DOI: https://doi.org/10.67203/abulj.2016.lnmqb4ug

WOMEN'S HUMAN RIGHTS AND THE CONFLICT IN NORTH EAST NIGERIA: ASSESSMENT OF THE EFFICACIOUSNESS OF THE UNSCR 1325 AND THE NATIONAL ACTION PLAN (NAP)

By

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ABSTRACT

Girls and women have been the most vulnerable in the protracted conflict by the insurgency in the North East of Nigeria.[1] With over 1.9 million displaced,[2] cases of abduction[3] rape[4], and exploitation[5] of girls and women as suicide bombers,[6] very few research still focus on the gendered impact of the conflict.[7] While most analysis on armed conflict demonstrates its complicated nature[8]; this paper intends to show how conflict manifests in several dimensions to maintain inequalities, aggravates anguish, supports discrimination, exclude women and girls, and further limits enjoyment of human rights. In doing this, the paper seeks to assess how the United Nations human rights protection instrument on Women Peace and Security, UN Security Council Resolution 1325 adopted in 2000 a human rights framework, has found expression in addressing conflict as a result of insurgency in Nigeria. The paper will also review the extent to which the integration of these norms

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[1] IDMC, Nigeria: multiple displacement crises overshadowed by Boko Haram, *www.internal-displacement.org/.../nigeria/.../nigeria-multiple-displacement-crises-over. Downloaded on the 25th November 2016*

[2] IOM Highlights Humanitarian Needs of 2.4 Million Displaced in ... https://www.iom.int/.../iom-highlights-humanitarian-needs-24-million-displaced-north...downloaded on the 16th November 2016

[3] Violence Affecting Women & Girls First Quarter Report, 2015 (Feb 2015), Relief web, http://reliefweb.int/report/nigeria/violence-affecting-women-girls-first-quarter-report-2015d downloaded 16th November 2016. Amnesty international reports in 2015 that at least 2,000 women and girls have been abducted by Boko Haram since the start of 2014 and many have been forced into sexual slavery and trained to fight.The most prominent being the kidnapping of over 200 girls from Government secondary school Chibok,Borno State on the night of 14th April 2014. https://www.amnesty.org/en/latest/news/2015/04/nigeria-abducted-women-and-girls-forced-to-join-boko-haram-attacks/

[4] Nigeria: Officials Abusing Displaced Women, Girls | Human Rights ...https://www.hrw.org/news/2016/10/.../nigeria-officials-abusing-displaced-women-girl downloaded on the 25th November 2016

[5] ibid

[6] In January 2015, it was reported that a 10-year old girl blew herself up in a busy market in Maiduguri, killing 20 people including herself. In February, a girl believed to be as young as seven detonated her bomb at a Sunday market in Potiskum, killing herself and seven others, and injuring 42. http://reliefweb.int/report/nigeria/rising-trend-female-suicide-bombers-nigeria http://punchng.com/female-suicide-bombers-behind-maiduguri-attack/ . In total, it was estimated that over 70 lives were lost in October's suicide attacks. Violence Affecting Women and Girls in Select Nigerian States Monthly Memo #18 – October 2015 Data http://www.nsrp-nigeria.org/wp-content/uploads/2016/01/VAWG-Monthly-Report-18-October-Final.pdf downloaded on the 22nd November 2016

[7] Amani El Jack, 'Gender and Armed Conflict Overview Report' (Institute of Development Studies, 2003) p. 8 (downloaded on the 15th September 2010 from http://konsnet.dk/multisites/konsnet/images/konsnet/pdf/CEP-Conflict-Report.pdf).

[8] Fionnuala Ni Aolain, Dina Francesca Haynes, and Naomi Cahn, 'On the Frontlines: Gender, War, and the Post-Conflict Process' (Oxford: Oxford University Press, 2011) p. 28.

through the National Action Plan in Nigeria has supported gender justice and addressed the gender complex dimension of conflict. The paper argues that Nigeria is under the obligation to take positive steps in ensuring that women and girls are protected from any form of violence and that they are not restricted in participating in measures that can address the conflict that is determining their life choices. This paper argues that Nigeria needs to do more to protect women's rights now and in future at post conflict.

1.1 Introduction

The protracted conflict in the North East Nigeria activated by the insurgents, has led to loss of lives, properties and severe abuse of human rights. As a result of this, several people have been displaced, more than 20,000 have been killed with uncountable women and girls, suffering one form of abuse or the other including abductions, rape, other sexual violations, including those relating to violations of international humanitarian and human rights law.[9]

The conflict has deepened and contributed to social exclusion as well as increased rural poverty, illiteracy and exposed more women and girls to life threatening risks, higher maternal mortality and suffering that cannot be quantified.[10] OCHA report shows that

> 'in Adamawa, Borno, Gombe and Yobe states up to 15 million people are directly affected; with 7 million in need of humanitarian assistance, more than 50 per cent of whom are children. In newly accessible areas, up to 800,000 IDPs and vulnerable host populations are in critical need of humanitarian interventions including food, water, sanitation, protection, education, shelter and health services.'[11]

Several women and girls face displacement and are subjected to living their lives in the Internally Displaced Camp, with recent report showing that they experience sexual violation and exploitation by co-residents and in some cases government forces meant to protect them.[12]

Most of the burden of care that comes with conflict is borne disproportionately by women, making them the most affected in conflict situations. Destruction of homes, displacements often have effect on women, even when it removes them from the formal

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[9] About Crisis http://www.unocha.org/nigeria/about-ocha-nigeria/about-crisis downloaded on the 9th November 2016.

