/200906260737.html> . Accessed on 26/06/2009.

¹⁸⁷Daisy., Commit to the Protection of Women's Rights., 10 July 2009.

www.africa4womensrights.org/tag/Maputo%20Protocol

¹⁸⁸Viljoen., Compendium of the Key Human Rights Documents of the African Union; PULP; 2005; p38

¹⁸⁹Abortion is illegal in Uganda and thus Article 14 of the Maputo Protocol which permits medical abortion in cases of sexual assault, rape and incest has caused complications with regard to its ratification.

¹⁹⁰Kimbugwe, S.N., Executive Director of Kampala-based Akins Mama wa Africa, "Rights Treaty in Uganda Snags on African Values," Women's E News. www.womensenews.org/article.cfm . Accessed on 22/07/2009.

¹⁹¹Smith, R.K.M., op cit n 92 at p349, par 22.3.4.2

¹⁹²Gender parity means equal numbers of men and women at all levels of organization including significant participation of both men and women, particularly at senior levels., op cit n 165

guiding philosophy is that the human rights of women and the girl-child are an inalienable, integral and indivisible part of universal human rights.¹⁹³ In the Protocol, discrimination against women is defined as “any distinction, exclusion or restriction or any differential treatment based on sex and whose objectives or effects compromise or destroy the recognition, enjoyment or the exercise by women, regardless of their marital status, of human rights and fundamental freedoms in all spheres of life.”¹⁹⁴ This definition is confirmed by Article 2 which prohibits discrimination against women and calls upon all members of the African Union to combat all forms of discrimination against women through appropriate legislative, institutional and other measures.¹⁹⁵ Member states are encouraged to include the principle of equality between women and men in their national constitutions and to ensure its application.¹⁹⁶ Hence, those countries like South Africa which are State Parties have assumed solemn negative and positive duties. The positive duties are more germane to this study as will be adumbrated hereunder.

Thus before proceeding with the discussion on women’s political and economic rights in the Protocol, we will find out whether the Constitutions of Uganda and South Africa contain prohibitions on discrimination against women on ground of their gender and sex.

Prior to the adoption of the Protocol on Women’s Rights in Africa, the Republics of South Africa and Uganda had already enshrined the principle of equality between women and men in their Constitutions. Chapter 2 of the Constitution of the Republic of South Africa¹⁹⁷ contains an equality clause that prohibits direct or indirect unfair discrimination against anyone on grounds of sex and gender.¹⁹⁸ The clause further

¹⁹³ Ebeku, K., op cit n 13

¹⁹⁴ Article 1(f) of the Protocol on the Rights of Women in Africa

¹⁹⁵ Article 2(1)

¹⁹⁶ Article 2(1)(a)

¹⁹⁷ Section 9 of the Constitution of South Africa, Act 108 of 1996

¹⁹⁸ *Ibid.*, Sec 9(3)

requires the enactment of national legislation designed to protect or advance persons or categories of persons disadvantaged by unfair discrimination.¹⁹⁹

Accordingly, the Employment Equity Act, 1998, the Broad Based Black Economic Empowerment Act of 2003 and the Promotion of Equality and Prevention of Unfair Discrimination Act of 2000 were enacted to operationalise this Constitutional imperative. Although women's rights are not specifically mentioned in these Acts, they are covered under the prohibition on unfair discrimination on grounds of sex and gender.

A provision similar to the fore-going is provided for under Chapter Four of the Constitution of the Republic of Uganda²⁰⁰ in that all persons are equal before and under the law in all spheres of, amongst others, political, economic and cultural life and also prohibits discrimination on the ground of sex.²⁰¹ Unlike section 9 of the Constitution of South Africa, Article 21 of the Ugandan Constitution goes ahead to define discrimination²⁰² as 'giving different treatment to different persons attributable only or mainly to their respective descriptions such as sex.' Still under Chapter Four, Article 33 of the latter provides specific protection for women's rights in these words, 'women shall be accorded full and equal dignity of the person with men.'²⁰³

Article 33 further mandates the state to provide the facilities and opportunities necessary to enhance the welfare of women, to enable them to realize their full potential and advancement.²⁰⁴ The language in the Constitution of Uganda is gender sensitive in its mandate to the state to protect women and their rights, taking into

¹⁹⁹ Sec 9(2) of the Constitution of South Africa, 1996

²⁰⁰ Article 21 of the Constitution of Uganda, 1995

²⁰¹ Art 21(1) & (2) of the Constitution of Uganda, 1995

²⁰² Ibid., Art 21(3)

²⁰³ Ibid., Art 33(1)

²⁰⁴ Ibid., Art 33(2)

account of their unique status.²⁰⁵ It further states that women's right to equal treatment with men includes equal opportunities in the political, economic and social activities.²⁰⁶

Below is a discussion on the advancement of women's political rights in the Protocol on Women's Rights in Africa.

3.2.4.1 Advancement of Women's Political Rights in the Protocol

In the quest to advance women's political rights, the Protocol provides for the right to participate in the political and decision-making processes.²⁰⁷ It mandates member states to take specific positive steps to promote participative governance and the equal participation of women in the political life of their countries through affirmative action, enabling national legislation and other measures to ensure that women participate without any discrimination in all elections; that they are represented equally at all levels with men in all electoral processes; that women are equal partners with men at all levels of development and implementation of state policies and development programmes and to ensure increased and effective representation and participation of women at all levels of decision-making.²⁰⁸

In the following paragraphs, we will discuss the development of women's economic rights in the Protocol.

3.2.4.2. Advancement of women's economic rights in the Protocol

In continuation of the discussion on the Protocol on Women's Rights in Africa, we will look at the advancement of women's economic rights in Africa. The Protocol²⁰⁹ obliges member states to adopt and enforce legislative and other measures to guarantee women equal opportunities in work and career advancement and other economic

²⁰⁵ Art 33(3) of the Constitution of Uganda, 1995

²⁰⁶ Ibid., Art 33(4)

²⁰⁷ Art 9 of the Protocol on Women's Rights in Africa

²⁰⁸ Ibid., Art 9(1)(a)(b)(c) and Art 9(2)

²⁰⁹ Ibid., Art 13

opportunities. States are mandated to 'promote equality of access to employment'²¹⁰ and to 'promote the right to equal remuneration for jobs of equal value for women and men.'²¹¹ Member states are also obliged to 'guarantee women the freedom to choose their occupation and to protect them from exploitation by their employers violating their fundamental rights.'²¹² The Article further provides that state parties should take necessary measures to recognize the economic value of the work of women in the home and guarantee adequate paid pre and post-natal maternity leave in both the private and public sectors.²¹³

In response to the above provisions in the Protocol, legislative measures that have been adopted in Africa as a region and nationally in South Africa and Uganda will be analyzed. However, before we proceed with that discussion, it is imperative to note the relationship between politics and economics. According to Venter and Landsberg, 'the economy of a country is not something apart from its political realities, but is, in fact deeply influenced by politics. In turn, the economy influences and sometimes determines politics.'²¹⁴ Similarly as already indicated, civil and political rights and economic, social and cultural rights are interrelated, indivisible and universal.

In the quest to advance gender equality in the economic affairs of Africa, the work of the United Nations Economic Commission for Africa will be analyzed below.

3.2.5 UNECA and Gender main-streaming

The Economic Commission for Africa (ECA) was established by the United Nations Economic and Social Council in 1958 as one of the United Nations' five regional commissions. All the 53 African countries are member states of ECA.²¹⁵ One of UNECA's objectives is to advance women's status through gender mainstreaming. Through one of its functionalities known as the African Centre for Gender and Social

²¹⁰ Art 13(a) of the Protocol on Women's Rights in Africa

²¹¹ Ibid., Art 13(b)

²¹² Ibid., Art 13(d)

²¹³ Ibid., Art 13(h) and (i)

²¹⁴ Venter, A., and Landsberg, C., op cit n 31 at p246

²¹⁵ Overview of the ECA., www.uneca.org . Accessed on 29/05/2009

Development (ACGSD), ECA monitors gender issues, builds and implements tools that promote gender mainstreaming into sector-related policies at national and sub-regional levels.

ACGSD works with African governments and non-governmental organizations to further gender equality and the empowerment of women.²¹⁶

In 2004, the theme at the Second Symposium of the United Nations Economic Commission for Africa (UNECA) was the *'Missing Link in Growth and Sustainable Development: Closing the Gender Gap is of critical importance not only to women but to the sustainable development of the entire African continent.'* The Executive Secretary of ECA, Amoako, K.Y, made a statement during the symposium in which he highlighted two advantages of investing in women; first as a moral imperative, secondly it is essential for reducing poverty and promoting growth. Amoako added that gender inequalities in education and employment are estimated to have reduced sub-Saharan Africa's per capita growth in the 1960-1992 periods by 0.8 per cent per year. He warned that 'we in Africa will not make significant progress in bringing down poverty levels if we do not take gender issues into consideration when we design and implement our development strategies.'²¹⁷ This is true especially in African developing countries like Uganda. The studies undertaken by the Economic Commission since 1995 reveal that some progress has been made in closing the gender gap in Africa as policies and institutional mechanisms which promote gender equality overall have been introduced in most African countries.

On a sad note, Amoako noted that women's economic inequality is the un-noticed elephant in the room when poverty reduction strategies are discussed since policy makers dealing with growth and development issues pay little attention to women's contribution to the national economy. As a remedy to this problem, Amoako submitted that pro-poor growth strategies should be implemented in Africa targeted at spurring economic growth and equality in income and asset distribution. This same observation

²¹⁶ UNECA's work on Gender., www.wikigender.org/wiki/index. accessed on 29/05/2009.

²¹⁷ UNECA Symposium on Gender Issues., 24 May 2004; Kampala, Uganda., www.uneca.org/eca_resources/speeches. Accessed on 29/05/2009.

was made by the United Nations Development Programme's Human Rights Report in 1993 stating that women are often invisible in national statistics. The report added that if women's unpaid housework were counted as productive output in national accounts, global output would increase by 20-30 per cent.²¹⁸

The Executive Secretary identified the ultimate challenge to growth and sustainable development as being 'how to link micro gender issues to the macro level or simply put, the non-market work and market economy. He further warned about the need to change our thinking about what constitutes work and what encompasses 'economic activity.' This is because a significant amount of the work that women perform in subsistence production, informal employment, domestic and reproductive work tends to go unnoticed in national statistics. Another problem identified by Amoako is that even when women are recognized as producers and entrepreneurs, they have access to fewer production resources such as land, credit facilities and training facilities. Notwithstanding the fact that the economies of most African countries, like that of Uganda are agro-based, ownership of land has historically been directed to the male head of the household yet it is women that tend to predominate the agricultural activities on the land. This restrictive access to productive resources is detrimental to women and to agricultural development in Africa since more women labour in agriculture more than men do.²¹⁹

In the light of the fore-going, Margaret Snyder argues that women's rising entrepreneurial spirit makes it essential to a country's self-interest and development to recognize, measure, give a monetary value to, celebrate and support their economic productivity. She adds that 'by boosting women's entrepreneurship with positive policies and actions, policy makers and international investors can counter growing levels of abject poverty while giving the world an economic justice and growth model.'²²⁰

²¹⁸ Amoako, K.Y., UNDP Human Development Report of 1993

²¹⁹ UNECA Symposium on Gender Issues., op cit n 217

²²⁰ Snyder, M., Women in African Economies: From Burning Sun to Boardroom., 2000., Fountain Publishers.

Despite the efforts of ECA to empower African women through gender main-streaming, gender inequalities in the economic sector still persist. Women are still discriminated against in employment mainly due to the fact that women's identity in African societies is defined according to their biological nature and reproductive roles in society.

