**Study on discrimination against women in law and in practice in political and public life, including during times of political transitions**

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**Consultancy for the mandate of the Working Group on the issue of discrimination against women in law and in practice**

The objective of this study is to present the state of discrimination against women in law and in practice in political and public life, including during times of political transitions in Africa.

The study examines the main advances, challenges and best practices since 1980, when the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) entered into force. It provides in particular a general overview of women’s political participation in the continent, focusing notably on women’s political participation during times of political transition showing the main advances, challenges, best practices and highlighting the increasing backlash against women rights which is happening in some countries.

The methodology adopted for this study comprised mainly desk review of Human Rights Mechanisms and United Nations documents, and other sources including NGOs as well as States’ responses to the questionnaire sent by the Working Group and other information submitted to the Working Group.

The paper is divided into five sections:

* **The first section** provides a contextual background within which gender equality and women’s empowerment are pursued with a review of the international, continental and regional normative framework on gender equality and major trends in the past three decades;
* **Section two** highlights the achievements in eliminating laws which directly or indirectly discriminate against women in political and public life in the past three decades;
* **Section three** looks at implementation of laws on equality and non-discrimination and women’s human rights and the effectiveness of equality laws and reforms;
* **Section four** examines women’s political participation in countries in transition;
* **And the last section** presents conclusions and recommendations for consolidating gender equality through equal political representation.

**Table of Contents**

[I. Introduction 4](#_Toc343276486)

[*II. O*verview of the participation of women in political and public life in the region 5](#_Toc343276487)

[*A. Contextual analysis* 5](#_Toc343276488)

[*B. Overview of the applicable human rights framework in the region* 10](#_Toc343276489)

[*C. Assessment of the current level of women’s participation in decision–making in Africa* 16](#_Toc343276490)

[III. Achievements in eliminating laws which directly or indirectly discriminate against women in political and public life in the past three decades and adoption of affirmative actions 25](#_Toc343276491)

IV. Implementation of laws on equality and non-discrimination and women’s human rights...30

 V. General conclusions and recommendations………………………………………………..44

1. **Introduction**

It is important to acknowledge that efforts to promote gender equality in Africa have progressed over the past 30 years. This impetus has been facilitated by the various instruments endorsed by member States in a number of commitments and declarations that include the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), known as the women’s international bill of rights, the International Covenant on Political and civil rights (ICCPR), the Protocol to the African Charter on Human and People’s Rights (ACHPR) on the Rights of Women in Africa, the Program of Action of the International Conference on Population and Development (ICPD), the Beijing Platform for Action (BPFA) and the Millennium Development Goals (MDGs).

51 of the 54 African member States have ratified the CEDAW and 24 its Optional Protocol, which provides a mechanism for reporting State violations. Some countries have moved to a step further and aligned their constitution and national legislation to the provisions in CEDAW. Further, most member States have established institutional mechanisms for addressing gender equality and women’s empowerment. More importantly, some governments are increasingly integrating the question of gender in national budgets, and this has triggered more transparency and gender responsiveness in public expenditures. However, passing laws and policies alone does not ensure substantive gender equality or even equity and respect for women’s human rights. Inequality remains a reality in several sectors such as politics, economic and social areas.

In spite of political, societal, cultural, economic, and psychological barriers, African women are finding ways to overcome challenges and participate in the political life of their societies in several countries. Interestingly, the largest number of women in decisions making positions are from countries that have recently experienced armed conflict. Rwanda, Burundi, Mozambique and Uganda continue to demonstrate statistically significant improvement in overall governance quality over the past five years. The successful candidacy of Africa's first female elected president, Ellen Johnson Sirleaf, followed by the election of Mrs. Joyce Hilda Banda  who is the first female President of Malawi since 7 April 2012 show that things are changing in Africa.

However, African countries have not all achieved a same level of progress in terms of Gender equality. Africa is not a homogeneous region and there is no single archetype for African women. If several countries from East and Southern Africa have recorded big progress in this area, countries in North, West and Central regions of the continent are far behind..