[10] Patricia Taft, (2015) Fund for Peace, Violence Affecting Women & Girls First Quarter Report; http://reliefweb.int/report/nigeria/violence-affecting-women-girls-first-quarter-report-2015

[11] See note 9 above

[12] Nigeria: Officials Abusing Displaced Women, Girls Displaced by Boko Haram and Victims Twice Over https://www.hrw.org/news/2016/10/31/nigeria-officials-abusing-displaced-women-girls **downloaded on the 5th November 2016**

conflict sites, social uprooting and economic loses of dislocation are example of harms which women suffer disproportionately in conflict situation.[13]

Kidnapping and abduction of women and children seems a strong tool for the insurgents, as an estimated 200,000 women and girls have been abducted. Amongst the abductee are wives and children of soldiers in Military Barracks in Bama, Borno State and the abduction of schoolgirls in Chibok and other unnamed abductees.[14]

A research showed that in the States that have been under attack by the insurgents "Majority of the schools have been closed indefinitely while most primary and secondary school teachers working in affected areas had escaped during series of attack on their communities."[15] In the same report "many respondents agreed that, "Teaching and learning processes cannot be properly conducted in an unsafe school environment as most education officers in the region were currently out of their states for safety."[16]

Unfortunately, until recent, response to this challenge that has made schools unsafe and insecure for children in the North East of the country has been mostly gratuitous and therefore not sufficient. As at 2014, interventions from CSOs, development agencies and other humanitarian bodies were less than desirable and in some cases tentative.

> Only a handful of international actors work in the emergency states because of security concerns. Local non-governmental organizations (NGOs) and government entities lead efforts to assist survivors of attacks but, because of capacity constraints, security concerns, and poor infrastructure within the emergency states, many people affected by the conflict have limited access to services. The hundreds of thousands displaced by the conflict are largely invisible to key authorities and often seek refuge and support from overextended host communities. Furthermore, a lack of formal child protection in emergencies expertise, among humanitarian and government actors, is hindering the response.[17]

A major concern is lack of preventive measures that promote proactive steps to prevent attacks on schools or provide protection in the face of impending attack. In a footage attributed to the insurgents in May 2013, the insurgents alleged that one of the reasons for their abduction of women and girls was to retaliate against the government for its alleged

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[13] Ruth Rubio-Marin, ed. *The Gender of Reparations: Unsettling Sexual Hierarchies While Redressing Human Rights Violations*, (New York: Cambridge University Press/International Center for Transitional Justice, 2009) p52

[14] Nigeria: Victims of Abductions Tell Their Stories, *https://www.hrw.org/news/2014/10/27/nigeria-victims-abductions-tell-their-stories* downloaded on the October 27, 2014 12:01AM,

[15] Fatima Mohammed Joda & Olowoselu Abdulrasheed (March 2015) "Effects of Insurgency on Girls Education in North Eastern Nigeria". *European Journal of Education and Development Psychology* Vol.3, No.1, pp.48 http://www.eajournals.org/wp-content/uploads/Effects-of-Insurgency-on-Girls-Education-in-North-Eastern-Nigeria.pdf Assessed, 27/10/2014 12:01AM

[16] Ibid

[17] "Who will care for us?" Grave Violations against Children in North Eastern Nigeria (Sept 2014) WATCHLIST on Children and Armed Conflict pg 6

detention of their family members, including the wives of the group's leaders and also to punish students attending Western Schools; and to forcefully convert Christian women and girls to Islam.[18] According to Amnesty International, these acts constitute crimes against humanity and war crimes as prescribed by the Rome Statute.[19]

These recent development in humanitarian law jurisprudence has contributed to a broader understanding of the impact of armed conflict on women. It has supported the integration and redefinition of some specific gender and sexual crimes based on women's experiences of war, as demonstrated in the laudable decisions of international tribunals and special or hybrid criminal courts.

In response to addressing the complexity arising as a result of conflict by insurgents and in other parts of Nigeria, the country adopted, UN Resolution 1325[20] and 1820[21]. The United Nations Security Council adopted Resolution 1325 in October 2000 and 1820 followed by three other peace and security resolutions (1888[22], 1889[23] and 1960[24]) as the legal framework to guide gender, peace building and post-conflict reconstruction processes globally. In furtherance of this goal, in 2002 the Secretary General of the UN enjoined State Parties to adopt National Action Plan (NAP)[25] to support the implementation of UNSCR 1325 in regional and national peace building agendas. Presently the NAP is been implemented in several countries, which include, Nigeria.[26] The integration of the National Action Plans in the country is significant, given the enormous damage suffered as a result of several conflict situations in Nigeria.

The National Action Plans (NAP) was adopted in Nigeria in 2014, to aid the implementation of United Nations Security Council Resolution 1325. NAP promotes the inclusion of women in the process of peace building, peace keeping, conflict resolution and management in Nigeria. Acknowledging the heavy price paid by Nigerian women in the long and violent conflicts that have been ravaging the country, including women enduring unprecedented levels of sexual violence and assault, along with related HIV infections, involuntary pregnancies and health complications as a result of abuse, NAP

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[18] Human Rights Watch Report 2014 Report 'Those Terrible Weeks in their Camp" Boko Haram Violence against Women and Girls in Northeast Nigeria' accessed at http://www.hrw.org/sites/default/files/reports/nigeria1014web.pdf page 4 "VIDEO: Boko Haram leader 'Imam Abubakar Shekau' Message to President Jonathan," Sahara Reporters, January 12, 2012; "New Video|Boko Haram leader 'Imam Abubakar Shekau' Message to President Jonathan 2," January 11, 2012, "Nigeria Islamist video claims attacks, shows hostages" YouTube Video, May 13, 2013, http://www.youtube.com/watch?v=n6qZM36oq8E accessedSeptember10,2014.

[19] Amnesty International Report *'Our Job is to Shoot, Slaughter and Kill' Boko Haram's Reign of Terror in Northeast Nigeria* Amnesty, April 2015. Page 19.

[20] UN Security Council, Res. S/Res/1325/2000, 31 October 2000 (hereinafter referred to as UNSCR 1325)

[21] UN Security Council, Res. S/1820/2008, 19 June 2008 (hereinafter referred to as UNSCR 1325)

[22] UN Security Council, Res. S/1888/2009,22 November, 2006 (hereinafter referred to as UNSCR 1888)

[23] UN Security Council, Res. S/1889/2009, 5 October, 2009 (hereinafter referred to as UNSCR 1889)

[24] UN Security Council, Res. S/1960/2010, 16 December, 2010 (hereinafter referred to as UNSCR 1960)

[25] Security Council 'Statement by the President of the Security Council att the 4641st meeting of the Security Council, held on 31 October 2002' S/PRST/2002/32

[26] Peace Women 'List of National Action Plans- National Implementation '–*www.peacewomen.org/naps/list-of-naps*

seeks to provide voice to ensure participation of women and protection from further abuse.[27]

Recognising the impact that sexual violence in conflict has on the maintenance of peace and security, the Security Council adopted Resolution 1820, which explicitly links sexual violence as a tactic of war with women peace and security issues. Security Council Resolution1820 reinforces Resolution 1325 and highlights that sexual violence in conflict constitutes a war crime and demands parties to armed conflict to immediately take appropriate measures to protect civilians from sexual violence, including training troops and enforcing disciplinary measures. Nigeria NAP is a combination of the intents and aspiration of both UNSCR 1325 and 1820.