3.2.6. Solemn Declaration on Gender Equality

The African Union Assembly of Heads of State and the Government of Member States adopted the Solemn Declaration on Gender Equality in Africa (SDGEA) in July 2004 during the Third Ordinary Session in Addis Ababa, Ethiopia. Through the Solemn Declaration, the parties committed themselves to submitting annual reports on progress towards gender equality and mainstreaming in their respective states and governments.²²¹ From the 12-15 October 2005, the African Union held the first Conference of Ministers responsible for Women and Gender in Dakar, Senegal, where the implementation framework of the Solemn Declaration on Gender Equality in Africa was adopted. The implementation framework requires member states to 'strengthen the political will to achieve gender equality at all levels; to incorporate gender perspectives into the planning processes of all ministries and departments of government; to build in a gender perspective in national development frameworks such as the national budget; to empower and increase the capacity and resources of national gender machineries.'²²²

3.2.7. Sub-Regional Discourse of Women's Rights in Africa

Under this sub-heading, attention will be paid to three sub-regions in Africa; the Southern African Development Community (SADC) region since South Africa falls within it, the East African region since Uganda falls within it and further the West African region for a comparative analysis regarding the realization of women's economic and political rights.

In 2004, July 22-23, the Economic Commission for Africa through the African Centre for Gender and Development, organised a consultative meeting of African Women,

²²¹ Solemn Declaration on Gender Equality., <http://www.africa-union.org/root/au/Conferences/Past/2006/October>. Accessed on 03/08/2009.

²²² Beijing +10 Campaign., About Equality Now., op cit n 152

NGOs and organisations working on gender issues for preparation towards the NGO Forum at the Seventh African Regional Conference held in Addis Ababa. The objective was to plan the NGO Forum on the implementation of ten years of the Dakar and Beijing Platforms of Action. At the meeting, it was discovered that contrary to the expectations of the United Nations, African women NGOs were not adequately mobilized to participate in the review process. Only two sub-regions; Southern and Eastern Africa had produced the NGO Alternative Report based on the questionnaires sent to member states by the Division on the Advancement of Women. The other sub-regions including Western Africa had to start national processes to enable them to complete their national reports and submit to the Economic Commission for Africa and the United Nations Division for the Advancement of Women the Organizing Committee by 31 August 2004.²²³

With regard to the preparation process towards the Beijing +15 review of the implementation of the BPFA,²²⁴ the Economic Commission for Africa provided the questionnaires that NGOs were using to facilitate the information collection as per the shadow national reports on implementation of the BPFA. UNECA indicated that although it does not have resources to support the civil society, it is committed to facilitating the NGO discussions through tele-conferencing.²²⁵

Below is an analysis of the sub-regional reports on the implementation of the Platform for Action in Africa.

3.2.7.1. Report for Southern Africa on implementation of the BPFA

The Southern African region consists of the following member states; South Africa, Botswana, Mozambique, Zambia, Mauritius, Lesotho, Malawi, the Democratic Republic of Congo, Swaziland, Namibia, Tanzania, Angola, Zimbabwe and Madagascar.

²²³ Kafui A.J., *Women in Law and Development in Africa.*, Preamble to West African NGOs Report on the Implementation of the Beijing Platform for Action., 27 August 2004. www.wildaf-ao.org. Accessed on 17/08/2009

²²⁴ See full discussion on the Beijing Platform for Action in Chapter Two of this study at par 2.6

²²⁵ Mavic C.B and Sajor I., *op cit* n 102 at p 2

3.2.7.1.1 Southern African Office of the United Nations Economic Commission for Africa

The Southern African inter-governmental sub-regional meeting for the Decade Review of the Beijing Platform for Action was held in Lusaka, Zambia from 26-28 April 2004 under the auspices of the Southern African Office of the United Nations Economic Commission for Africa in collaboration with the Southern African Development Community (SADC). Prior to the sub-regional review meeting, representatives of women's human rights, women's empowerment and gender, as well as developmental non-governmental organisations from eleven countries convened a special session in April 2004, devoted specifically to reviewing the achievements, challenges and opportunities in the implementation of the BPFA. The outcome of the NGO meeting was a communiqué that was presented to the sub-regional inter-governmental decade review meeting.²²⁶

The Communiqué highlighted several constraints hampering the advancement of women and gender equality. Key among the constraints was the failure to operationalize established gender equality frameworks and implement national and regional policies. The Communiqué stated that the majority of the countries in Africa had adopted national general policies and developed attractive strategic plans for the implementation but these have remained unimplemented for lack of financial and human resources.²²⁷

Another constraint to the advancement of women identified was the established mechanisms which included unclear mandates, understanding and limited skills in gender mainstreaming. Another concern that was expressed was the misconception surrounding gender mainstreaming,²²⁸ as a sole responsibility of, and favour to, women rather than as a strategic means to bring about gender justice and equality²²⁹. Some governments have interpreted gender mainstreaming to mean mainstreaming

²²⁶ Lopi, B., Project Manager., Beijing to Africa: Implementing the Beijing Platform for Action., par 1 &2. www.Peace.calfrom_Beijing_to_africa.htm

²²⁷ Ibid at par 5

²²⁸ Ibid at par 6 and 7

²²⁹ Ibid at par 9

'traditional gender roles' whereby women are still unable to break through the 'glass ceilings' into decision-making positions²³⁰. Gender mainstreaming is simply defined as the social roles of women and men without analysis of the unequal power relations within structures which hinder women's effective participation. The NGO's Communiqué called for a strong review of gender mainstreaming at all levels and for the development of approaches that result in transformation rather than mere reform of patriarchal structures.²³¹

At the Southern African Sub-Regional Review Meeting, there was concern about the lack of gender specific job descriptions and on the limited knowledge on gender issues in Southern Africa. It was also expressed that most SADC countries lacked morale to work in these established gender focal points. It was stated that personnel at these focal points were usually overburdened by other responsibilities and in other cases it was lack of skills in gender mainstreaming thus rendering them unable to influence policy changes in their respective sectors.²³²

The recommendations regarding the priority areas that were laid down at the Southern African Sub-Regional Review meeting were amongst others, on women in decision-making positions and managerial positions. Regarding women in decision-making positions, it was recommended that governments should adopt measures within the framework of the elections which were unfolding in the region.²³³

Concerning this recommendation, there has been evidence of its implementation as already discussed above. While acknowledging the growing acceptance of women's participation in decision-making, the NGOs recommended that governments make a concerted effort to meet the African Union's target of 50% women in managerial and decision-making in all parastatals, public institutions, regional bodies, trade unions and the public service. More so, NGOs recommended to governments to enact special

²³⁰ Lopi, B., par 10., op cit n 226

²³¹ Ibid at par 8.

²³² Ibid at par 13

²³³ Ibid at par 14

measures to increase women's participation in structures and policy-making processes at all levels.²³⁴

In response to the above recommendation, the SADC sub-region held a Roundtable from the 21-22 March 2009 in Durban, South Africa. The purpose was to recognize the role of political parties in advancing equitable women's representation and participation in parliaments and in political parties.²³⁵ During the Roundtable, the SADC member states expressed a concern at the slow progress in the promotion of gender equity and women's participation in decision making at all levels of the party. This slow progress from a gender perspective was revealed in the findings of the 2008 Assessment of Political Parties' Constitutions and Policy Documents in the SADC sub-region as being only four out of thirty two political parties to ensure women's active and adequate participation.²³⁶ Further, a call was made to all political parties to push their governments into funding their political parties based on a criterion that gives a greater allocation of funds to those parties with a higher female representation in parliament.²³⁷

As far as women's economic advancement is concerned, a report by the Africa Files highlighted the issue of women missing from economic decision-making in the SADC gender equality targets. The report stated that in the SADC sub-region, women only constitute 25 per cent of economic decision makers who are defined as ministers, deputy ministers, permanent secretaries of finance and economic development, governors and deputy governors of central banks. It was further reported that women are not visible in all areas of economic participation because trade policies are gender blind and women continue to predominate in the informal sector. More so that although most SADC countries have programmes aimed at assisting women access credit, they still struggle to do so. This struggle is evident from the existing gaps in the per capita

²³⁴ Lopi, B., op cit n 226 at par 14

²³⁵ Report from the SADC Parliamentary Forum on the Role of Political Parties in Advancing Equitable Women's Representation and Participation in Parliaments and in Political Parties in SADC, Durban South Africa., 21-22 March 2009. www.sadcpf.org/index.php?disp=Communique . Accessed on 08/10/2009.

²³⁶ Ibid at par 1

²³⁷ Ibid at par 3

income of women and men; for instance in South Africa, the per capita income of women is 45 per cent that of men.²³⁸

In the paragraph that follows is a discussion on the SADC Protocol on Gender and Development.

3.2.7.1.2 Southern African Development Community Protocol on Gender and Development

The Southern African Development Community²³⁹ comprises 14 member states and 11 out of the 14 have adopted a Protocol on Gender and Development on the 17 August 2008. The Protocol consists of 43 Articles and it sets targets and frameworks for all member states to achieve gender²⁴⁰ equality for women, men, girls and boys at national level by 2015. The objectives of the Protocol²⁴¹ are, among others, 'to provide for the empowerment of women, elimination of discrimination and achieving gender equality and equity through the development of gender responsive legislation, policies, programmes and projects'²⁴²; and 'to harmonise the implementation of the various instruments to which SADC member states are party such as the 1995 Beijing Declaration and the Platform For Action and the Protocol to the African Charter on Human and Peoples' Rights of Women in Africa.'²⁴³

Article 5 read together with the first sub paragraph of Article 1(2) of the Protocol, advocates for affirmative action, as a policy programme through which past discrimination is redressed to ensure equal opportunity and positive outcomes in all spheres of life particularly for women. The Protocol pays specific attention to the

²³⁸ Report by Africa Files on the SADC Gender Equality targets missed. www.africafiles.org/article.asp?ID=21837. Accessed on 08/10/2009.

²³⁹ SADC region comprises of 14 countries namely; Angola, Botswana, Lesotho, Malawi, Mozambique, Swaziland, Tanzania, Zambia, Zimbabwe, Namibia, Mauritius, the democratic Republic of Congo, Madagascar and South Africa.

²⁴⁰ Article 1, paragraph 6 of the Protocol defines gender as roles, duties and responsibilities which are culturally or socially ascribed to women, men, girls and boys.

²⁴¹ Article 3 of the SADC Protocol on Gender and Development

²⁴² Ibid., Art 3(a)

²⁴³ Ibid., Art 3(b)

multiple roles played by women and defines them as 'several responsibilities that women shoulder in the reproductive, productive and community management spheres.'²⁴⁴ It further mandates all member states to 'adopt policy measures in order to ease the burden'²⁴⁵ of the aforesaid multiple roles of women.

In order to empower women economically, the SADC Protocol on Gender and Development calls upon all member states to take into account the contribution of women in the formal and informal sectors such as agricultural and domestic workers and also recognize their economic value²⁴⁶. Member states are encouraged to adopt policies and enact laws which ensure that women equally access and benefit from economic opportunities in trade and entrepreneurship, taking affirmative action into consideration.²⁴⁷ Due to the reproductive nature of women, they have been and still are suffering discrimination and dismissals in the economic sector on grounds of pregnancy and maternity leave. Thus the Protocol makes provision for protection of women during pregnancy and maternity leave.²⁴⁸

Although the SADC Protocol on Gender and Development was not exclusively designed to advance women's rights alone, its sensitivity to the nature and multiple roles and responsibilities shouldered by women as wives, mothers, caregivers, entrepreneurs and domestic workers has to be applauded. As long as member states adhere to the action plans in the Protocol and implement them at national level in their respective states, women are assured of advancement in the economic sphere at all levels. Notably, South Africa is a state party to this Protocol but not Uganda.

3.2.7.2. West African NGOs Report on the implementation of the BPFA

The West African sub-region consists of 10 countries namely; Togo, Ghana, Nigeria, Niger, The Gambia, Mali, Senegal, Benin, Burkina Faso and Cote D'ivoire and the NGO Office responsible for advancement of women in the sub-region is known as

²⁴⁴ Sub-paragraph 18 of Article 1(2) of the SADC Protocol on Gender and Development

²⁴⁵ Ibid., Art 16

²⁴⁶ Ibid., Art 19(2)(c)

²⁴⁷ Ibid., Art 17(3)

²⁴⁸ Ibid., Art 19(4)

'Women in Law and Development in Africa (WILDAF). The implementation of the BPFA encouraged the setting up of national mechanisms for the advancement of women. The West African Sub-Regional NGOs Review on the implementation of the BPFA showed appreciable progress in most critical areas of concern, including women in decision-making, women and poverty, whilst women and human rights is one of the areas that showed least progress.²⁴⁹ Of relevance to this study, we will only review the above three areas on the implementation of the BPFA in the West African sub-region.