The North African countries where political changes has occurred early in 2011, and which have made some progress in the field of women’s rights are at risk of regression ,such as Egypt, Libya, and in particular Tunisia, a pioneer in the field of women's rights from its independence in 1956. These countries are now experiencing serious violations of women's rights in spite of a long period of activism and struggle for gender equality. The change occurred in the Arab region commonly named the Arab Spring threatens to become a cold winter for women's rights and human rights violations may spread in many other countries as already seen in Mali. Gender activists, human rights defenders and international organizations are called upon to support and assist women to enable them to move forward and fully exercise their human rights as recognized by international instruments.

1. **Overview of the participation of women in political and public life in the region**
2. **Contextual analysis**

This section examines Africa’s political and institutional context that impacts effectiveness of women’s political rights.

***Political liberalization***

Before analyzing the situation of women's political participation in Africa and efforts to eliminate discrimination against African women, it is important to review the progress made ​​in terms of political governance at regional level since the independence up till today. Before the mid-1980s, African political systems were dominated by authoritarian regimes. After 1989, Africa witnessed a sudden resurgence of liberalization and competitive multiparty democracy has been adopted in many countries such as, Algeria, Benin, Botswana, Cape Verde, Ghana, Malawi, Mali, Mauritius, Mozambique, South Africa, Tanzania, Zambia etc... The scope of political representation has widened through various structures like regional and local governments and representative assemblies. Today, many African countries have a multiparty democracy with varying degrees of stability, acceptance and legitimacy. The culture of political authoritarianism manifested in military dictatorships and one-party systems dominant in many African countries has in the last three decades gradually given way to democratic systems and several countries have embarked on constitutional reviews to promote a culture of adherence to rule of law, due process and political accountability such as Ethiopia, South Africa and Uganda. Tanzania has amended its constitution six times since the dawn of its multiparty democracy. (UNECA Africa Governance Report 1).

The shift from one political party to multiparty, and in some cases from military to civilian rule, created favorable conditions for greater participation of women in public life, and even to aspire to positions of national leadership. Thus, in December 1997, Charity Ngilu and [Wangari Maathai](http://en.wikipedia.org/wiki/Wangari_Maathai) ran for the presidency of Kenya and became the first ever female presidential candidates of the country. Despite their failure, these women have set a precedent in their country[[1]](#footnote-1).

Even if access to political space has been gradually less limited for African women, challenges in terms of political governance remain in many countries. The democratic process is often fragile, uneven and remains weak. Virtually most of national constitutions in Africa recognize human rights and prohibit discrimination on the basis of gender, ethnic, religious, racial or geographical diversity. However, poverty, low literacy, the gap between urban and rural areas and other factors like customs, culture and the patriarchal gender system, are hampering the full exercise of citizenship and political integration.

***Proliferation of NGOs and related implications***

The positive shift in attitude toward democratic change of government had a good impact on women’s rights reforms. Several women’s association emerged in the 1990s, and served as catalysts for many of the constitutional and legal challenges. NGO activism has helped to popularize and legitimize gender issues and put them on the agendas of political leaders, parliamentarians and human rights activists. “These movements had new priorities, new leaders, and new sources of funding independent of state patronage networks, which older women’s organizations had depended on to a greater extent. The democratizing trends allowed women’s organizations greater room to maneuver.”[[2]](#footnote-2) These organizations had an important role in raising people and politicians of awareness on gender equality, but they showed less ability to form a "hegemonic bloc" in civil society against well-mobilized and well organized conservative movements[[3]](#footnote-3). Indeed, in many countries, conservatives and religious leaders have influenced public discourse on gender issues and affected the adoption and implementation of women’s human rights. Conservative women’s groups are created to oppose measures to promote women’s rights within the family and the community, using messages that exaggerate the class and cultural differences between women such as in Mali in 2010 where an estimated fifty thousand Malian men and women demonstrated against a new Family Code on the grounds that it is against religion and culture and recently in Egypt, Tunisia, Morocco and Libya and other Sub-Saharan countries with the resurgence of religious fundamentalists.