1.2 Global Perspectives on Gender and Armed Conflict:

A growing body of literature produced in the 1990s, provided the background for a broad intervention, which responded to the voices and experiences of women in conflict.[28] The identities of women in conflict were reconfigured; they were seen not only as passive actors in war and post-conflict reconstruction, but also victims, actors and perpetrators.[29] Feminist writers, particularly Mackinnon,[30] Copelon,[31] and Enloe,[32] amongst others, challenged women's exclusion in early war discourse, observing that the neglect of gender discourse in war is a compromise affected by both state and international actors who propagate the old patriarchal order by down-playing the differentiation that exists in times of war.[33] In their compilation, '*What women do in wartime*',[34] Turshen and Twagiramariya argue it is intolerable to maintain the innocence of women in armed conflict. Early feminist analyses described the war from a male perspective, showing conventional patriarchal institutions where the military is male and its activities are too.[35]

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[27] National Action Plan for the Implementation of UNSCR 1325 and Related Resolutions in Nigeria, 2014 Page 6 National Action Plan on Women, Peace and Security launched | NSRP www.nsrp-nigeria.org/.../national-action-plan-on-women-peace-and-security-launche downloaded 25th November 2016

[28] Dyan Mazurana, Susan R. Mckay and International Center for Human Rights and Democratic Development, 'Women in Peace Building ' in Essays on Human Rights and Democratic Development, No 8 (Montreal: International Center for Human Rights and Democratic Development [ICHRDD] 1999 , See also Human Rights Watch 'Leave No One to tell the Story: Genocide in Rwanda(New York HRW 1999), Meredeth Turshen and Clotilde Twagiraamariya, *What women do in wartime: Gender and Conflict in Africa* (London: Zed Books, 1998).

[29] Meredeth Turshen and Clotilde Twagiraamariya, (1998) p. 2.

[30] Catherine A. Mackinnon, 'Crimes of War, Crimes of Peace,' in Stephen Shute et al., *Human Rights: The Oxford Amnesty Lectures 1993* (New York: Basic Schools, 1993).

[31] R. Copelon, 'Gendered War Crimes: Re-conceptualizing Rape in Time of War,' in J. Peters and A. Wolfer (eds.), *Women's Rights Human Rights* (New York: Routledge, 1995).

[32] C. Enloe, 'Feminist thinking about war, Militarization and Peace,' in Susie M. Jacobs, Ruth Jacobson, & Jen Marchbank, *States of Conflict: Gender, Violence, and Resistance* (London: Zed Books, 2000), p. 49

[33] See 'Foreword' in Robin M. Chandler, Lihua Wang and Linda K Fuller (eds.), *Women, War and Violence, Personal Perspectives and Global Activism*, (New York: Palm grave Macmillan, 2010), p. vii.

[34] See generally profiles women testimonies in Meredeth Turshen and Clotilde Twagiraamariya, *What women do in wartime: Gender and Conflict in Africa* (London: Zed Books, 1998),

[35] C. Enloe, *Does Khaki Become You? The militarization women's lives* (East Lansing, MI: South End Press, 1983), cited in Turshen & Twagiraamariya,(1998), p. 6.

In modern civil war, the experiences shared across Africa show that 'women are also combatants; women resist, fight back, they take sides, and fight amongst themselves'.[36]

Moser and Clark, meanwhile, focus attention on the agency and identity of women and men throughout violent conflict.[37] Moser proposes a framework identifying four causal factors at four different levels: 'structural, institutional, interpersonal and individual',[38] which are cross-cut by gender. This analysis is useful to understanding the agency involved in different forms of violence, and the causes of and responses to conflicts. Moran's recent contribution demonstrates that since the Cold War, new ideas about the way masculinity and femininity change during war and mobilise gender in different ways have emerged.[39] The shift in the discourse is critical, because without due consideration of this redefinition of gender roles in conflict, post-conflict reformulation will continue to marginalise women.

Likewise, Gardam and Jarvis's work stems from the belief that armed conflict exacerbates gender inequality; they establish that endemic discrimination is one of the most significant factors leading to disproportionate impacts from armed conflict.[40] While this is true, Leatherman opines that the causes and manifestations of gender inequality can be located within a social construction, which varies across cultures;[41] furthermore, the perception of victims in armed conflict may differ, and this may impact on how they are treated.[42] In the context of war, women are not homogeneous. Experiences from warring societies show that situation and effect of conflict on women are never the same, for example; women with access to wealth may negotiate their freedom during conflict.

Sharoni assesses the gender biases in the context of Middle East conflicts;[43] Clarke analysis African postwar responses and feminist interpretations;[44] and Goldblatt and Meintjes look at the legacy of political and sexual violence in apartheid South Africa, and women's efforts in post-conflict reconstruction processes.[45] Meinjtes, Pillay and Turshen's work shows that how women are treated after the war has implications for their post-conflict transformation and gender justice.[46] The lessons from these analyses are

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[36] *Ibid.*, p. 1.

[37] Caroline Moser and Fiona Clark, *'Victims, Perpetrators or Actors? Gender, Armed Conflict and Political Violence* (London: Zed Books 2001), p. 4.

[38] *Ibid.*, p. 40.

[39] Mary Moran, 'Gender Militarism, and Peace-Building: Projects of the Post Conflict Moment,' *Annual Review of Anthropology* 39 (October 2010), pp. 261-274.

[40] Judith Gardam and Michelle Jarvis, *Women, Armed Conflict and International Humanitarian Law* ((Dordrecht: Kwuler Law International, 2001). p. 36.

[41] Janie Leatherman, *Sexual Violence and Armed Conflict* (London: Polity Press, 2011), p. 10.

[42] *Ibid.* p. 10.

[43] Simona Sharoni, 'Gendered Identities in Conflict: The Israeli-Palestinian Case and Beyond,' *Women's Studies Quarterly* 23:3/4 (1995), pp. 117-135.