In West Africa, the NGOs Report stated that women's equal rights to participate in decision-making was not only a question of democracy and good governance but also a necessary condition for effective recognition of women's interests. The Report further stated that without women's involvement at all levels of decision-making, the objectives of sustainable equality and development will never be achieved. In order to encourage women's participation in politics, some countries in West Africa have adopted affirmative action. Consequently, women's representation in politics at some levels has improved and there has been some increase in women's participation in electoral processes.²⁵⁰

On a negative note, the high levels of women's illiteracy, lack of ambition by some women and the persistent social-cultural pressures have perpetuated the under representation of women at all levels of decision-making, thus hindering their advancement. In order to remedy this, NGOs have engaged in awareness raising, training sessions for capacity building of women in leadership and advocacy directed at government to improve the position of women in public life.²⁵¹

Regarding women's advancement in the economic sphere, we will consider the discussion on women and poverty since women tend to suffer the consequences of poverty more intensely than men. According to the NGOs report, almost all countries in the sub-region remain in the low levels of development despite the fact that several

²⁴⁹ West African NGO report on the implementation of the BPFA.

www.wildaf-ao.org/eng/IMG/pdf/SyntheseAO_ONG_ENG-3.pdf. Accessed on 16/07/2009.

²⁵⁰ Kafui A.J., op cit n 223. P 4 at par 1.3

²⁵¹ Ibid at par 1.3

actions and strategies had been developed by states for poverty reduction such as micro-credit projects for women and establishment of savings and loans schemes for women. Likewise, NGOs contributed immensely through awareness raising and in the establishment of micro-credit for women and training in management practices. Nevertheless, these actions have not given women access to control over resources and means of production and poverty reduction strategies do not always take into account women's specific needs and interests.²⁵²

Most recently, on the 4-5 June 2009, a regional meeting was held in West Africa by the African Women's Development and Communication Network (FEMNET) in Burkina Faso regarding organizing for the Beijing + 15 review process and solicitation of commitments to participate and contribute to the process.²⁵³

3.2.7.3 Eastern Africa Sub-Regional Report on implementation of the BPFA to advance Women's Economic and Political Rights

The body responsible for the advancement of women in the Eastern African sub-region is known as the 'Eastern African Sub-regional Support Initiative for the Advancement of Women' (EASSI). EASSI was established in 1996 to facilitate linkage, collaboration, networking and information sharing between different actors and stakeholders of the Fourth World Conference on Women, to monitor and evaluate the African and Global Platforms for Action within the Eastern Africa sub-region. The countries where it operates are Uganda, Eritrea, Kenya, Tanzania, Rwanda, Burundi, Somalia and Ethiopia. EASSI is a post-Beijing support mechanism for the Eastern African sub-region for the advancement of women. Since the year 2000, EASSI has successfully conducted annual young women's leadership programmes which are aimed at mentoring young women and developing potential as leaders in the women's movement. In 2004, a resolution was reached by EASSI Strategic Plan during its review, to develop, initiate and implement a sabbatical programme for older women. From 1 April 2007, EASSI's annual internship programme for young women commenced. The internship provides interns with the opportunity to gain hands-on

²⁵² Kafui, A.J., op cit n 223 at p 3 at par 1.3.

²⁵³ Mavic, C.B and Sajor, I., op cit n 102 at p 4

experiences in working within women's organisations and it is held annually from April to December.²⁵⁴

With regard to implementation of the BPFA, EASSI has a mission of facilitating follow-up of the Dakar and Beijing Platforms for Action in order to enhance the advancement of women and social justice through research and documentation, advocacy, capacity building, networking and information sharing. EASSI tracks governments' implementation of the BPFA in the Eastern Africa sub-region. An Intergovernmental Meeting of Experts took place in Kigali, Rwanda from 2-4 June 2004 to review the implementation of the Dakar and Beijing Platforms 10 years after their adoption. The participants looked at policy issues, legislative achievements, constraints and challenges.²⁵⁵

On 17-18 July 2009, the EASSI organized a regional meeting in Kampala, Uganda where a regional scorecard on implementation of the BPFA was discussed regarding women and poverty, violence against women, reproductive health, women, peace and armed conflict and women in decision making. As a means of giving effect to the implementation of the BPFA in Uganda, the Icon Women and Young People's Leadership Academy (IWYPLA) has supported the formation of the Uganda BPFA Review NGO Working Group by convening space for women's groups, private sector and the general public to review Uganda's implementation of the BPFA.²⁵⁶

One of the four objectives of the above mentioned Icon Women and Young People's Leadership Academy is to build women's and young women's leadership capacities to influence social transformation in participatory policy formulation, implementation, monitoring and review processes nationally, regionally and internationally. The second objective is to identify achievements, gaps and challenges faced by the Ugandan government and other organizations, in reviewing the implementation of the BPFA. As a way forward, the Uganda BPFA Review NGO Working Group agreed to review and

²⁵⁴Women of Uganda Network., Eastern African Sub-Regional Support Initiative for the Advancement of Women., <http://www.eassi.org;http://www.wougnet.org/profiles/eassi/html>. Accessed on 16/07/2009.

²⁵⁵ Kafui A.J., op cit n 223

²⁵⁶ Mavic C.B and Sajor, I., op cit n 102 at p 5

amend the monitoring and evaluation tool for the implementation of the BPFA which was developed by the above mentioned EASSI. Another strategy that was mentioned by the NGO Working Group was to organize a national conference and to identify and contact the different actors handling the various areas of women's concern and request each to review progress made.²⁵⁷

Although Uganda's positive move towards the Beijing + 15 is plausible, it is my considered opinion that women's economic advancement should also be considered when monitoring and evaluating implementation of the BPFA. This is because there has been notable progress in the advancement of women in power and decision making whereas not much effort has been put into ensuring women's participation in economics.

In the following paragraphs, a brief discussion on the use of quota systems by African States to advance women in politics will be discussed.

3.3 Quota Systems and Women's Participation in African politics

In Africa, women have broken into politics by taking advantage of the quota systems²⁵⁸ in different countries.²⁵⁹ Africa has three main quota systems namely; Constitutional quotas²⁶⁰, election law quotas²⁶¹ and political party quotas.²⁶² Africa Recovery further reports that despite being one of the poorest regions in the world, the level of women's representation in parliament in sub-Saharan Africa is higher than in many wealthy countries. The Report on quota systems states that between 2000 and 2002, elections were held in 23 countries in sub-Saharan Africa with increases in women parliamentarians in 14 of them. Further, most of the countries that have achieved

²⁵⁷ Maviv, C.B and Sajor, I., op cit n 102 at p 5-6

²⁵⁸ Quota systems are a form of affirmative action in favour of women which aims at redressing the historic gender imbalances in decision-making.

²⁵⁹ Mutume, G., "*Women break into African politics: Quota systems allow more women to gain elected office*;" Africa Recovery., Vol 18#1 (April 2004). www.africarecovery.org. Accessed on 04/06/2009.

²⁶⁰ It is a quota system where constitutional provisions reserve seats in national parliament for women.

²⁶¹ It is a quota system where provisions are written into national legislation.

²⁶² It is a quota system where parties adopt internal rules to include a certain percentage of women as candidates for office.

significant increases in women's participation have done so through the use of quotas.²⁶³

A report from the International Institute for Democracy and Electoral Assistance (IDEA) on African experiences on the implementation of quotas shows how quotas have contributed to increasing women's access to political power. The report states that gender quotas are now increasingly viewed as an important policy measure for boosting women's access to decision-making bodies throughout the world. It adds that experience from Africa is very encouraging since over 20 countries either have legislated quota systems or political parties have voluntarily adopted them.²⁶⁴ The following is a statistical report on the quota systems from 19 African countries by the International Institute for Democracy and Electoral Assistance, which will be discussed according to sub-regions; Eastern Africa, Southern Africa, Western Africa, Northern Africa and the Horn of Africa.²⁶⁵ However, due to the constraints of time and space, only the quota systems in South Africa and Uganda will be discussed in detail as per women's participation in parliament.

In Eastern Africa, we will focus on Rwanda, Burundi, Kenya and Uganda and it is in this sub-region that the country with the highest percentage of women participation in national politics in the world is situated. The report²⁶⁶ has it that women in Rwanda now top the world rankings of women in national parliaments, with 49 per cent of representation compared to a world average of 15.1 per cent. In September 2003 when Rwanda had its general elections, 15 women were voted into non-reserved seats in addition to the reserved 24 out of 80 seats in the lower house of parliament. In the Upper House, 6 seats out of 20 seats are also reserved for women.²⁶⁷ Rwanda uses all the three quota systems. In Burundi, both the constitutional and election law quotas

²⁶³Global database of Quotas for Women., A joint project of International IDEA and Stockholm University <http://www.quotaproject.org/sources/Africa.cfm>. Accessed on 12/03/2009.

²⁶⁴Ballington, J, eds., International IDEA Quota Project in Africa. www.quotaproject.org/publications/Quotas_Africa . Accessed on 12/03/2009.

²⁶⁵ Global Database of Quotas for Women; A joint project of International IDEA and Stockholm University. www.quotaproject.org/displayCountry. Accessed on 12/03/2009.

²⁶⁶ Global Database of Quotas for Women; *ibid* n 265

²⁶⁷ Mutume, G., *Africa Recovery.*, *op. cit* n 259

systems are used and it has a 30.5 per cent of women in politics. In its general elections in 2005, 36 women out of 118 were elected into reserved seats in the Lower House.²⁶⁸ Although the number of women in politics is much lower in Kenya, there has been consistent increase over the years as every election year has seen more women aspiring for parliamentary seats. Kenya uses both the constitutional quota and the political party quota to reserve seats for women in its national parliament. In 2002, 16 women out of 224 (7.1 per cent) were elected in the national parliament.²⁶⁹

Uganda uses the constitutional and election law quota systems to increase the participation of women in national parliament and it has the largest number of local council members because of its political set up, 5 per cent of whom are women.²⁷⁰ Ms Beatrice Kiraso, who was elected to parliament in 1996, says that 'quotas kick-started the process of improving women's participation in national politics. A cycle began in which women gained confidence in women.'²⁷¹ Uganda's quota system evolved from the current government's²⁷² origins in a guerilla war during the 1980s when women fought alongside men in the National Resistance Army (NRA). In each of the zones the rebels won, local councils were set up with each including a Secretary for Women's Affairs. Eventually when the National Resistance Movement (NRM) under President Museveni came to power on 26 January 1986, it introduced the system into national politics. By 1994, the NRM appointed Dr. Wandira Kazibwe²⁷³ as Vice President of Uganda, making her the first highest ranking woman in African politics.²⁷⁴

²⁶⁸ Art 9(1)(a)(b)(c) and Art 9(2) of the Protocol on the Rights of Women in Africa

²⁶⁹ Governance and Transformational Leadership in East and the Horn of Africa. www.UNIFEM-Eritrea . Accessed on 09/02/2009.

²⁷⁰ Governance and Transformational Leadership in East and the Horn of Africa., op cit n 269

²⁷¹ Governance and Transformational Leadership in East and the Horn of Africa., ibid n269

²⁷² The current ruling government is the National Resistance Movement-NRM under President Yoweri Kaguta Museveni .