***The Beijing Platform for Action***

The Beijing Platform for Action (BPFA) adopted by governments at the Fourth World Conference on Women in 1995 played a major role in improving African women representation in politics, thanks to the monitoring and evaluation system established at international, regional and sub-regional levels. Sharing experiences and best practices has created emulation among countries.

***Conflicts and peace processes***

Africa has been affected during the last three decades by several armed conflicts and coup d’états (Algeria, Angola, Burundi, Central African Republic, Chad, Democratic Republic of Congo (DRC), Republic of Congo, Côte d’Ivoire, Djibouti, Eritrea, Ethiopia, Ghana, Guinea, Guinea-Bissau, Liberia, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, South Africa, Sudan and Uganda.)

Recently in 2011, a series of pro-democracy movements known as the Arab Spring or Arab Awakening swept the Middle East and North Africa. By the end of 2011, regimes had been toppled in Tunisia, Egypt, Libya and Mali. Nevertheless, the Malian case is different from the other countries cited above. In fact, while the Arab leaders targeted by the popular uprisings against them throughout 2011 were autocratic and despots like Gadhafi, Ben Ali of Mubarak, Malian President Touré was democratically elected. The resurgence of conflict and social upheavals in some countries and their impact on women’s human rights must be considered, since this could abolish all progress on gender equality.

All these civil conflicts have destroyed economies, societies and institutions, creating a large measure of dislocation, loss of life, crippling disability, loss of property and widespread human insecurity for the majority of people particularly women and children.

***Other human development challenges: the attainment of the MDGs in Africa***

African countries are still affected by a range of social and economic issues, with an important impact on the exercise of women’s rights in public and political life. The continent continue to face many social development challenges including chronic poverty, poor health status, inequitable access to education, unemployment, gender inequalities and increased number of excluded and vulnerable people. According to the Global Gender Gap Report of 2012 Sub-Saharan Africa has the lowest score in education sector.

Despite the economic progress observed in the continent during the past decade, African countries are experiencing significant development challenges related to insufficient economies and poor social inclusion—arguably one of the key issues that sparked social unrest and political change in Egypt and Tunisia earlier in 2011. Economic growth has been limited to some sectors and its fruits unevenly distributed among the population

The feminization of HIV and AIDS pandemic and the high maternal mortality rates observed in the continent pose major threats to the attainment of gender equality and women’s empowerment. The vulnerability of women and girls to HIV remains particularly high in Sub-Saharan Africa; more than 76% of all HIV-positive women in the world live in the region. In most of Sub-Saharan Africa countries, the majority of people living with HIV are women, especially girls and women aged 15-24. In South Africa, HIV prevalence among women aged 20-24 is approximately 21%, compared to 7% among men in the same age range.[[4]](#footnote-4)

***Regional and sub-regional initiatives***

The African Union (AU) and its institutions, particularly the Directorate for Women, Gender and Development and the Women and Gender Sectorial Cluster Committee[[5]](#footnote-5), has boosted the issue of gender equality and provided commitments that national mechanisms can pursue. In 2003, the AU adopted, the Women’s Rights Protocol, which offers significant potential for ensuring the rights of women by setting norms and standards for promoting and protecting women’s rights on the continent.

Furthermore, the AU Solemn Declaration on Gender Equality in Africa (SDGEA), adopted by the AU Assembly of Heads of State and Government in Addis Ababa, Ethiopia, in July 2004, was a critical milestone. This Declaration contributes to strength the African ownership in terms of gender equality agenda and keeps the issues alive at the highest political level in Africa. By adopting Solemn Declaration, countries undertake themselves to report annually to the Chairperson of the AU Commission on their progress towards gender equality and gender mainstreaming at national level. The African Union Women’s Decade, 2010 – 2020, offers another means of holding national mechanisms to account. These initiatives cited above have recently been strengthened by the appointment in July 2012 of Mrs. Dlamini-Zuma from South Africa as first Women President of the African Union

The establishment of the New Partnership for Africa’s Development (NEPAD) is another notable initiative. NEPAD is a program adopted by the Assembly of Heads of State and Government of the AU in 2001. It provides an overarching policy framework and vision for Africa’s economic and political agenda. The advancement of women’s role in social and economic development through education and training, income generation, facilitating credit and ‘assuring their participation in the political and economic life are included in NEPAD’s agenda (paragraph 49).