[44] Yaliwe Clarke, 'Security Sector Reform in Africa: A lost opportunity to deconstruct Militarised Masculinities?' *Feminist Africa* (2008) Feature Article, p. 49.

[45] Beth Goldblatt and Sheila Meintjes, 'Dealing with the aftermath: sexual violence and the Truth and Reconciliation Commission,' *Agenda: Empowering women for gender equity* **13**: **36** (1997).

[46] Sheila Meintjes, Anu Pillay and Meredeth Turshen, (eds.), *The Aftermath: Women in Post Conflict Transformation* (London: Zed Books, 2002), p. 10.

important for both the investigation of post-conflict efforts in Liberia and Sierra Leone, and the comparative analysis of their transitional justice processes.

The effect of conflict is multifaceted, for instance, more women are heads of households due to demographic change brought on by conflict, and displacement which often leads to shifts in gendered roles and responsibilities for women and men, whereby women also become war-widows and single parents, sometimes resulting in poverty and social marginalisation.[47] Studies conducted in Rwanda and Sierra Leone found sexual favours were often demanded in exchange for food, which led to an increase in the number of women's sexual partners.[48] This exposed them to sexual transmitted diseases. As a result of these violations, women often require important health care needs.[49] Another relevant social problem is HIV/AIDS, a growing epidemic in the midst of armed conflict; many conflicts are raging in areas where HIV infection is already very high. At an International Conference on HIV/AIDS, Stephen Lewis, former UN Ambassador to Africa for AIDS, observed that conflict, violence and the virus go together.[50] Disruption and displacement caused by conflict may lead to changes in sexual behaviours, increases in the rate of sexual abuse (e.g. by armed forces), and other social incapacitation.[51].

Research also shows that domestic violence increases during wartime.[52] Women's experiences in war are multidimensional – they are physically and sexually abused by male spouses who have been humbled because of their guilt and anger at not fulfilling their perceived responsibility of protecting their women.[53] The UN Special Rapporteur on Violence Against Women (VAW) has noted that increased GBV during and after conflict often reflects patterns of violence that existed in the pre-conflict period.[54] Alongside these, armed conflict has other negative effects on women including loss of family members, social position, and other debilitating effects. Scholars allude to the fact that violence in armed conflict may have different effects on men and women, and the position a person occupies in society can also determine the extent to which victims can cope with the disruption that comes with conflict.[55]

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[47] Amani El-Jack, 'Gender Perspective on the Management of Small Arms and Light Weapons in Sudan,' in El-Jack (2003), p. 17.

[48] J.A. Benjamin, 'Conflict, Post-conflict and HIV/AIDS – The Gender Connections: Women, War and HIV/AIDS: West Africa and the Great lakes', Women's Commission for Refugee women and children, presented at the World Bank, International women's day, March 2001 (www.worldbank.org/html/prmge/womensmonth/benjaminic.doc).

[49] Gardam & Jarvis (2000) p. 43.

[50] Lawrence K Altmnan 'UN Official Assails South Africa on its Response to AIDS' The New York Times, August 19, 2006 in Ruth Rubio-Marin, *The Gender of Reparations: Unsettling Sexual Hierarchies while Redressing Human Rights Violations* (Cambridge: Cambridge UP, 2009), p. 53.

[51] Magret Urban Walker 'Gender and Violence in Focus' in Rubio-Marin (2009) p. 53.

[52] Gardam & Jarvis, (2000) p. 30.

[53] El Jack, (2003) p. 21.

[54] Report of the Special Rapporteur on Violence Against Women its Causes and Consequences, Ms Radika Coomaraswaamy, submitted in accordance with the commission on Human Right Resolution 2000/45 on Violence Against Women perpetrated and or condoned by the state during times of armed conflict (1997-2000), E/CN/2001/73

[55] B. Byrne, 'Gender, Conflict and Development', vol. 1: Overview BRIDGE Report 34, Brighton: BRIDGE/Institute of Development Studies (1996).

However, Nesiah contends that how women are presented after war needs to be interogated, arguing that most feminist writing focuses on bodily injury, excluding other critical areas of struggle that can attract post-conflict attention.[56] There is a possibility that feminist transitional justice aspirations will thus become obscured in sexual crimes discourse, omitting the other structural and ideological consequences, like representation, that can expand women's opportunities in transitional justice.[57] Moreover, Nesiah looked at women's internal displacement and forced removal in Peru, Sierra Leone, South Africa, and Rwanda – and the implications of these on women's post conflict reconstruction – arguing that transitional justice mechanisms excluded these critical issues.[58] In a similar vein, Daley's[59] work shows how the multidimensional gender effect of displacement plays out after the war and its implication for women.

Responding to women's needs from a broader perspective will therefore require a human rights culture that supports respect for women's rights and concerns in transitional justice processes. Reilly, in furthering feminist discourse on international law and transitional justice, advocates the potential use of international obligations to support women's human rights and gender integration in defining and developing a more holistic feature of gender justice.[60] Ultimately, she argues that achieving 'gender justice in transitions is inextricably tied to wider bottom-up efforts by women's movements to realize a comprehensive vision of women's human rights within a framework of critically-interpreted, universal, indivisible human rights.'[61] Murray has argued for better response in the protection of women's human rights within conflict framework in Africa.[62]

1.3 United Nation Resolution 1325 on Women Peace and Security

Women have been prominent in peace discourses since First World War.[63] With their efforts leading to the establishment of an International Committee of Women for Permanent Peace in 1919, which later became a platform for women waging peace.[64] The UN Charter designates general duties of peace and security to the Security Council,[65] one of its central organs, empowered by Chapter 7 of the Charter to support military

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[56] Vasuki Nesiah, 'Engendering Transitional Justice' in Sari Kuovo and Zoe Pearson, *Feminist Perspectives on Contemporary International Law* (Oxford: Hart Publishing, 2011), p 147

[57] Sari Kuovo and Zoe Pearson, *Feminist Perspectives on Contemporary International Law: between Resistance and Compliance* (Oxford and Portland, Oregon: Hart, 2011), p.143.

[58] *Ibid.*, p. 149.

[59] Patricia Daley, 'Gender, displacement and social reproduction: Settling Burundi refugees in Western Tanzania,' *Journal of Refugee Studies* 4:3 (1991), pp. 248-266.