²⁷³ Dr. Wandira Kazibwe resignation from vice-presidency of Uganda in May 2003 created quite a set-back in Ugandan politics. See Mutume, G., 'Women break into African politics: Quota systems allow more women to gain elected office.,' Africa Recovery., Vol 18 (April 2004)

²⁷⁴ Mutume, G., op cit n 259

Uganda held its last elections in 2006 and, as a result, 73 out of 305 seats (23.9 per cent) were reserved for women in the lower house. According to the constitutional quota, 56 seats are reserved for women in national parliament, one woman representative for each of the 56 districts in Uganda ²⁷⁵and one third of the membership of each local government council is to be reserved for women at sub-national level.²⁷⁶ Using the election law quota, 5 seats out of 25 are also reserved for women in national parliament; 2 out of 10 representatives in the Defense Forces, 1 out of 5 representatives of the Youth, 1 out of 5 representatives of persons with disabilities and 1 out of 5 representatives of workers.²⁷⁷

From Northern Africa, we will focus on Egypt, Sudan, Algeria, Liberia and Tunisia. Egypt uses the election law quota system to reserve seats for women in national parliament; 30 seats which amount to only 9.6 per cent of women in representation. In 2005, 9 women out of 454 were elected into the lower house and in 2007, 21 women out of 265 were elected to the upper house. In Sudan, the election law quota system is used to reserve 60 seats (13 per cent) for women in the National Assembly. During the last general elections in 2005, 66 women out of 450 seats (14.7 per cent) were elected in the lower house and 2 women out of 50 seats (4 per cent) were elected in the upper house. In Algeria, the political party quota system is used to reserve seats for women in parliament. Algeria is made up of 48 provinces and in each, 2 out of the first 5 names on a list must be for women. During the 2006 elections, 4 women out of 129 seats (3.1 per cent) were elected in the upper house and the number increased in 2007, where 28 women out of 389 seats (7.2 per cent) were elected in the lower house.²⁷⁸

Liberia is credited for being the first country to have a female president²⁷⁹ in the history of Africa. In order to enhance women's equal participation in politics, Liberia is applying a 30 per cent quota for women on the electoral lists. Through the election law quota in

²⁷⁵Art 78(1) of the 1995 Constitution of Uganda.

²⁷⁶Ibid., Art 180(2)(b).

²⁷⁷Ibid., Art 33(4).

²⁷⁸Ibid., Art 33(4)

²⁷⁹Her Excellency Ellen Sirleaf- Johnson who was elected in 2005.

2005, 8 women out of 64 seats (12.5 per cent) were elected in the Lower House and 5 out of 30 (16.7 per cent) were appointed in the Upper House.²⁸⁰ In Tunisia, the ruling party uses the political party quota system to earmark 38 out of 152 parliamentary seats (25 per cent) for female candidates. During the last general elections in October 2004, 43 out of 189 (22.8 per cent) women were elected into parliament.²⁸¹

In the Horn of Africa, we will make a finding on the quota systems used in Somalia, Ethiopia and Eritrea at the recently held elections. Somalia uses the constitutional quota to reserve at least 12 per cent of seats in national parliament for women. During its elections in 2004, 21 women out of 269 (7.8 per cent) were elected in the lower house. In Ethiopia, the political party quota is used and in 2005, 116 women out of 546 (21.2 per cent) were elected in the lower house and 21 out of 112 (18.8 per cent) were elected in the upper house.²⁸² In Eritrea, the constitutional quota system reserves 30 per cent of seats in national parliament for women. The parliament consists of 150 members, of whom 22 per cent are women and the new constitution emphasizes gender equality and prohibits violation of women's rights.²⁸³

From the West African sub-region, Ghana's, Burkina Faso's and Mali's quota systems will be briefly discussed. Ghana uses the election law quota to reserve seats for women in the national parliament. During the 2004 general elections, 25 women out of 230 were elected in the lower house. In Mali, 30 per cent quota is used to reserve seats for women in parliament through the political party quota system. During the elections in 2007, 15 out of 147 (10.2 per cent) women were elected in the lower house. Burkina Faso also uses the political party quota system to elect female candidates in parliament. Like Mali, Burkina Faso held its last elections in 2007, where 13 out of 111 (11.7 per cent) women were elected in the lower house.²⁸⁴

²⁸⁰ Global Data-base of Quotas for Women., op cit n 263

²⁸¹ Art 33(4) of the Constitution of Uganda

²⁸² Global Data-base of Quotas for Women., op cit n 263

²⁸³ Global Data-base., op cit n 263

²⁸⁴ Global Database., op cit n 263

From Southern Africa, a summary of quotas used in Namibia, Malawi, Lesotho, a detailed one on South Africa will be discussed. Namibia uses the political party quota and constitutional quota. The constitutional quota is used to elect women at sub-national level and the stipulated minimum percentage of women representation is 30. During the 2004 elections, 21 out of 78 women (26.9 per cent) were elected in the lower house and 7 out of 26 (26.9 per cent) in the upper house. In Malawi, the political party quota is used to elect candidates and in 2004, 27 women out of 188 (14.4 per cent) were elected in the lower house. In Lesotho, elections were held in 2007 under the constitutional quota system that resulted into 23 percent of women (28 out of 119) being elected in the lower house and 12 out of 33 (36.4 per cent) seats are reserved for women in the upper house.²⁸⁵

South Africa commenced using the constitutional and political party quotas to reserve seats for women in parliament after the 10 May 1994 when Nelson Mandela was sworn in as South Africa's first democratically elected black president after 342 years of white domination.²⁸⁶ During South Africa's first democratic election in 1994, the Africa National Congress (ANC)²⁸⁷, adopted a 30 per cent quota for women on political party lists which increased the representation of women from below 3 per cent to 27 per cent. In the 1999 election, women were placed in every third position on the national party list amounting to 97 women (29.8 per cent). Eight cabinet ministers out of 29 were women and 8 out of 13 deputy ministers were women. During the 2004 elections, 131 seats out 400 seats were reserved for women in the Lower House and in December 2005, 50 per cent quota was adopted at local level on political party lists mixed with electoral law system.²⁸⁸ The current cabinet under President Jacob Zuma consists of 43 per cent of women representation at provincial level and 45 per cent at national level.²⁸⁹

²⁸⁵ Global Data-base., op cit n 263.

²⁸⁶ Venter, A and Landsberg C., op cit n 31 at p3.

²⁸⁷ ANC was and still is the ruling political party in South Africa's government.

²⁸⁸ Global Database., op cit n 263.

²⁸⁹ Mkhabela, M., The Times., 6th May 2009. www.thetimes.co.za/news/Articles.aspx

3.4. National Initiatives

It is now appropriate to carry out an audit performance of governmental actions in Uganda and South Africa in line with the theme of this study.

3.4.1. Uganda

In response to the General Assembly's encouragement to inter-governmental bodies to engage in initiatives and innovative processes towards the implementation of the Beijing Declaration and Platform of Action, the Ugandan government formed a Parliamentary Committee on Equal Opportunities, which is responsible for monitoring the said implementation.²⁹⁰ In order to ensure advancement of women and gender main-streaming, Uganda adopted the National Gender Machinery known as the Ministry of Gender, Labour and Social Development. The Ministry coordinates and oversees the implementation of gender equality and women's advancement programmes nationally. Over more than a decade of achievements have been witnessed through legislative processes and policy reform and programming as will be elaborated upon below.²⁹¹

3.4.1.1 Governmental Institutional Development in Uganda

The mandate, strategies and entry points of the Ministry of Gender, Labour and Social Development (MGLSD) are stipulated by the National Gender Policy. In order to implement its objective in gender mainstreaming, the Ministry plays the following roles; it ensures that the national development process is gender responsive by coordinating and facilitating all relevant players for gender sensitive development planning. It also ensures that all policy formulation and reviews, action plans, and other major national planning exercises apply a gender responsive planning approach. It liaises with other actors identifying and drawing attention to key gender concerns and related needs such as law reform, constitutional guarantees and literacy campaigns. It further provides technical guidance and back up support to other institutions, which includes promotion of gender analysis and planning skills among all relevant sections of society,

²⁹⁰ Kakooza and Kawuma ., op cit n 36 at p xii at par 3.

²⁹¹ Uganda Beijing Report., Overview of Achievements and Challenges in Promoting Gender Equality and Women's Empowerment., Part 1. <http://www.un.org/womenwatch/daw/review/responses/uganda/pdf> . Accessed on 15/06/2009.

in order to build their capacity to identify, analyze and implement gender responsive programme intervention. The national machinery plays a role in promoting social mobilization for the purpose of creating gender awareness and thus fostering positive attitudinal and behavioural changes necessary for the establishment and maintenance of gender equity. It also liaises with relevant agencies and coordinates the collection and dissemination of gender disaggregated data necessary for national development planning.²⁹²

The National Gender Machinery works with the Ministry of Finance, Planning and Economic Development (MoFPED), whose role is to oversee the monitoring and evaluation of progress in policy implementation. MoFPED further ensures that all policies, both at the macro and micro-economic levels, are gender responsive and that there are available resources directed to gender responsive programmes and institutions.²⁹³

Through the legislative process, the Ugandan government has put in place the Constitution²⁹⁴ that upholds the principles of the Convention on the Elimination of All Forms of Discrimination against Women. Notably, Uganda's Constitution has a specific Article dedicated to the protection of women's rights²⁹⁵. These rights range from women's personal dignity; equal treatment with men in the political, economic and social spheres; acknowledging women's unique status and thus prohibiting laws, cultures, customs or traditions that were against their dignity, interests or welfare. The Constitution further mandates the state to make use of the concept of affirmative action²⁹⁶ in order to redress the historical imbalances suffered by women through patriarchy, stereotyped cultural practices, and gender discrimination.

Subsequent to the enactment of the Constitution in 1995, the Uganda Law Reform Commission embarked on a process of reviewing personal laws to ensure equality

²⁹² Uganda Beijing Report., op cit n 291 at p7.

²⁹³ Kakooza and Kawuma., op cit n 36 at p 118., par 9.3.

²⁹⁴ Constitution of the Republic of Uganda of 1995.

²⁹⁵ Article 33(1-6) of the Constitution of Uganda.

²⁹⁶ Art 32(1) and Art 33(5) of the Constitution of Uganda.

between women and men. Additionally, a labour law review process is in place through which equality of opportunity for women in the employment arena is addressed. As will be discussed later in this Chapter, laws that have already been revised to promote gender equality include the Local Government Act of 1997, which provides for a minimum of one third representation of women on all Local Council structures.²⁹⁷ The Act has ensured that women's voices are heard and their needs expressed and recognized within the planning processes at local and national levels.

In 1997, the Ugandan government adopted a National Gender Policy, whose main objective is to main-stream gender concerns in national development processes through guiding resource allocation in all sectors to address gender equality. The policy has influenced all sectoral and district development programmes to adopt gender mainstreaming. As a result, there has been an increase in the involvement of women at all levels of different sectors.²⁹⁸

In 1999, the government of Uganda put in place a National Action Plan of Women which prioritizes five major areas that are to be targeted by government in addressing women's economic empowerment by helping women improve household nutrition, achieve food security and improve household incomes through agriculture and fishing.²⁹⁹ The five priority areas include poverty reduction, income generation and economic empowerment and legal framework, decision-making, the girl child and education, reproductive health and rights, violence against females, and peace building.³⁰⁰ For the purposes of this study, only two of the five priority areas will be concentrated on; women in decision making and economic empowerment.

The Plan continues to say that the Beijing Platform of Action (BPFA) and the Uganda National Action Plan on Women (NAPW) have guided sectoral and district planning by flagging out the key concerns for women's advancement in the above priority areas. It

²⁹⁷ Uganda Beijing Report., op cit n 291 at p1 at par 12. See further discussion in Chapter Four of this study under sub-heading 4..2.5.2., par 3

²⁹⁸ Uganda Beijing Report., op cit n 291 at Part 1., p1., par 1.