***The African Peer Review Mechanism (APRM)***

The African Peer Review Mechanism (APRM), established through NEPAD program provides a framework addressing gender inequality in the continent. By mid-2011, 30 of Africa’s 54 states had acceded, and 14 had successfully been through their first review.[[6]](#footnote-6) With some variations across countries, the APRM has provided a platform for non-state actors to engage on governance and policy issues, including gender equality and discrimination against women. A number of controversial issues on women’s rights have been addressed, including access to land, political participation of women in public life, harmful cultural practices, violence against women, affirmative action, and gender mainstreaming.[[7]](#footnote-7) Policy reforms around governance and economic development have been adopted in many African countries as a direct result of recommendations made by the APRM experts. For instance, and following the APRM recommendations, Algeria has adopted affirmative action to increase political participation of women[[8]](#footnote-8).

***National gender equality mechanisms***

According to the ECA’s Fifteen-year Review Report of the implementation of the Beijing Platform for Action in Africa (BPfA+15)[[9]](#footnote-9), most of African countries have established institutional mechanisms for the advancement of women, and initiated strategies and policies in order to promote women’s status and notably women's political participation. However, these countries face several constraints to the operation of their respective mechanisms such as :

• Inadequate financial and human resources;

• Negative attitudes and perceptions which lead to resistance to gender and development

 issues;

• Lack of appreciation of the gender’s concept by a cross section of the population;

• Inadequate gender-disaggregated data;

• Inadequate capacity for accounting gender-mainstreaming activities;

• Lack of effective monitoring and evaluation systems and tools in place to follow up properly on implementation; and absence of national policies that deal with equality between men and women.

1. **Overview of the human rights framework in the region**

This section provides an overview of some commitments that African countries have made with respect to women’s human rights at the regional and international levels. Specific attention is given to CEDAW and the Protocol on the Rights of Women in Africa.

The principle of equal rights between men and women is also affirmed in the charter of the United Nations, as well as in the Universal Declaration on Human Rights. This principle has also been reaffirmed by Article 2 common to the Covenant on Civil and Political Rights (CCPR) and to the International Covenant on Economic, Social and Cultural Rights (ICESCR).

The CEDAW guarantees specific rights to women, establishes obligations for States or responsibilities attached to these rights and creates mechanisms to monitor the compliance of States actions with their obligations, namely the Committee for the Elimination of Discrimination against Women (CEDAW Committee). In CEDAW Convention, discrimination is considered as a significant constraint to economic growth and prosperity, and States parties are urged to take appropriate steps towards modifying the orientations and patterns of socio-cultural behavior in the gender context in order to eliminate traditional prejudices. In addition, the Convention combines de jure and de facto equality, and emphasizes the need to take special provisional measures towards the attainment of that objective.

The Convention sets out specific areas where States must ensure that women do not suffer from discrimination. These areas include: participation in public life,, nationality, education, employment, healthcare, economic and social life, and equality before the law and marriage.

The African region has adhered entirely to the Convention except three countries, Somalia, Sudan and South Sudan. As of September 2012, 51 of the 54 African countries are parties to the Convention ten of them, most of the North Africa region have made reservations to the Convention (Algeria, Egypt, Lesotho, Libya, Mauritania, Malawi, Mauritius, Morocco, Niger, and Tunisia.) These countries justify their reservations due to incompatibility of the provisions with religious and customary practices. However after discussion and dialogue with the CEDAW Committee‘s members and regional and national pressures of women’s movements, some of these countries have withdrawn all their reservations such Malawi and Mauritius during the 1990’s and Morocco and Tunisia recently. Algeria and Egypt lifted their reservation on article 9 on nationality and Libya replaced in 1995 its General Declaration by specific reservations on article 2, 16(1) (c) and 16 (d).