[60] Niamh Reilly, 'Seeking Gender Justice in Post-Conflict Transitions: Towards a Transformative Women's Human Rights Approach' *International Journal of Law in Context* 3:2 (2007), pp. 155–172.

[61] *Ibid.*, p. 166.

[62] A feminist perspective on reform of the African human rights system, AHRLJ Vol 1 No 2 2001, *www.ahrlj.up.ac.za/murray-r-2*

[63] Dianne Otto, 'A sign of 'Weakness'? Disrupting Gender Certainties in the Implementation of Security Council Resolution 1325' *Michigan Journal of Gender and Law* 13:1 (2006) pp. 113-175.

[64] Dianne Otto (2006), p. 115.

[65] See generally Article 24(1) of the UN Charter, 24 October 1945, 1 UNTS XVI.

intervention and economic sanctions[66] where any threat to international peace and security exists.[67]

In 2000 the UN recognized the need to adopt gender mainstreaming as an analytical tool and begin a new thinking of in the field of Conflict Resolution and peace keeping[68] demanding for equal participation in conflict resolution and peace keeping. [69] This led to the ground breaking Resolution 1325, which was acknowledged overwhelmingly[70] and signified the first time a formal instrument of the UN adopt gender mainstreaming, some researchers called this initiative a watershed political framework;[71]

The Resolution is seen to have moved '*international discourse and debate on women's role in international security*' and has re-defined the position of women in the context of conflict.[72]

The UNSCR 1325 comprises 18 operational paragraphs which address issues of women, peace and security from a broad perspective; apart from recognising the roles that women play in peace building,[73] it acknowledges women's rights to 'increased representation[74] and 'participation at peace tables'.[75] It urges state parties to integrate gender perspectives in peace building and conflict Resolution[76]during repatriation, resettlement, rehabilitation, reintegration and post-conflict reconstruction.[77] It also focuses on protection and respect for the human rights of women and girls,[78] and protects women and girls from gender-based violence and combat impunity.[79]

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[66] Richard Lillich, 'Role of the UN Security Council in Protecting Human Rights in Crisis Situations: UN Humanitarian Intervention in the Post-Cold War World,' 3 *Tul. J. Int'l & Comp. L.* 1 (1995).

[67] See generally Article 39 chapter 7 of the UN Charter above. The power of the Security Council was expanded in 1992, to include amongst other things, the imposition of economic sanction and military intervention.

[68] Theo-Ben Gurirab, Namibian Minister for Foreign Affairs, Information and Broadcasting cited in Dianne Otto, (2006) p. 141.

[69] Dianne Otto, 'The Exile of Inclusion: Reflections on Gender Issues in International law over the Last Decade' *Melbourne Journal of International Law*, Volume 2 (2009); also UN Security Council, 4208th mtg. at 24, UN Doc. S/PV .4208 October 24 2000.

[70] Elizabeth Rehn & Ellen J Sirleaf, 'Women War and Peace; The Independent Expert Assessment on the Impact of Armed Conflict on Women and Women's Role in Peace building' in Gloria Jacobs (eds.) (UNIFEM 2002).

[71] Laura J. Shepherd, 'Power and Authority in the Production of United Nations Security Council Resolution 1325' (2008) International Studies Quarterly, Volume 52, Issue 2, pp. 383–404; see also Elizabeth Rehn & Ellen J Sir leaf (2002) above.

[72] Aisling Swaine, 'Assessing the Potential of National Action Plans to Advance Implementation of United Nations Security Council Resolution 1325' *Yearbook of International Humanitarian Law*, Vol. 12, pp. 403-433, Cambridge University Press, 2009. Transitional Justice Institute Research Paper No. 10-01; see also TL Tryggestad, 'The UN and the implementation of UN Security Council Resolution 1325 on Women Peace and Security' (2009) 15, Global Governance 539. See also Fionnuala Ní Aoláin, 'Gendered Under-Enforcement in the Transitional Justice Context' (2009) Minnesota Legal Studies Research Paper No. 09-33 accessed on 20 July 2011, above.

[73] See Preamble, UNSCR 1325.

[74] Id. para 1,

[75] Id. para 2

[76] Id. para 5,

[77] Id. Para 8,

[78] Id, Para 8 (c),

[79] Id, Para 10 & 11,

The Resolution also enjoins gender mainstreaming into peacekeeping missions and all other aspects relating to women and girls.[80] While this commitment represents progress in efforts aimed at addressing gender and armed conflict issues, the situation of women in conflict in some part of Africa and Nigeria still remains alarming and deserves more attention.[81] The Beijing Platform for Action (BPFA)[82] and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),[83] endorsed years before UNSCR 1325, also called on state parties to increase women's representation at all levels of decision making through the use of quotas and the introduction of other positive measures.[84] Thus far, very few countries have translated these policy documents into action. The world average of women's representation in parliament stands at 19.3%,[85] which is less than the 30% quota endorsed in the BPFA[86]. Indeed, very few countries have representation higher than 30%.[87] The adoption of quotas has however been useful to increasing women's representation in some countries. For example, Costa Rica, South Africa and Rwanda.[88] Researches in Southern Africa shows women are bringing values to the process of governance.[89]

In 2008, the UN went further in adopting Resolution 1820, which broadly addressed *issues of sexual violence in armed conflict.*[90] The Resolution also called for 'effective steps to prevent and respond' to such acts of sexual violence', 'in order to ensure maintenance of international peace and security'. It enjoined state parties to encourage dialogue among conflict Resolution and peace building stakeholders.[91] Like Resolution 1325, it called for the participation of women in the local community in conflict Resolution.[92]

Furthermore, in 2009 the Security Council adopted Resolution 1888 to further strengthen the earlier resolutions on WPS.[93] UNSCR 1888 focused on peace operations' duty and responsibility to protect women and girls from sexual and gender-based violence. It strengthened the commitment in UNSCR 1820, and re-emphasised the importance of addressing sexual violence issues as thus:

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[80] Id, 15,

[81] Anu Pillay, Gender, Peace and Peacekeeping: Lessons from Southern Africa', ISS Paper 128, Pretoria: Institute for Security Studies (2006) p. 2.

[82] Beijing Declaration and Platform for Action, 131, UN.Doc A/CONF.177/20.