²⁹⁹ Kakooza and Kawuma., op cit n 36 at p 119 at par 9.4

³⁰⁰ Uganda Beijing Report., op cit n 291 at p2

further targets the improvement of access to financial resources, development of entrepreneurial skills and the reduction of women's workload.³⁰¹ Through government's implementation of the National Action Plan on Women, there has been dramatic increase in enrolment for girls in primary schools from 3, 372, 881 in 2003 to 81.2 per cent while completion rates of girls by the end of 2008 stood at 51 per cent nationally and 29 per cent in the northern and north eastern districts which have the worst enrolment levels in Uganda. This increase has been ensured by the Go-to-School, Back-to-School, Stay-in-School (GBS) campaigns.³⁰²

It is further reported that there are still various challenges to realising gender equality and women's advancement despite the abovementioned achievements. The salient challenges are inadequate access to finance capital and lack of human capacity. In response to these challenges, the report suggests solutions/remedies namely: an increase in the levels of funding towards institutions and programmes that advance women's rights such as the National Action Plan on Women and to engage in capacity building for planners and implementers in all sectors at all levels. This will help in diffusing responsibility for gender mainstreaming from a single gender focal point officer to a variety of gender personnel at all levels.³⁰³

Another challenge to women's economic advancement in Uganda is highlighted under the area of poverty, income generation and economic empowerment which is one of the five priority areas of concern. The report states that women contribute to 80% of the Gross Domestic Product and National Welfare providing 60-80% of labour force in agriculture-based activities. However, the Poverty Eradication Action Plan (PEAP) recognizes that women have not adequately benefitted as much as men from the decreases in absolute poverty as already noted in the preceding paragraph. The reason for the fore-going is that women, particularly in rural areas, do not have as many opportunities for social and economic development in the Ugandan society.³⁰⁴

³⁰¹ Kakooza and Kawuma., op cit n 36 at p 119 at par 9.4

³⁰² Progress Report by UNICEF on key Indicators in Uganda 2006 to 2009.,
www.unicef.org/about/execboard/Files/Consolidated_Results_Report_-_Uganda.pdf

³⁰³ Uganda Beijing Report., op cit n 291

³⁰⁴ Uganda Beijing Report., op cit n 291 at p4

According to the poverty report by the Uganda Bureau of Statistics that was released on the 18 July 2009, the proportion of Ugandans living in absolute poverty is at 31 per cent, with the majority of them living in the east and northern regions of Uganda.³⁰⁵

As a means of redressing the above injustices, the Ugandan government developed a Plan for the Modernization of Agriculture (PMA). The PMA recognizes that gender has an influence on the division of labour and power relations within the households, which brings about differences in access to and control over productive resources. In the PMA, government has committed itself to financing establishments of rural markets for subsistence farmers as a way of mentoring them towards commercial agriculture. Government's plans for the eradication of feminization of poverty are focused on transformation of the poor women from producing predominantly for the household to producing for the market.³⁰⁶ The PEAP and PMA target women, widows, female-headed households for economic empowerment by ensuring that they access and effectively utilize productive resources.³⁰⁷

The Uganda Gender Forum was also established as one of the mechanisms for the coordination of gender mainstreaming in Uganda. The Forum was conceived under the Commonwealth-led Gender Management Systems Project and it brings together gender experts and advocates from government, civil society, development partners and the academia. In 2001, the Presidential Election Manifesto guaranteed a commitment to the advancement of women through economic empowerment. Another institution that reinforces the National Women's Movement in advancing gender equality and women's empowerment is the Department of Women and Gender Studies at Makerere University – an academic training institution within a Government University. The Department has influenced the University to establish a Gender Mainstreaming Unit in the Academic Registrar's Office and in university faculties.³⁰⁸

³⁰⁵ News, Reviews and Articles on Absolute Poverty reported by AllAfrica., 18 July 2009.

http://news.surfmax.com/economics/files/Absolute_Poverty.html

³⁰⁶ Uganda Beijing Report., op cit n 291 at p4

³⁰⁷ Ibid at p 10

³⁰⁸ Ibid at p 9

3.4.1.2 Non-Governmental Institutional Development in Uganda

Apart from governmental institutions and programmes entrusted with gender mainstreaming and the advancement of women, non-governmental organizations also take pains to innovate programmes in the advancement of women's rights. The Uganda Women's Network (UWONET) is one of them. UWONET has a Policy Advocacy Programme, which forms one of the key functions for which the former was created. Through the Policy Advocacy Programme, UWONET highlights and champions the voices and concerns of women by women themselves and thus making the policy and decision-making space more democratic.³⁰⁹ UWONET seeks to contribute to the vision of a prosperous Uganda by including women as a key constituency in the formulation and implementation of any laws, policies, programmes and practices. This Policy Advocacy Programme targets policy and decision makers at national level such as Parliament, government ministries and the donor community.³¹⁰

Although it is a women's network, UWONET's strategic objective goes beyond addressing women's needs to those of men, leading to the achievement of gender equity and equality. It achieves this objective by engendering laws, policies, programmes, structures and processes of policy formulation to ensure their gender responsiveness.³¹¹

The Policy Advocacy Programme focuses on women's rights advocacy; economic policy advocacy; health rights advocacy and women in politics and decision-making. As a result, there has been an increase in the roles, numbers and influence of women in politics and decision-making at national level. The PA Programme advocated for a legal policy framework for Affirmative Action and for the establishment of the Equal Opportunities Commission (EOC) as well as budgetary allocations to issues of concern to women.

The Policy Advocacy Programme offers a course on research to understand the function and manifestation of patriarchy and other forms of oppression and how they

³⁰⁹ Uganda Women's Network., Gender Transformation and Empowerment., 17 April 2008 .

³¹⁰ Ibid

³¹¹ Ibid

perpetuate discrimination and marginalization of women and consequently use the findings in UWONET's advocacy work. The advocacy programme also keeps track of implementation of key regional and international women's rights treaties and conventions to which Uganda is a signatory, such as the CEDAW and ILO Conventions. The Policy Advocacy Programme goes further to track key policies and programmes to ensure implementation of their objectives in gender mainstreaming, such as the National Gender Policy, National Plan for Action on Women.³¹² Concerning women's economic rights, UWONET envisages advocacy on, among others, women's labour rights through research and lobbying for government of Uganda's ratification of the relevant ILO Conventions. As per women's political rights, UWONET provides legislative and policy support to women parliamentarians and the Ministry of Gender, Labour and Social Development. During the 2006 and 2007 Local Council elections, Presidential and Parliamentary elections, UWONET engaged actively in the political transition.³¹³

Summarily, UWONET puts a check on government to ensure government's adherence to, and implementation of, women's rights as contained in ratified regional and international conventions as well as the implementation of all the plans, policies and programmes set out by innovative institutions, fora and departments to advance women and protect their rights.

3.4.2 South Africa

In addressing gender inequalities in society, the South African government under the former President Mbeki, located the Office on the Status of Women in the Presidency and adopted a National Gender Machinery (NGM). While many countries use the term gender machinery to refer to a national ministry responsible for gender and women's affairs, South Africa uses it to refer to an integrated package of structures located at various levels of state, civil society and within statutory/NGO bodies. At government level, the executive bodies dedicated to the advancement of women are the Office on the Status of Women as a Joint Monitoring Committee. The statutory body established in terms of section 187 of the 1996 Constitution to advance women is the Commission

³¹² Uganda Women's Network., op cit n 309

³¹³ Ibid

on Gender Equality (CGE).³¹⁴ After the proposition by the Presidency to the Cabinet, the Office on the Status of Women adopted a National Gender Policy Framework in 2000 which is titled as South Africa's National Policy Framework for Women's Empowerment and Gender Equality.³¹⁵

3.4.2.1 Institutional Development in South Africa

The National Office on the Status of Women is a principal coordinating structure for the national machinery on gender equality which has been constructed as the nerve centre for developing and maintaining a national gender programme. It is responsible for developing national action plans for main-streaming gender within government structures, to advance women's empowerment and gender equality, and monitor their implementation. The National Office on the Status of Women is also mandated to liaise with civil society organisations to advance the national gender programme.³¹⁶ The South African government in partnership with the South African Human Rights Commission, the Commission for Gender Equality and NGOs, embarked on a programme to develop a National Action Plan which provides a framework to direct the protection, promotion and equal enjoyment by all human rights including women's human rights.³¹⁷

The National Gender Policy Framework outlines South Africa's vision for gender equality by setting standards and norms for the national programme. It promotes a co-operative approach among sectors towards achieving gender equality both within and across sectors by establishing national goals, proposing central objectives and identifying key indicators for attaining the goals and objectives, as well as identifying

³¹⁴ Office on the Status of Women., South Africa's Report to the AU Secretariat on the implementation of the AU Heads of State's Solemn Declaration on Gender Equality in Africa., June 2006.
http://www.genderismyagenda.com/country_reports/statesreports_eng/south_africa_reports.pdf. Accessed on 28/05/2009.

³¹⁵ South Africa's National Policy Framework for Women's Empowerment and Gender Equality;
<http://www.doh.gov.za/docs/policy/gender.pdf>. Accessed on 28/05/2009.

³¹⁶ The Office on the Status of Women., op cit 314

³¹⁷ The Office on the Status of Women., op cit n 314

expectations of key national structures that are mandated to implement the programme.³¹⁸

In addition to the National Gender Policy Framework, there is the Commission on Gender Equality which was set up under the Constitution³¹⁹ to promote democracy and human rights especially women's rights. The Commission on Gender Equality (CGE) was established as one of the six state institutions supporting constitutional democracy in South Africa in terms of section 187 of the 1996 Constitution. In 1997, the CGE was established as an independent statutory, advisory and research body although it works closely with the Department of Justice, Office on the Status of Women and Parliament. Its functions include the promotion of respect for gender equality and the protection, development and attainment of gender equality. The CGE attains the above transformational goals by exposing gender discrimination in laws, policies and practices as well as making recommendations on any legislation affecting the status of women. Although the Commission acts in the interests of women generally, it pays particular attention to women living in rural and peri-urban areas, on farms and domestic workers by improving their access to information about their basic human rights.³²⁰

The CGE also has the power to monitor all organs of society to ensure that gender equality is safeguarded and promoted. It investigates complaints on gender-related issues from the public and most of the complaints being reported concern domestic violence against women. The CGE researches and makes recommendations to Parliament and other authorities on any legislation and policies that affect the status of women. Furthermore, the CGE educates the public, advises and reports on issues concerning gender equality.³²¹

³¹⁸ The Office on the Status of Women., op cit n 314

³¹⁹ S 187 (1) and (2) of the Constitution of the Republic of South Africa

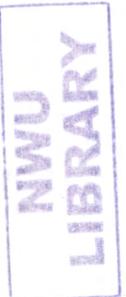
³²⁰ South Africa.info., Democracy., Commission on Gender Equality.

<http://www.southafrica.info/about/democracy/cge.htm> 31/07/2009

³²¹ Commission on Gender Equality., op cit 320

3.5 Summary

This Chapter has shown that the African region has put in considerable efforts to realize its commitment to the BPFA by adopting protocols on women's rights; sub-regions such as Western Africa, Eastern Africa and the SADC have also played a role in ensuring that their member countries submit progress reports on the implementation of the BPFA. At the national level, particularly in Uganda and South Africa, the Chapter has demonstrated their commitment in realizing the BPFA through the adoption of institutional mechanisms and quota systems to promote women's participation in politics and the economy. On a positive note, Uganda has a non-governmental women's network that puts a check on the government thus ensuring compliance and commitment to women's rights and their advancement. Chapter Four will compare the mechanisms that have been adopted in Uganda vis-à-vis South Africa to main-stream gender.



CHAPTER FOUR: GENDER MAIN STREAMING IN SOUTH AFRICA AND UGANDA IN COMPARATIVE PERSPECTIVE

4.1. Introduction

This chapter will focus on women's development schemes in South Africa and Uganda and particularly the legislative measures that have been implemented in the Republics of the two countries in the quest to advance women's political and economic rights. The Chapter will examine the effectiveness of the two countries' Constitutions and other pieces of legislation that have been put in place in order to ensure women's participation in the politics and in the economy of their countries on equal footing with men. We will further make a finding on the policies that have been adopted by both countries in a comparative perspective, in an effort to cure the historical imbalances and gender discrimination that were responsible for women's exclusion from the political and economic spheres in the past.