***CEDAW Articles 3, 4, 7, and 8, and General Recommendations 28, 25, 23 of the CEDAW Committee.***

The issue of women political participation has been substantively addressed by the Convention. Articles 7 and 8 of CEDAW explicitly cover the right of women to non-discrimination in a country’s public and political spheres, as well as their right to equality with men with regard to the following: the right to vote; the right to be eligible for election to all publicly elected bodies; the right to participate in the formulation of government policy and its implementation; the right to hold public office and to perform all public functions at all levels of government; the right to participate in non-governmental organizations (NGOs) and associations concerned with the public and political life of the country; and the right to represent the national government at the international level and to participate in the work of international organizations. In addition, the preamble of the Convention links the ‘full and complete development of a country, the welfare of the world and the cause of peace’ with the need for the ‘maximum participation of women on equal terms with men in all fields’, implicitly including the public and political aspects.

In order to fully understand Articles 7 and 8, one must read them in conjunction with Articles (1–5). These contain obligations with respect to conduct and results for States parties as regards their actions (legislation, policies and programs) to empower women and engender cultural change. Thus, States parties are obliged: to eliminate direct and indirect discrimination; to implement the concepts of both formal equality and substantive or de facto equality; to embody the principles of equality and non-discrimination in their constitutions and laws; to pursue the realization of these principles in practice by taking appropriate measures against persons, organizations and enterprises that discriminate against women; and to protect women from discrimination both through legal proscriptions, including sanctions, and competent national tribunals and other public institutions; to act without delay (and without considering financial resources); to undertake all appropriate measures to ensure the full development and advancement of women in all fields; and to modify and eliminate social and cultural patterns based on prejudice, customary and traditional practices, sex-role stereotypes and the alleged inferiority or superiority of either of the sexes.

The concept of substantive equality takes into account the facts concerning, and the consequences of, biological differences between women and men, as well as socially constructed differences as regards the roles and tasks that have been ascribed to them; Substantive equality allows for non-identical treatment of women (as compared to men) both for reasons of protection (maternity functions) and correction (acceleration of the achievement of de facto equality). Such action, according to Article 4 of CEDAW, is not discriminatory. To ensure gender equality, women must benefit not only equal rights but also equal opportunities. These issues must be kept in mind when trying to achieve substantive equality with men in public and political life.

***General Recommendations of the CEDAW Committee***

General Recommendations 5, 8, 23, 25 and 28 of the CEDAW Committee are very important for the discussion on quota systems to increase the participation of women in public and political life

General Recommendations 5 and 8 of 1988 addressed the issue of temporary special measures, including quota systems and general recommendation 23 of 1997 on women in political and public life, explicitly deals with Articles 7 and 8. It lists a number of requirements and obligations that States parties have to fulfill.

The general recommendation 25 of 2004 concerning Article 4 (1) on temporary special measures is very important to the appliance of quota systems. This article affirms that temporary special measures are not discriminatory when their application is aimed at accelerating the attainment of de facto equality between women and men. General Recommendation 25 explains the meaning of this definition in the context of the Convention as a whole and provides an in-depth analysis of the justification for applying Article 4 (1), as well as when and how to do so. Article 4 (1) must be read in conjunction with the Convention’s Articles 1, 2, 3, 5 and its application must be considered in relation to all of those other articles, including Articles 7 and 8, which state that States parties ‘shall take all appropriate measures’; contends that states parties, as a consequence, are obliged to adopt and implement temporary special measures in relation to any of these articles, if such measures can be shown to be necessary and appropriate in order to accelerate the achievement of substantive equality for women; underlines the fact that temporary special measures are ’temporary’. The ‘measures’ include a variety of legislative, executive, administrative and other regulatory instruments, policies and practices, such as: outreach and support programs; allocation and/or reallocation of resources; preferential treatment; targeted recruitment, hiring and promotion and highlights various aspects of those processes that states parties will have to go through when applying temporary special measures, including quotas.