[83] Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, 1249 U.N.T.S. 13, available at http://www.un.org/womenwatch/daw/cedaw/states.htm [hereinafter CEDAW.

[84] See Article 8 of CEDAW, and Paragraph. 182 BPFA. See also GR 23 & 25

[85] See the Situation of World Women as at 31st July 2011, available for download at http://www.ipu.org/wmn-e/world.htm accessed on 11 September 2011.

[86] General Recommendation, No 23 on Women in Public Life, UN Doc A/52/38/Rev.1para 16

[87] Burundi, Nepal, Rwanda and Uganda and all of these countries have legislated quotas.

[88] See http://www.ipu.org/wmn-e/world.htm, accessed on 11 September 2011.

[89] Collen Lowe Morna 'Gender in Southern African Politics; Ringing up the changes', *Gender Links* (2004), p. 18.

[90] UNSCR 1820. Para1

[91] Id.

[92] Id. para 3.

[93] St-Pierre, Kristine. 'Background Paper, Implementing the Women, Peace and Security Agenda in Peace Operations; Overview of Recent Efforts and Lesson Learned' Pearson Peacekeeping Center, Workshop on 'The Women, Peace and Security Resolutions: From Rhetoric to Reality', convened by Peace building in Ottawa (2011).

'outset of peace processes and mediation efforts, in order to protect populations at risk and promote full stability, in particular in the areas of pre-ceasefire humanitarian access and human rights agreements, ceasefires and ceasefire monitoring, Disarmament, Demobilization and Reintegration (DDR), Security Sector Reform (SSR) arrangements, justice and reparations, post-conflict recovery and development'.[94]

Like the other two, the Resolution notes the underrepresentation of women in formal peace processes and the lack of expertise in issues of gender and peace building, specifically highlighting '*the lack of women as Chief or Lead peace mediators in United Nations-sponsored peace talks*'. The Resolution recognised the importance of women's empowerment and support for women's organisations and networks 'in the consolidation of peace', reaffirming the significance of 'inclusion of women in peacekeeping missions in civil, military and police functions.'[95]

Resolution 1960 became the fifth Resolution titled 'Women, Peace and Security', and the most recent to date. Adopted in December 2010, it reaffirmed the commitment of the other resolutions and called for more commitment towards toward ending impunity regarding sexual violence, as well as calling on parties to armed conflict 'to make and implement specific time bound commitments to combat sexual violence' and hold perpetrators accountable.

The Resolution is specifically committed to tracking and monitoring the implementation of the WPS agenda. The intervention of the UN in conflict prevention and reconstruction has been commended in recent times as a valuable step necessary for global development and solidarity. However, critics have dismissed its achievement as selective[96] and mere 'social work' targeted at third world countries to further a 'neo colonial imposition of standards of civilization'.[97]

1.4 National Action Plans in Nigeria

Nigeria adopted Resolution 1325 and in 2014 as expected by the UN and went on to develop the National Action Plan (NAP), which was built on 5 pillars.[98] The Pillars known as the 5Ps have elements tagged Prevention, Participation, Protection, Promotion and Prosecution. These represent the strategic objectives for the NAP.

The Federal Ministry of Women Affairs and Social Development is the anchor gender machinery to support integration of women and children in Nigeria and tasked to ensure

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[94] Para 17,UNSCR 1888.

[95] Preamble, UNSCR 1888.

[96] M. Thatcher, 'Advice to a Super Power' New York Times, 11 February 2002, Page A7 in Christine Chinkin & Hilary Charlesworth above p. 937.

[97] A. Gosh, 'The Global Reservation notes towards an ethnography of International peacekeeping' *Cultural Anthropology*, 9:3 (1994), pp. 412-422.

[98] National Action Plan for the Implementation of UNSCR 1325 and Related Resolutions in Nigeria, *www.nsrp-nigeria.org/wp-content/uploads/2014/03/National-Action-Plan.pdf*

that the letters of the UNSCR 1325 finds expression in Nigeria space.[99] Thus the NAP is domiciled in the Ministry of Women Affairs and Social Development as the lead implementer. Nigeria adopted through its National Gender Policy,[100] the concept of gender mainstreaming which proposed to ensure that gender is integrated in all of government strategies.[101] The Ministry is therefore expected to ensure mainstreaming of gender into conflict resolution[102], security and peace-building at all levels; Increased women's participation in conflict management processes[103]; Increased provision for women's needs and concerns during peace negotiations and post conflict management; Mainstream at least 35% Affirmative Action in peace-building and conflict management in the security sector; reduced prevalence of Violence Against Women (VAW) in and post conflict situations.[104] It is also to work at bridging the gaps in knowledge, policies, institutional capacity and deficits in the security and the development architecture in Nigeria[105].

1.4.1 Prevention and Protection

Amongst the five pillars, prevention and protection are of utmost importance: this is to ensure that violence against women and girls are prevented and women and girls are protected. The NAP is thus committed to supporting reforms of laws and enactment of gender responsive laws.

In 2015, Nigeria passed into law, the Violence Against Persons Prohibition (VAP) Act.[106] The Act was a result of agitations for elimination and criminalisation of violence in private and public life; prohibit all forms of violence, including physical, sexual, psychological and domestic. The Act also sought to address challenges of harmful traditional practices; discrimination against persons and to provide maximum protection and effective remedies for victims and punishment of offenders. The Violence Against Persons (Prohibition) Act is an improvement on the penal and criminal code in relation to violence. The Act made rape, spousal battery, harmful widowhood practices, female circumcision or genital mutilation, among others punishable offences.

One of the very notable and commendable provisions of the Act is its expansion of the meaning of rape and the prohibition provision. While other existing laws limited their scope of rape to protect only females in relation to vaginal penetration without consent[107], the VAPP Act has expanded the meaning and scope of rape. The new definition provides

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[99] Ibid
[100] Ibid
[101] Gender Mainstreaming An Overview, United Nations, New York, 2002 *www.un.org/womenwatch/osagi/pdf/e65237.pdf*
[102] Ibid
[103] Ibid
[104] Ibid
[105] Gender Mainstreaming An Overview, United Nations, New York, 2002 *www.un.org/womenwatch/osagi/pdf/e65237.pdf*
[106]
[107] Basil Momodu (2013) preparing for Trials in Murder and Rape Cases in Nigeria: What detectives left undone. .Overseas Publication Limited, Benin City, Nigeria pp56.

for a better definition of rape, broader than most other domestic jurisdictions.[108] It also provides more cover for the victim, even when the rape involves other objects. The radicalisation of the penal code may not be unconnected with the grave experiences of rape that have been occurring more frequent than ever and nearing epidemic stage. Unfortunately this law is still only applicable within the FCT [109]and yet to gain expression at the state levels except in Ekiti [110]and some few States[111], where the domestic violence prevention law has been passed.