4.2. Legislative measures to advance women's economic rights in Uganda and South Africa

Notwithstanding the regional and international instruments aimed at advancing women's economic rights, in numerous African countries and communities, considerable problems still subsist for women. It is at national and community levels that the full force of discriminatory and exclusionary practices continues to be felt in the economic field.

Although the governments of South Africa and Uganda have adopted certain legislative measures and principles to get rid of gender discrimination against women in the economic sector, the change is minimal. In South Africa, subsequent to the Constitution, various laws ensuring the protection of women's economic rights were passed by parliament such as the Employment Equity Act 55 of 1998 and the Broad-Based Black Economic Empowerment Act 53 of 2003. In Uganda, women's economic rights are enshrined in the 1995 Constitution and subsequently in the National Employment Policy of 2003 as will be discussed below.

4.2.1 Uganda

Women's economic rights in Uganda were first protected in the 1995 Constitution under Articles 33 and 40. Uganda's Constitution not only recognizes women's unique status and natural maternal functions in society,³²² but also mandates the employer of every woman worker to accord her protection during pregnancy and afterbirth in accordance with the law.³²³ The Constitution states that 'women shall have the right to equal treatment with men and that right shall include equal opportunities in, among others, the economic activities.'³²⁴ Accordingly, parliament is mandated to enact laws ensuring equal payment for equal work without discrimination.³²⁵

Ellis, Manuel and Blackden report that according to the interviews conducted with women entrepreneurs in November 2004 it was found that while access to finance and the need for management training and other business development services emerged as key issues, the reluctance of husbands to allow their wives to engage in business activities was never far from the surface. Consequently, women's enterprises often remain tied to small-scale and informal activities that can be reconciled with their domestic responsibilities. Another constraint to women's economic empowerment that was cited is the lack of access to development services and training particularly in financial management and exporting. In order to address economic gender imbalances, women's business associations have undertaken advocacy networking and training initiatives. There has been an initiative by the government to integrate entrepreneurship courses into the educational curriculum.³²⁶ Although Uganda's Constitution is plausible for its broad approach to specific protection of women's rights, there is still a gap between the codified rights and their realization.

The fore-going initiatives in the Constitution of Uganda should be given further effect by reforming all gender discriminatory legislation as they are not only unconstitutional but

³²² Article 33(3) of the 1995 Constitution of the Republic of Uganda.

³²³ Ibid., Art 40(4)

³²⁴ Ibid., Art 33(4)

³²⁵ Ibid., Art 40(1)(b)

³²⁶ Ellis, A., Manuel, C., Blackden, CM., Gender and Economic Growth in Uganda., *Unleashing the power of Women* (2006) Washington, DC., World Bank at p 45-56.

also slow down women's progress in the economic field. Accordingly, the government should increase women's access to resources and development services through affirmative action by giving them preference as a means of redressing the historical marginalization they suffered and the resistance they still encounter from men while making efforts to climb up the corporate ladder so as to acquire economic independence.

4.2.2. South Africa

In South Africa, freedom of economic activity was first codified in the Interim Constitution which guaranteed 'every person the right to freely engage in economic activity and to adopt measures designed to promote the protection or improvement of the quality of life based on freedom and equality.'³²⁷ This right was reformulated and downscaled to 'every citizen's freedom of choice of trade, occupation and profession' in the 1996 constitution.³²⁸ Unlike the Constitution of Uganda which provides specific protection for women's economic rights, South Africa's Constitution is general in its approach and does not categorize economic rights on a gender basis. Nevertheless, the words 'every citizen' impliedly include women, thus assuring them of protection while they indulge in economic activities.

In order to provide specific protection for women's economic empowerment, legislations such as the Employment Equity Act³²⁹ and the Broad Based Black Economic Empowerment (BEE) Act³³⁰ were passed to that effect. In the proceeding paragraphs, we will discuss the purpose of these Acts towards the advancement of women's economic rights.

4.2.2.1 Employment Equity Act 55 of 1998

Employment equity is a mechanism used to achieve equity in the workplace in all occupational categories and levels by promoting equal opportunities and fair treatment

³²⁷ S 26 of Act 200 of 1993

³²⁸ S 22 of the Constitution of the Republic of South Africa of 1996.

³²⁹ Act 55 of 1998

³³⁰ Act 53 of 2003

in employment; eliminating unfair discrimination and implementing affirmative action³³¹ measures to redress the ills suffered by women.³³² The purpose of this Act is to provide for employment equity and promote economic development and efficiency. In its Preamble, the Act recognizes that apartheid and discriminatory laws created disparities in employment and occupation and thus pronounced disadvantages for certain categories of people, which cannot be redressed by simply repealing discriminatory laws.³³³ The Act also aims at eliminating unfair discrimination in employment, promoting equal opportunity and implementing affirmative action measures to redress the disadvantages in employment experienced by designated groups.³³⁴

Chapter 1 of the Act, defines designated groups in such a way as to include black people, women and people with disabilities,³³⁵ as people who fall under the designated groups, women are protected by the provision which prohibits unfair discrimination directly or indirectly on one or more grounds including gender and sex.³³⁶ The Act further obliges designated employers³³⁷ to implement affirmative action measures for, among others, women.³³⁸ In the Act, affirmative action measures are interpreted as measures designed to ensure that suitably qualified women have equal employment opportunities with men.³³⁹

In summary, the Act was enacted to promote the constitutional right to equality and the exercise of true democracy. From the above provisions of the Act, it is clear that it was aimed at correcting the historical imbalances that women and other groups suffered, at the mercy of apartheid discriminatory laws and cultural practices which treated women as inferior to men. From a practical point of view, there exist examples of the

³³¹ Affirmative action in the employment environment is a specific programme designed

³³² Balshaw, T., and Goldberg, J., *Cracking Broad-Based Black Economic Empowerment (BEE)*, Cape Town (2005).

³³³ Paragraph 1 and 2 of the Preamble to the Employment Equity Act.

³³⁴ S 2(a) and (b) of the Employment Equity Act.

³³⁵ S 1 of the Employment Equity Act.

³³⁶ S 6(1) Chapter II of the Employment Equity Act.

³³⁷ Designated employers include the municipality, an employer of 50 or more employees.

³³⁸ S 13(1) of the Employment Equity Act

³³⁹ S 15(1) of the Employment Equity Act

government's endeavors to realize the concept of affirmative action as provided for in this Act. For instance, whenever posts are advertised in the local newspapers or on the internet, females are usually encouraged to apply and when they do, they are usually given preference over male candidates as a means of redressing the historical imbalances.

4.2.2.2 Broad-Based Black Economic Empowerment Act 53 of 2003

Government's dedication to correcting historical imbalances in South Africa was furthered in the Broad-Based Black Economic Empowerment programme. The government's stated objectives in pursuing broad-based black economic empowerment which includes facilitating the empowerment of blacks, among others, by increasing the extent to which black women own and manage existing and new businesses; increasing their access to economic activities, infrastructure and skills training as well as promoting access to finance for black economic empowerment.³⁴⁰ As a means of furthering government's commitment to broad-based BEE, the Broad-Based Black Economic Empowerment Act was enacted in 2003 and came into force on 9 January 2004. The Act defines broad-based BEE as 'economic empowerment of all black people including women.'³⁴¹

Like the Employment Equity Act, the BEE Act was also enacted to promote the achievement of equality of women as provided for in section 9(2) of the Constitution.³⁴² Further, the aim of the BEE Act is to increase broad-based and effective participation of black people, including women, in the economy with the ultimate aim of achieving a high economic growth rate, empowerment and a more equitable income distribution.³⁴³

The BEE Act empowers the Minister of Trade and Industry to issue in the gazette Codes of Good Practice on black economic empowerment. Code 200 places a strong emphasis on the participation of black women in managerial positions in enterprises.

³⁴⁰ Balshaw, T., and Goldberg, J., op cit n 332. See S 2(d) of the BEE Act.

³⁴¹ S 1 of the Broad-Based Black Economic Empowerment Act.

³⁴² S 9(4) of the Broad-Based Black Economic Empowerment Act.

³⁴³ Balshaw, T., and Goldberg, J., op cit n 332 at p70.

As a reward, the enterprises which make an initiative to appoint women in executive or managerial positions get points.³⁴⁴ As a means of ensuring that the Codes are implemented by organizations, there are on-going annual BEE surveys for a duration of ten years which commenced in 2006 and are to continue till 2015. The Codes of Good Practice became effective in August 2008 and a third BEE survey was carried out in September 2008 since the first and second surveys in 2006 and 2007 respectively. The 2009 BEE survey reports that 79 per cent of the Johannesburg Stock Exchange (JSE) listed organizations; 80 per cent of the multinational organizations and 86 per cent of the unlisted organizations declared that they measured BEE in terms of the gazette BEE Codes.³⁴⁵ Notably, the JSE has a colloquim for women directors in that ten out of twelve directors of the JSE are women.³⁴⁶

According to the BEE Survey, some of the key challenges that are faced by the JSE listed organizations include insufficient number of black female shareholders and candidates in the market, shortage of skills, especially specialized and technical skills, retention of black talent as well as the availability of black talent and the lack of black females in certain industries, such as the Transport and Motor Industry³⁴⁷

It is however my considered opinion that some enterprises have taken advantage of this reward by appointing women in managerial positions on face value yet technically denying them the authority that comes with the position. In other words some women, although in executive positions, still do not have a say in the decision-making or their opinions are disregarded. Basing my argument on the fact that black women were more marginalized in South Africa than white women, the former require more protection than the latter. Hence the Employment Equity Act and the Broad-Based Black Economic Empowerment Act can better be classified under fair discrimination

³⁴⁴ Balshaw, T and Goldberg, J., op cit n 332

³⁴⁵ KPGM., 2009 BEE Survey at p 1 and 3

www.kpmg.co.za/images/naledi/pdf%20documents/mc5221%20bee%20survey%202009sm.pdf

³⁴⁶ Globewomen., Colloquim for Women Directors in the Johannesburg Stock Exchange., 21 September 2009

www.globewomen.org/CWDI/2009%20cWDI/CWDI/CWDI%20Johannesburg%20Presentation

³⁴⁷ KPGM., 2009 BEE Survey., op cit n 345 at p 29 and 31

since they stand to redress the historical imbalances suffered by black women on grounds of race, gender and patriarchy.

4.3. Legislative measures in South Africa and Uganda to advance women's political rights

Although South Africa and Uganda hardly have legislation protecting women's political rights, their Constitutions advocate for affirmative action as a major principle and distinct process designed to phase out the perpetuation of discriminatory policies and practices and to correct historical and political imbalances suffered by women.

4.3.1. Uganda

Although Uganda has very few pieces of legislation dealing particularly with the protection of women's political rights, the latter were first addressed in the National Women's Councils Act of 1993 with an aim of organizing women into one body and engaging them in activities that benefit them and the nation. This Act was amended in 2002 to restructure the composition of the Councils, taking into consideration governance changes that came with the enactment of the 1997 Local Government Act.³⁴⁸

The 1995 Constitution of Uganda specifically addresses them through the principle of affirmative action. President Museveni was 'much lauded for an affirmative action policy that guaranteed at least one-third of legislative and civic positions to be reserved for women.'³⁴⁹ For purposes of redressing historical or traditional imbalances, the Constitution mandates the State to take affirmative action in favour of groups marginalized on the basis of gender, age, disability or any other reason.³⁵⁰ The Constitution goes further to point out that women have the right to affirmative action.³⁵¹ In support of the fore-going notion, laws, cultures, customs or traditions which are inconsistent with the dignity, welfare or interest of women or which undermine their

³⁴⁸ Kakooza and Kawuma., op cit n 36 at p 130 atpar 9.6.2

³⁴⁹ Kimbugwe S. N., op cit n 190.

³⁵⁰ Art 32(1) of the Constitution of Uganda.