The last General recommendation no. 28 of October 2010 clarifies that 'discrimination of women based on sex and gender is inextricably linked with other factors that affect women, such as race, ethnicity, religion or belief, health, status, age, class, caste, and sexual orientation and gender identity. It highlights that States have to condemn 'all forms of discrimination, including forms that are not explicitly mentioned in the Convention or that may be emerging' and elaborates on the State obligation to adopt policies to this end. In this regard, the general recommendation calls on States to devote resources 'to ensuring that human rights and women's non-governmental organizations are well-informed, adequately consulted and generally able to play an active role in the initial and subsequent development of the policy.' Furthermore, it acknowledges the important role of civil society in the development of State policies for the elimination of discrimination against women.

***Optional Protocol to CEDAW***

With the view to reinforce the implementation of CEDAW, the United Nations General Assembly adopted the Optional Protocol to CEDAW on 6 October 1996. The Protocol entered into force on 22 December 2000. As of 28 November 2012 twenty four African countries acceded to the CEDAW Protocol [[10]](#footnote-10)

***UN Resolution 1325***

Another global tool which can be used to impulse women political participation, is the UN Resolution 1325 which is the result of women’s organizations activism in the area of women, peace and security, rather than from member States directly. United Nations Security Council Resolution 1325 on women, peace and security, adopted in October 2000 emphasizes the critical importance of women’s participation in national institutions for the prevention, management and resolution of conflict. It enjoins governments, the UN and parties in conflict to adopt a gender sensitive approach to peace processes and to develop special mechanisms to protect the human rights of women and girls in conflict situations[[11]](#footnote-11).

However, despite the great importance of this tool, the Final Report to the United Nations Department of Peacekeeping Operations, Department of Field Support "Ten-year Impact Study on Implementation of UN Security Council Resolution 1325 (2000) on Women, Peace and Security in Peacekeeping, reveals that very modest progress have been achieved to date in this area. Peacekeeping missions have observed a limited participation of women in peace negotiations and agreements (i.e. The peace negotiation on Darfur and Cote d’Ivoire conflicts). The peace talks on the conflict in DRC have experienced an evolution in the participation of women. The 2009 March Peace Agreement included three women out of 14 members of its executive branch and 22 women out of 66 members of the subsidiary organ. This is a huge improvement on the involvement of women compared to the 2008 Goma Agreement which included only 1 woman out of 49 members of its executive board.[[12]](#footnote-12)In addition, very few countries (such as Cote d’Ivoire, Liberia, Uganda and Sierra Leone) have adopted national action plan to implement the SCR 1325.

***Instruments adopted at Regional Level***

The African Union (AU) developed norms, guidelines and standards for women’s empowerment and gender mainstreaming. Gender equality principles are enshrined in the Constitutive Act of the AU, the AU Protocol on women’s rights, the Solemn Declaration on Gender Equality in Africa, and the Charter on Democracy, Elections and Governance.

[The Protocol to the African Charter on Human and Peoples' Rights on the rights of Women in Africa](http://www.makeeverywomancount.org/images/stories/documents/AfricanUnion_Maputoprotocol_July2003.pdf)was adopted in Mozambique on July 11, 2003 It went into effect in November 2005 after 15 of the 54 African Union Member States ratified it. It is indeed a positive step towards combating discrimination and violence against women and significant in the efforts to promote and ensure respect for the rights of African Women.

The protocol among others requires African States to eliminate all forms of discrimination and violence against women in Africa, and to promote equality between men and women. Member States are obliged to integrate a gender perspective in their policy decisions, legislation, development plans and activities, and to ensure the overall well-being of women.[[13]](#footnote-13)

The Protocol endorses affirmative action to promote the equal participation of women, including equal representation of women in elected office, and calls for the equal representation of women in the judiciary and law enforcement agencies.[[14]](#footnote-14) Articulating a right to peace, the Protocol recognizes the right of women to participate in the promotion and maintenance of peace.