However, there are still several laws and policies that are yet to be reviewed and this was acknowledged in Nigeria recent submission to the CEDAW Expert Committee[112]; which identified the following laws begging for review:

Section 55(i) (d) — Penal Code of Northern Nigeria[113]

Section 282 — Penal Code of Northern Nigeria[114]

Section 221 of the Criminal Code Act[115]

Section 353 of the Criminal Code Act[116]

Section 360 of the Criminal Code Act[117]

Section 1 Criminal Code Act[118]

Section 29(3) of the 1999 Constitution on Renunciation of Citizenship and the

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[108] Criminal Law (Codification and Reform) Act Zimbabwe, Section 65 which defines rape from the female and male perspective that when a male person knowingly have sexual intercourse with a female and knows she has not consented or the risk and possibility that she has not consented to it makes him guilty of the offence of rape or Ethiopia Criminal Code Article 620 ... which states that '[w]hoever compels a woman to submit to sexual intercourse outside wedlock whether by use of violence or grave intimidation or after having rendered her unconscious or incapable of resistance '

[109] The Violence Against Persons Prohibition (VAP) Law 2015

[110] Ekiti Gender Based Violence Prohibition Law 2011

[111] For example Lagos State Prohibition of Domestic Violence Law 2008

[112] Consideration of reports submitted by States parties under article 18 of the Convention Seventh and eighth periodic reports of States parties due in 2014 Nigeria. Received 7 October 2015 CEDAW/C/NGA/7-8

[113] Section 55(1)(d) of the Penal Code (Northern States) Federal Provisions Act CAP. P3 LFN 2004 provides that an assault by a man on a woman is not an offense if they are married, if native law or custom recognizes such "correction" as lawful, and if there is no grievous hurt.

[114] Section 282(1) of the Penal Code (Northern States) Federal Provisions Act CAP. P3 LFN 2004 provides that: "A man is said to commit rape who ... has sexual intercourse with a woman in any of the following circumstances:- (a) against her will; (b) without her consent; (c) with her consent, when her consent has been obtained by putting her in fear of death or of hurt; (d) with her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is the man to whom she is or believes herself to be lawfully married; (e) with or without her consent when she is under fourteen years of age or of unsound mind."

[115] Section 221 of the Criminal Code Act CAP. C38 LFN 2004 provides that "Any person who- (1) has or attempts to have unlawful carnal knowledge of a girl being of or above thirteen years and under sixteen years of age; or (2) knowing a woman or girl to be an idiot or imbecile, has or attempts to have unlawful carnal knowledge of her; is guilty of a misdemeanour, and is liable to imprisonment for two years, with or without caning."

[116] Section 353 of the Criminal Code Act CAP. C38 LFN 2004 provides that "Any person who unlawfully and indecently assaults any male person is guilty of a felony, and is liable to imprisonment for three years. The offender cannot be arrested without warrant."

[117] Section 353 of the Criminal Code Act CAP. C38 LFN 2004 provides that "Any person who unlawfully and indecently assaults a woman or girl is guilty of a misdemeanour, and is liable to imprisonment for two years."

[118] Section 1 of the Criminal Code Act CAP. C38 LFN 2004 provides that "The provisions of this Act shall take effect subject to the provisions of the Penal Code (Northern States) Federal Provisions Act."

presumption that any married female child assumes the status of an adult.[119]

Section 26(2) of the 1999 Constitution[120]

Guiding principles and formulae for the Distribution of all Cadres of Posts, Federal Character

Commission (Establishment etc.) Decree (1996 No 34) on Indigene-ship

According to the report, the Nigerian Law Reform Commission (NLRC) has been given a special task to harmonize these laws as well as other offensive provisions stated affecting women's rights in Nigeria. Having legal instruments that can prevent gender crimes in peace time will go a long way in supporting protection from gender based violence in times of conflict. The fact that women, in spite of the VAPP Act, are not adequately protected under the Nigerian law creates a system of impunity during conflict as can be seen in the several abuses and violence suffered in the North East Nigeria which is currently experiencing crises and internal displacement.

1.4.2 Participation, Promotion and Prosecution

The NAP also seeks to train women and girls as mediators, negotiators and conciliators in conflicts and post conflict situations. It also focuses on special measures to ensure the participation of women at all levels of peace process. Furthermore it seeks to support the involvement of men and youths in the dissemination and enlightenment of the NAP and ensure that measures are taken to ensure increased participation of women in peace-keeping missions and in the security sector. The NAPs also support awareness creation to promote women's rights, strengthen women and girls' capacity to resist sexual and gender based violence during and after conflicts. Of priority too is the empowerment of women and girls in conflict and post conflict situation and further support socio-economic empowerment of women and girls in post conflict reconstruction and integration. Amidst major challenges of coordination of intervention in the North East, the implementation of NAPs has been largely donors-driven with limited support from the government. Most of the interventions to support women and children are provided by development partners, key among which are, the NSRP,[121] UN Women[122] and the UNFPA[123].

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[119] Section 29(3) of the 1999 Constitution (as amended) provides that "The President may withhold the registration of any declaration made under subsection (1) of this section if-
(a) the declaration is made during any war in which Nigeria is physically involved; or
(b) in his opinion, it is otherwise contrary to public policy."

[120] Section 26(2) of the 1999 Constitution (as ameded) provides that "the provisions of this section shall apply to- (a) any woman who is or has been married to a citizen of Nigeria; or
(b) every person of full age and capacity born outside Nigeria any of whose grandparents is a citizen of Nigeria."