³⁵¹ Art 33(5) of the Constitution of Uganda.

status are prohibited by the Constitution. They include polygamy, widow inheritance, female genital mutilation, Moslem religious laws and practices.³⁵²

Like in South Africa, the notion of affirmative action has improved the participation of women in politics and decision-making in Uganda. Using affirmative action, President Museveni stated that 'women are represented at all levels of government from local council³⁵³ level to parliament and they have successfully competed with men in constituency elections.' Each of the 56 districts in Uganda has a woman representative in parliament. The President went on to say that 'by deliberately involving women at all levels of governance including the judiciary, we have demonstrated that they can play a very effective role in the country.'³⁵⁴

In addition to the Constitutional provision on affirmative action, the Local Government Act of 1997 was passed as one of the legislative measures giving full effect to affirmative action in Section 32(2). The Local Government Act has operationalised aspects of the provisions for affirmative action dealing with representation of marginalized groups in local government structures and thus increased the number of women in politics and decision-making. Amongst the marginalized groups referred to in Article 32(1), women are the most visible beneficiaries of affirmative action. This increase has challenged widespread patriarchal beliefs and practices, which have in the past excluded women from public political positions. Despite the positive changes brought about by affirmative action in advancing women's political rights in Uganda, women activists complain that it has been "little more than window dressing," more so that the administration has recently displayed reluctance to pass any new women's legislation.³⁵⁵ With regard to Uganda's eighth parliament which commenced in 2006, there are 14 local (county) representatives, 6 Special Interests Representatives, and 6 District Women Representatives.

³⁵² Art 33(6) of the Constitution of Uganda

³⁵³ Local council (LC) is a system of representation of people from village level to regional level within the Country.

³⁵⁴ Museveni Y.K., *Sowing the Mustard Seed; The Struggle for Freedom and Democracy in Uganda.*, Kampala.,1997; p191

³⁵⁵ Kimbugwe S. N., op cit n 190

In 2001, the Parliamentary Election Act was promulgated to provide for the election of district women representatives and for the representation of youth. The Act allows elections of women representatives to be held on a different day from the general elections for constituency representatives. The Act was amended in 2005 before the 2006 presidential and parliamentary elections.³⁵⁶

4.3.1.1 Challenges to gender mainstreaming in Uganda and actions to remedy and address them

The government of Uganda recognizes the vital role played by women in nation building and that despite the achievements so far made, the status of women is still low. Through the Social Development Sector Strategic Investment Plan (SDIP), Uganda laid down a rights-based approach to gender mainstreaming with emphasis on social inclusion. Despite the fact that Uganda ratified CEDAW in 1985 without reservations and promulgated a gender sensitive Constitution in 1995, amendments to a number of subsidiary laws are still pending and thus the legal framework is still largely discriminatory against women, particularly in marriage and family life. In addressing this challenge, the Report advocated for the need to strengthen the legal framework through law reform. The SDIP lays down plans for para-legal education and sensitization of communities about women's legal rights.³⁵⁷

Another challenge to gender mainstreaming is the skills gap. There is still a need to strengthen gender-planning capacity through training of planners and implementers of gender issues. The National Gender Policy of 1997 implores sectors to address gender issues by carrying out gender analysis of sectoral and local government budgets. In the light of the foregoing, the government put in place national institutions for the advancement of women since action does not happen spontaneously without being engineered by specialized bodies and skilled personnel.³⁵⁸

³⁵⁶ Kakooza and Kawuma., op cit n 36 at p 130 at par 9.6.2

³⁵⁷ Uganda Beijing Report., op cit n 291 at p9

³⁵⁸ Ibid

Among Uganda's priority programmes dedicated to the advancement of women and protection of their rights are the National Association of Women's Organisations in Uganda (NAWOU), the Uganda Law Reform Commission, a constitutional body; the National Women's Council, a statutory organ for the mobilization of women from grassroots to national level; the Uganda Human Rights Commission, a constitutional body established in terms of Article 51-58 of the 1995 Constitution; the Uganda Gender Forum, one of the mechanisms for the coordination of gender mainstreaming in Uganda and the Ministry of Gender, Labour and Social Development.³⁵⁹

4.3.2. South Africa

4.3.2.1. Brief background

After being democratically elected to power, in his first state address on 21 May 1994, President Nelson Mandela said "freedom cannot be achieved unless women have been emancipated from all forms of oppression"³⁶⁰. He further stressed that "all of us should take on board that the objectives of the Reconstruction and Development Programme will not be realized unless we see in visible practical terms that the conditions of women in our country have radically changed for the better and that they have been empowered to intervene in all aspects of life as equals with any other member of society." One of the post 1994 developments was the repealing of all discriminatory laws based on, amongst others, race and gender since women especially those of the black race suffered from the triple curse of patriarchy, racial and gender discrimination.³⁶¹

Another development was the enactment and adoption of the Constitution of the Republic of South Africa of 1996 as the supreme law of the country, which guarantees

³⁵⁹ Uganda Beijing Report., op cit n 291 at p9

³⁶⁰ Authorstream., Post 1994 Developments., Dawn of the Era of Democracy., p3.

[www.authorstream.com/Presentation/Renzo-39247-South-Africa-UNIFEM-WOMENS-STRUGGLE-POST-APARTHIED-REVIEW-INTRODUCTION-\(in-Education-ppt-powerpoint](http://www.authorstream.com/Presentation/Renzo-39247-South-Africa-UNIFEM-WOMENS-STRUGGLE-POST-APARTHIED-REVIEW-INTRODUCTION-(in-Education-ppt-powerpoint) Accessed on 16/03/2009

Further see The Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 was promulgated to ensure emancipation of women in this regard.

³⁶¹ Authorstream., Post 1994 Developments., op cit 360 at p3.

political rights³⁶² in the Bill of Rights for every citizen. Although section 19 is general in its approach, the phrase 'every citizen' includes women and thus assures them of the right 'to stand for public office and if elected, to hold office.'

In the quest for the realization of the above Constitutional right, the ANC made a point of appointing women to powerful public positions in order to address the gender inequalities in politics and 40 per cent of the 2004-2008 provincial premiers were women. To be more specific, prior to the general elections which were held on the 22 April 2009, in the National Assembly 111 seats (27.74%) out of 400 seats were occupied by women in 1994 - 1998; in 1999, 120 seats (30%) out of the 400; in 2004, 131 seats (32.75%) out of 400 total seats at the National level were occupied by women and as per 2009, 172 seats out of the 400 are occupied by women.³⁶³ This is a superficial increase in the representation of women in politics.

Below are the developments after the fourth democratic elections that were held on the 22 April 2009 as per women's participation in South African politics at the provincial and national level, which ultimately raised South Africa from the seventeenth to the third place of women representation in politics globally.

4.3.2.2. Women Parliamentarians at Provincial Level

South Africa is next to Sweden, in second place with 47 per cent and Rwanda in first place with 56 per cent of women representation at all levels. The ruling party, the Africa National Congress, did not only split some Ministries to create separate offices but further introduced new Ministries in government such as the Ministry for Women, Youth and People with Disabilities and ensured that women head 45 per cent of the ministries therein. Below are the details of Ministries headed by women at both provincial and national level;-

³⁶² Sec 19 of the Constitution of South Africa

³⁶³ Reported by EISA on Promoting Credible Elections and Democratic Governance in Africa., Women's Representation in the National Assembly in South Africa., May 2009.

www.eisa.org.za/WEP/souwomenrepresent.htm . Accessed on 08/06/2009

Following the 2009 general elections, at provincial level women's representation increased from 30 per cent to 43 percent and 48.3 per cent of the ANC seats at the provincial level are occupied by women. Notably, none of the provinces had less than 35 per cent of women representation with the lowest being 36 per cent in KwaZulu-Natal and in the Western Cape province, and the highest being Limpopo province with 53 per cent of women in the provincial legislature.³⁶⁴ The Times News paper reports that 5 out of 9 provinces in South Africa are led by female premiers who were inaugurated on the 6th May 2009: Ms.Helen Zile, Premier for the Western Cape; Ms.Nomvula Mokonyane, Premier for Gauteng; Ms.Hazel Jenkins Premier for the Northern Cape; Ms.Maureen Modiselle Premier of North West; and Ms.Noxolo Kiviet, Premier for the Eastern Cape. Two of the opposition political parties are led by women: Helen Zile and Patricia de Lille, leading the Democratic Alliance and the South African Independent Democrats respectively.³⁶⁵ This 13 per cent increase of women representation at the provincial level is an indication of progress and commitment to the 50 per cent target of women representation by 2015.

4.3.2.3. Women Parliamentarians at National Level

After the general elections on 22 April 2009, women's representation at national level went up from 34 to 45 per cent. The ANC, the current ruling party, achieved 49.2 per cent of women representation at the National level. Specifically, 12 Ministries in the present cabinet are headed by women and further more, 6 ministries have women as deputy ministers.³⁶⁶ This 11 per cent increase in women's representation at national level is an indication of progress and thus advancement of women's political rights. Notable is the Ministry of Women, Youth and People with Disabilities which is headed by Ms. Noluthando Mayende Sibiyi.³⁶⁷ The decision by the government to establish this ministry is a major step in the advancement of gender transformation and the empowerment of women and it is a direct result of the women's struggle for their rights on the 9th August 1956 which was demonstrated through a match. In memory of this

³⁶⁴ Loudon, B., Women March Forward in South African Parliament., The Australian, 5 May 2009. Also see EISA South Africa on Women's representation quotas. www.eisa.org.za/WEP/saquotas.htm

³⁶⁵ Mkhabela, M., The Times., 6 May 2009. www.thetimes.co.za/news/Articles.aspx

³⁶⁶ Staff Reporter., Zuma's New Cabinet., The Times on 10 May 2009. www.thetimes.co.za/News/Article.aspx

³⁶⁷ Staff Reporter., Zuma's New Cabinet ., op cit n 365

struggle, South Africa celebrated the 53rd National Women's Day on the 9th August 2009.³⁶⁸

In my considered opinion, the splitting up of existing ministries into separate ones and the creation of new ones by the ANC has helped to put women in the limelight since many have been appointed to senior positions in government. Accordingly, this increase is a remarkable feat for women in a traditionally male-dominated country like South Africa and it truly portrays the Government's commitment to achieving and exceeding the 50 percent target by 2015 which is set by the SADC Protocol on Gender and Development. Nevertheless, caution should be taken against stereotypical men who are always lobbying for senior positions in parliament. Furthermore, support should be given to women parliamentarians to ensure that their positions are maintained thus advancing women's political rights.