Article 9 on the Right to Participation in the Political and Decision-Making Process requires States Parties to ensure increased and effective representation of women at all levels of decision-making.[[15]](#footnote-15)

It’s important to note that there are some contentious issues in the African Protocol which have brought about its opposition; the article on reproductive health, especially on legalization of abortion, which is mainly opposed by Christians and Muslims, the provisions on female genital mutilation, monogamous marriages, minimum age of marriage, equality before, during and after marriage and property right to land[[16]](#footnote-16). Out of the 54 African Union Member states, 47 have so far signed the Protocol and as of September 2012, 34 countries have ratified it. Three Countries have neither signed nor ratified the Maputo Protocol.[[17]](#footnote-17)

***The African Charter on Democracy, Elections and Governance***

Adopted in 2007, the Charter is seen as the most comprehensive commitment by the AU to consolidate democratic governance in the continent. Forty one member states have signed the Charter, and as of July 2012 only 17 ( Benin, Burkina-Faso, Cameroon, Chad, Ethiopia, Ghana, Guinea Bissau, Guinea, Lesotho, Mauritania, Nigeria, Niger, Rwanda, South Africa Sierra Leone, Togo and Zambia ) have ratified it. The Charter entered into force on 15 February 2012[[18]](#footnote-18)

The Charter provides an important reference points on problems of democracy and governance in the continent. It deals among others with issues of women in policy and decision making processes. It can be a useful engagement tool for CSOs and women’s rights defenders to push for compliance by member states, and for discussion of the underlying principles.[[19]](#footnote-19)

**Sub regional instruments**

In some sub-regions, member States have also made commitments through the adoption of declarations to ensure that gender is mainstreamed into policies, plans and programs of the sub-regional intergovernmental organizations.

***The Southern African Development Community (SADC)***

The Southern African Development Community (SADC) endorsed in 1997, the Declaration on Gender and Development. This Declaration commits member states to use ‘whatever methods available to increase the participation of women at all levels of decision-making to 30% by 2005’. Increasingly, quotas have been introduced as the best available method to achieve this goal. In 2000, the SADC Secretariat adopted a regional program on Women in Politics and Decision-Making (WIP), as part of the Plan of Action for Gender. The WIP aims to advance the 30% target by providing skills training and sharing best practice examples to women members of parliament across the region.

Moreover, leaders of SADC signed in August 2008 the Protocol on Gender and Development.[[20]](#footnote-20) State parties commit by 2015: (i) to enshrine gender equality and equity in their constitutions and ensure that these rights are not compromised by provisions of other laws or practices, (ii) to implement affirmative action measures to eliminate barriers that prevent women from realizing their rights, and (iii) to ensure equal representation of women in decision making positions of member States and promote women’s access to and control over productive resources.[[21]](#footnote-21)

1. **Assessment of the current level of women’s participation in decision–making in Africa**

***General overview of women’s participation to political and public life since 1980 (Progress, best practices and challenges)***

African women have a long history of political involvement notably during the fight for independence. However their involvement in the anti-colonial struggles and support to the national liberation movements were not acknowledged after independence. But, after forty years of gender activism and sensitization, capacity building, lobbying and human rights awareness and adoption of strategies for policy and advocacy interventions, African women have remarkably improved their representation in various political leadership positions in several countries and regional institutions. Another influent factor is the growth of constitutionalism and democracy which has created new ways for increasing women’s access to political power. “Nowhere in the world has the rate of increase in the political representation of women been as fast as in Sub-Saharan Africa over the past four decades.” [[22]](#footnote-22) In 1960, only one percent of African legislators were women. Today, this share has increased and reached twenty percent. Transition countries have particularly benefited from a favorable environment for women's participation and Rwanda became a shining example by achieving gender parity. With 56% women representation in parliament, Rwanda is also a global leader.

At the regional level

The African Court on Human and Peoples’ Rights elected its President in Arusha in September 2012, Justice Sophia A.B. Akuffo. She is now the first female to hold the position of President.

At the national level, two female heads of State have been elected, Mrs. Helen Sirleaf in Liberia since 2006 and Mrs. Joyce Banda in Malawi since April 2012.