[121] Jihadi Groups and State-Building: The Case of Boko Haram in Nigeria, downloaded 2nd December 2016 www.stabilityjournal.org/articles/10.5334/sta.427/

[122] UN Resident and Humanitarian Coordinator meets with former captives in North East, reaffirms support to government, downloaded on May 7, 2015 www.un.org/africarenewal/news/undp-kicks-support-victims-conflict-northeast-nigeria

[123] A Look Back At UNFPA in 2015
nigeria.unfpa.*org/news/.../A%20LOOK%20BACK%20AT%20UNFPA%20IN%20201...*

However in most of the peace processes in the North East Nigeria, women's participation is still very poor. Although the country's National Gender Policy adopted Gender Mainstreaming, few of the existing interventions have recorded active women's participation or involvement in the organisation and governance of such interventions.

The state of women participation in the arrangements in the North East Nigeria runs against the anticipations of the global communities. The CEDAW, through Article 7 (a), provides for two major obligations to encourage women's participation. These are, first, the rights to vote and stand in elections, and secondly the formal and informal rights of women to participate in the formulation of government policies.[124] The Article also compliments the political framework intended in UNSCR 1325. The CEDAW committee at different times addressed the responsibility of state parties to support women's effective participation in formal and informal peace processes, and to support post-conflict reconstruction processes.[125] State parties are enjoined to take all necessary steps, including temporary measures to ensure that women participate fully in practical terms.

1.5 Conclusion

The AU Protocol also states that women and men benefit equally 'in the level of development implementation of State policies and development programmes', and makes it an obligation of the state to 'ensure increased and effective representation and participation of women at all levels of decision-making.'[126] Unless issue of full participation is addressed by the state, promotion and prosecution would be impossible, or at best would be mere perfunctory processes.

The following obstacles have been identified as limiting efforts towards achieving gender mainstreaming in practice: funding, weak implementation of existing policies, and Ministry of Women Affairs, weak capacity to implement and monitor gender mainstreaming efforts.

The UN emphasises the issue of finance, UNSCR 1888[127] for example calls for state parties to ensure adequate financial and human resources to strengthen the capacity of people to be able to adequately respond to critical issues in armed conflict.[128] Funding and capacity are critical to the successful implementation of the NAPs and the lack of it can further raise doubts about the long term impacts of gender mainstreaming,[129] the commitment and political will of governments to transform women's lives,[130] and the promotion and protection of women's rights in post-conflict situations.[131]

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[124] Sarah Wittkopp, 'Article 7,' in Freeman Marsha, Christine Chinkin & Beate Rudolf, (eds.), *UN Convention on the Elimination of all forms of Discrimination Against Women: A Commentary* (Oxford: OUP, 2012), p. 206. See also General Recommendation, No 23 on Women in Public Life, UN Doc A/52/38/Rev.1para 5.

[125] *Ibid.*

[126] See generally Article 9 of the AU Women's Protocol.

[127] UN Security Council, Res. S/1888/2009,22 November, 2006 (hereafter referred to as UNSCR 1888).

[128] Clause 22, UNSCR 1888.

[129] Buss and Manji, (2005), p. 238.

[130] F. Beveridge and S. Nott, 'Mainstreaming A case for Optimism and Cynicism', *Feminist Legal Studies* 10 (2002) p. [illegible]

[131] Christine Bell and Catherine O'Rourke, (2010) at 975.

This paper has assessed the situation of women in the protracted conflict in the North East Nigeria, has highlighted impact of the human rights violation that women and girls have continued to suffer. The paper also documented the efforts by Nigerian government to support protection of women and girls' rights through the adoption of the National Action Plan. The paper concludes that while the incorporation of the UNSCR 1325 is desirable, the country has not shown much progress in ensuring the implementation of the UN Resolutions.

There are sufficient examples for the Nigeria government to pick from, as there have been developments in Africa with regard to women's participation, especially since the Beijing Declaration. In Rwanda, women have crossed the grass ceiling, while in South Africa there has also been notable progress. The Nigeria state can take instruction from the CEDAW committee advice in its General Recommendation 23 paragraph 15 (1997) that while 'removal of de jure barriers is necessary, yet it is insufficient. In Article 4, the Convention encourages the use of temporary special measures in order to give full effect to Articles 7 and 8.'[132]

Addressing rights of women and girls in conflict situation and making NAPs effective may need some precedence in observation of and implementation of existing protocols and treaties. The CEDAW committee's suggestion of mechanisms to support effective integration of women therefore is of relevance. These include recruiting, financially assisting and training women candidates, amending electoral procedures, developing campaigns directed at equal participation, setting numerical goals and quotas and 'targeting women for appointment to public positions such as the judiciary or other professional groups that play an essential part in the everyday life of all societies'[133].

Article 10 of the African Women's Protocol also enjoins state parties to take necessary steps to spend on social development in general and promotion of women in particular. The protocol further charges that state parties should provide budgetary and other resources for full and effective implementation of women's rights.[134] Nigeria is committed to the new Sustainable Development Goals (SDGs)[135] on Gender Equality and Women Empowerment, and there is compelling evidence that poverty reduction can impact on sustainable growth.

It has also been emphasised that gender mainstreaming is about targeting areas where change is needed; thus changes in laws, policies and institutions are matters of advancing gender equality objectives, but they come however with a 'price tag'.[136] Therefore, the policy to promote gender equality at the state level will not translate to development if the state fails to commit substantial funds to the achievement of its purposes.

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[132] CEDAW General Recommendation, No 23 on Women in Public Life, UN Doc A/52/38/Rev.1 (1997).

[133] Ibid.

[134] Article 26 of the Protocol to the African Charter on Human and People's Rights on Rights of Women in Africa 2003 AU/Dec.14/.

[135] United Nations Sustainable Development Goals Declaration: General Assembly Resolution 21st September 2015

[136] Mayra Buvinic, Andrew Morrison, A Waafs Ofosu-Amaah, Mirjaa Sjoblom, (eds.) *Equality for Women: Where do we stand on millennium development Goals?* (New York: The World Bank, 2008), p. 3.

There is a fear that once the donor or UN support is reduced, the state will be unable to sustain some of the initiatives. The idea and principles contained in a National Action Plan is laudable, however, for the NAP to be successful they must focus on women's socio-economic needs, and support them in fighting poverty, deprivation and exclusion.[137]

[137]The article greatly benefited from my previuos doctoral research work , unpublished thesis titled 'Gender Justice and Post Conflict Societies; Assessment of Sierra Leone and Liberia' SOAS, 2013.