4.3.2.4 Challenges to gender main-streaming in South Africa and actions to remedy and address them

Although the Gender Policy Framework is concerned with gender, it is largely focused on women's issues and their empowerment. It states that policy and decision-makers still need to draw distinctions between gender issues and women's issues until women and men have equality of opportunity with respect to access to control and decision-making in the economy to the provision of services, to the sharing of resources and employment and to fair treatment. The Gender Policy Framework is premised on the view that gender equality cannot be attained without women's participation in all spheres of life.³⁶⁹

The statistics on gender and the economy show that women, especially black women have low access to paid employment and most of them earn lower incomes. Most black women are found in poorly paid domestic labour and micro-enterprises which do not offer job security. Although gender discrimination has been removed from labour laws, this has not been sufficient to achieve equality in women's participation in the

³⁶⁸ Nkwali, S., The Times., New Ministry Great for Women., 11th August 2009. www.thetimes.co.za/News/Article.aspx?id=1047655

³⁶⁹ The Office on the Status of Women., op cit n 314

labour force. This is because opportunities in the labour market are accessible to the skilled, educated and trained. Consequently, these requirements are a major hindrance to women's advancement economically based on the fact that the majority of women in rural areas are illiterate. In order to remedy the afore-mentioned, the National Gender Policy Framework contains an analysis on the progress of the implementation of the Beijing critical areas of concern particularly, gender equality, women and decision making and women and the economy.³⁷⁰

The South African government's review report regarding implementation of Beijing+10 in 2005 showed that the Multi Plan Implementation Strategy for Adult Education and Training there has been an increase in women's literacy rate especially those living in rural communities. Such national programmes include the South African National Literacy Initiative (SANLI).³⁷¹

4.3.2.5 Gender Gaps in South Africa

The South African White Paper on Affirmative Action in the Public Service defines affirmative action in the 'employment environment as a specific programme designed to halt the continuation of discriminatory policies and practices in the workplace and to overturn the imbalances that they have created.'³⁷² In order to transform the public service, the national executive set out targets in 1998 to increase the percentage of women at management level in the public sector from 13 per cent to 30 per cent by 1999, thus the gap that had to be filled was 17 per cent. The percentage of women at senior management level was 30.5 per cent in 2005 and 33 per cent in 2007 with a target of 50 per cent by 2009.³⁷³ During a meeting held by the Public Service sector on 6 May 2008, the then Minister for the Public Service, Ms Fraser Moleketi firmly stated that she believed that the 50 percent target could be reached by March 2009.³⁷⁴ From the discussion under paragraphs 4.3.2.2 and 4.3.2.3, although the 50 per cent target of women's representation in politics was not reached, the efforts that were made towards

³⁷⁰ South Africa's National Policy Framework for Women's Empowerment and Gender Equality., op cit n 360

³⁷¹ The Office on the Status of Women., op cit n 314

³⁷² <http://www.ipma-hr.or/pdf/sa/7-AAPowerpointpresentationSquire.ppt> (06/05/2009)

³⁷³ http://209.85.229.132/search?q=cache:mhDRI_eMvKJ:www.kwazulunatal.gov.za/HR (06/05/2009)

³⁷⁴ Warby, V., BuaNews (Tshwane) <http://allafrica.com/stories/200805061052.html> (06/05/2009)

meeting this target are laudible and it is highly anticipated that this target will be reached by 2015.

During the Report Back Meeting to the National Gender Machinery, Commission on the Status of Women, the former Minister in the Presidency, Dr. Manto Tshabalala-Msimang gave an address stating that although the SADC parity target of 50 percent by 2015 in political levels was firmly being achieved, there remained a greater challenge for the country regarding “representation of women in decision-making levels in the Private Sector, business and in civil society organizations in general.” She specifically highlighted the pending tasks at the time among which were “women’s empowerment and gender equality” and the need to “compile the directory of funds available for women’s empowerment.”³⁷⁵

4.4. Summary

This Chapter has unpacked the endeavors that African Countries have made, in particular Uganda and South Africa, to ensure the progression of women’s political and economic rights at regional, sub-regional and national levels. Although Uganda does not have as many pieces of legislation as South Africa does with regard to the protection of women’s economic rights, her Constitution contains specific protection in this regard. Accordingly, these efforts to domesticate international instruments have contributed to the advancement of women’s rights.

In the next Chapter, we will provide our summary, conclusions and recommendations emanating from this study.

³⁷⁵ Msimang, M.T., National Gender Machinery Meeting., 4 May 2009

<http://www.info.gov.za/speeches/2009/09050413151001.htm>

CHAPTER FIVE: CONCLUSIONS AND RECOMMENDATIONS

5. 1. Introduction

This Chapter presents the conclusions and summary of the study while paying attention to the achievements and challenges to women's advancement in South Africa and Uganda. It also provides recommendations to the non- governmental organizations, relevant stakeholders and governments of the two countries forming the basis of this case study on measures that could be adopted to increase women's participation in the political and economic spheres.

5.2 Summary of the Study

Chapter One is the introductory chapter to this study. It laid down the problem statement, the aims and objectives of this study and also carried out a brief review of existing literature on women's rights. The problem statement that was raised under this Chapter has been addressed in the subsequent chapters as summarized below.

International developments and programmes as discussed in Chapter Two of this study have played and are still playing, a cardinal role in advocating for the advancement of women's political and economic rights. Notable also is the commitment of the United Nations to the Beijing Declaration and Platform for Action through holding World Conferences on Women after every five years to review the progress on the implementation of the BPFA. Despite the efforts of the United Nations, governments are in a better position to realize the implementation and rolling out of the said developments and programmes.

Chapter three illustrated the efforts of the African Union to advance women's rights through the domestication of international conventions and adoption of new ones such as the Protocol on Women's Rights in Africa. At the national level, initiatives have been demonstrated through the use of affirmative action to advance women's rights. Affirmative action in favour of women as part of the previously disadvantaged groups of people did contribute to these positive changes. Although women still find themselves

having to contend with patriarchal and stereotypical tendencies in many African societies including Uganda and South Africa, the two countries should be applauded for enacting legislation and adopting institutions based on affirmative action in favour of women.

Chapter Four brought the readers' attention to the legislative measures that were adopted by South Africa and Uganda in advancing women's political and economic rights, the challenges to this advancement as well as the actions that have been taken in order to remedy them. Particularly, it has been pointed out that employers are obliged to protect women employees as specifically provided by Article 40(4) and Article 33(4) of Uganda's Constitution of 1995. However there is still a gap between policy and practice.

This study has brought attention to the efforts that have been adopted by the international community, the African region and individual countries to advance women's political rights through institutional developments, legislative measures and quota systems. However I am of the view that women's participation in the African political arena is greatly affected because there is very little support mechanism from both government and civil society for women at community level to take part in local and community leadership positions. The governments that have endeavored to build capacity for women in politics concentrate their efforts on supporting women at the national level and this has been illustrated by the discussions at national level in Chapter Three and Four of this study.

5.3 Conclusions

The purpose of this study, as highlighted in Chapter One, was to lay out the extent to which modern society has gone in realizing women's political and economic rights through the international and regional arrangements set by the United Nations Organisation. In response to this question, the study discussed the various measures that have been adopted by the African region through its Platform for Action, regional and sub-regional Protocols on women's rights as well as legislative and institutional developments at national level.



Despite the progress in women's political rights in Africa and particularly South Africa and Uganda, this study has shown that the majority of African States are still lagging behind with regards to women's economic rights. From an economic point of view, South Africa should be applauded for implementing the Broad-Based Black Economic Empowerment policy where black women through affirmative action get to senior-executive positions in management of business enterprises. Although Uganda does not have a separate legislation aimed at advancing women's economic rights, the government should be credited for specifically addressing women's rights in the 1995 Constitution.

The challenge nevertheless is that many companies take advantage of this process by appointing women into senior and executive positions in order to merely obtain points for funding from the government whereas the decisions that have a bearing on the business enterprise are actually made by men. Such practices undermine the authority of the women in these senior and executive positions, thus insinuating that women are less effective and not tough enough.

From a political point of view, the study has brought our attention to the fact that women's political advancement has been made at the higher level and not at the lower where the majority of women are.

On the other hand, we cannot ignore the fact that sometimes women become stumbling blocks against fellow women due to selfishness and jealous based on outward appearances and achievements. Such unwarranted rivalry has also hindered the progress and advancement of women in the political and economic spheres. Therefore this study is a call to all such women to support and uplift one another so that we do not hinder our own progress in a generally male-dominated world. Let this transformation begin with us women so that all enemies to advancement of our political and economic rights will not have any loop hole to break through our solidarity.

Although the quest for the advancement of women's economic and political rights threatens patriarchal and stereotyped tendencies in society, men ought to accept the multiple abilities in women and stop hindering them from pursuing their aspirations in

economics and politics. I am of the view that women in all societies should be given a chance to exploit their abilities and potentials in economic leadership and political decision making.

5.4 Recommendations

In light of the above mentioned challenges, it is recommended that African States should reform their laws and promulgate more legislation that is aimed at protecting women's rights and advancing them in the political and economic arenas. The fore-going recommendation is particularly directly at the Ugandan government. Although the country has a comprehensive Constitution, legislation is necessary to give effect to the provisions in the Constitution especially regarding women's economic and political rights.

There has been undoubtable progress in women's participation in politics and decision-making. However, it is submitted that allowing women to participate at the local level will better groom them to manage and be effective at the national level since they will be having first hand knowledge of women's concerns at the community level and thus address them. It is my considered recommendation that woman should be given training at all levels of government in order to polish their potentials and abilities in politics and economics.

It has already been mentioned in the conclusion that women are still lagging behind with regard to economic development. The African Union should call on all its member states to focus on emancipating women economically through public awareness, taking into cognizance of women's contribution to economic development and putting in place annual 'gender budget initiatives' for women's economic advancement.

Despite all the afore-mentioned recommendations, it is considered that the advancement of women's economic and political rights will require more than international and regional awareness of gender issues, governments' will and law reform. This is because it is one thing to have legislation and institutional mechanisms for women's advancement in place, but it is another thing to align peoples' mind sets with the provisions of such legislation and mechanisms. Hence, the real transformation

has to commence with a change of stereo-types and the deep rooted attitudes that are used to weigh down women particularly in the home and at the workplace. Although a family is the smallest unit of any community, if all men would perceive women as their equals and not as less equals and carry the same attitude to the workplace, then there would be a dramatic realization and advancement of women's political and economic rights.

LIST OF REFERENCES

1. BOOKS

Balshaw, T., et al, (2005) *Cracking Broad-Based Black Economic Empowerment*. Cape Town: Human & Rousseau Publishers.

Fox, D.J., et al, (1999) *Women's Rights*. Lewiston, New York: Edwin Mellen Press.

Jagwanth, S., et al, (eds) (1994) *Women and the Law*. Pretoria: HSRC Publishers.

Murray, C., (ed) (1994) *Gender and the New South African Legal Order.*, Cape Town., Juta.

Museveni, Y.K., (1996) *Sowing the Mustard Seed: The Struggle for Freedom and Democracy in Uganda*. London: MacMillan.

Nel, F., and Bezuidenhout, J., (1997) *Policing and Human Rights*. 2nd edition., Cape Town., Juta.

Gutto, B.O.S.,(2001) *Equality and Non-Discrimination in South Africa*. Claremont: New Africa Books.

Smith, R.K.M., (2005) *Textbook on International Human Rights*.(2nd edition) New York: Oxford University Press.

Venter, A., et al, (eds) (2006) *Government and Politics in the New South Africa*. (3rd edition) Pretoria: Van Schaik Publishers.

2. ARTICLES IN JOURNALS

El Obaid, E.O.A., Universalism and Cultural Relativism., 18 June 2004

Johan, D.V., et al, (1998) *Buffalo Human Rights Law Review*. (vol. 4) New York: State University of New York.

Preis, A.S., (1996) *Human Rights as Cultural Practice: An Anthropological Critique.* Human Rights Quarterly., Volume 18.

University of Minnesota and the Human rights Resource Centre., *Circle of Rights, Economic, Social and Cultural rights Activism., A Training Resource.,* Module 4

3. WEBSITES

http://en.wikipedia.org/wiki/Women_in_Uganda

<http://hauchen.org/english/issues/poverty/docs/A.HRC.Sub.1/58/SF>

Http://hdr.undp.org/en/reports/global/hdr_2000

<http://Indiaction.org/node/280>

<http://www.africa-union.org/Conferences/2006>

<http://www.africa4womensrights.org/tag/MaputoProtocol>

<http://www.avoncompany.com>

<http://www.awepon.org>

<http://www.cwgl.rutgers.edu/globalcenter/whr.html>

<http://www.iheu.org/node/2439>

<http://www.interconnection.org/umwa/text.htm>

http://www.peacewomen.org/resources/Economic_Rights/Amid_Eco_Rights.pdf

<http://www.peace.ca/affundraising.htm>

<http://www.unifem.org>

<http://www.un.org/conferences/Women/PubInfo/status>

<http://www.un.org/womenwatch/daw/csw60YRS/index.htm>

http://www.un.org/womenwatch/directory/ecosoc_10537.htm

http://www.un.org/womenwatch/directory/general_assembly-10534.htm

http://www.un.org/womenwatch/directory/UN_entities_10.htm

<http://www.uwonet.org/policy.hei>

http://www.Women's_Human_Rights_in_Africa.htm

<http://www.wougnet.org/profiles/lawu.html>

<http://www1.umn.edu/humanrts/edumat/IHRIP/circle/modules/module4.htm>