**Women representation in parliament**

Since the beginning of this century, most of the countries in the region and specifically the Sub-Saharan States have progressed on women political participation. We can note 10 chambers with at least 30% women in their national parliament (Table below.) Rwanda has rapidly recovered from genocide to become the leading country in the region and the world on its gender parity index, currently standing at 56 per cent women parliamentary representation[[23]](#footnote-23). On average, women in Sub-Saharan Africa hold 20.4% of single or lower house seats, an increase from 18.3% in 2010, and from 12.4% 10 years previously. However, there are variations between regions and countries and most progress are being made by East and Southern African States by adopting effective affirmative actions..

In Uganda, results of the 2011 general elections show an increase in number of women who have been elected for the different political positions. According to the Uganda electoral Commission Website[[24]](#footnote-24), the number has increased from 90 women to 130 in parliament. There was also an increase in number of women at local council levels in the different districts of the country. The country has adopted a quota system (reserved seats). Article 78(1) of the constitution stated that parliament shall consist of one woman representative for every district, and such numbers of representatives of the army, youth, workers with disabilities and other groups as Parliament may determine. Also, article 180(2) (b) of the 1995 Constitution which focus on sub-national level, states that one third of the membership of each local government council shall be reserved for women.[[25]](#footnote-25)

In South Africa, women took 43.5 percent of the seats in the lower house election of 2009, placing it respectively fourth and eighth in the regional and global ranking due to the voluntary gender quota adopted by the African National Congress (ANC). The party statute reads: "the provision of a quota of not less than fifty percent of women in all elected structures" (ANC Constitution, Article 6 [1]).

The same evolution is observed in Mozambique where the Front for Liberation of Mozambique (FRELIMO) has used gender quotas since 1994. The party's policy requires that 40% of candidates to national assembly and local government should be women. In addition, the quota system is accompanied by a commitment to balance the distribution of men and women through the list. Currently, FRELIMO holds 191 seats of a total of 250 in the national assembly, in effect a three-fourths majority.[[26]](#footnote-26)

In West Africa, women’s political representation is very low in most countries, but Senegal is moving in the right way. The number of Senegalese female elected parliamentarians in the National Assembly has almost doubled thanks to the impact of new parity laws on the July 2012 elections.[[27]](#footnote-27) The electoral law was amended in 2010, providing a mandatory requirement that all candidate lists for legislative, regional, municipal and rural elections be comprised of equal number of male and female candidates, presented on the list in an alternating manner, for lists submitted under the PR system. Implementation of this quota legislation contributed to the doubling of women participation in the National Assembly elected in June 2012.  With 44.6% of female parliamentarians, Senegal has come close to achieving parity in its National Assembly. There are 64 women now occupy a total of 150 seats, up from 33. The parity principle has been already enshrined in the constitution which was amended in 2008[[28]](#footnote-28). Article 60 (1) of the constitution states: "at least two-fifths of the Senators shall be women". In addition, Article 7 reads: "An Act of Parliament shall promote the equal access of women and men to elected office and public functions".

In Central Africa region (Cameroon, Republic of Congo, Gabon, Chad, Equatorial Guinea and the Central African Republic,) women are also poorly represented in political instances.

Considering the North African region, despite the fact that women were influential in the political change that happened, it has been difficult to effect essential adjustment to electoral laws to promote their participation in all countries. Some countries have introduced quotas to improve the political participation rates of women, in the face of cultural, economic, and institutional factors that pose particular challenges to women in this region.

In Morocco, following the 2011 elections, women accounted for 16.7% of Majlis-Annouwab (lower house), an increase of over six percentage points from the previous election. This was largely due to the reservation of 60 seats for women and 30 for candidates under the age of 40, in accordance with a bill passed by the Council of Ministers on September 9th, 2011.

In the wake of the democracy movements, Tunisia implemented a quota[[29]](#footnote-29) for women's participation in the parliamentary elections at the end of October 2011. Following a closed-list proportional representation system, parties were obliged to have equal numbers of men and women on their list, alternating candidates by gender. This is known as a "zippered" list, and effectively guarantees that women will win seats, though the quota does not define a percentage of seats allocated for women. Overall, women won 26, 7% percent of seats in parliament.

In Algeria, May 2012 elections resulted in the nomination of 145 women to parliament that hosts 462 representatives increasing their representations from 8% to 31%. This is a remarkable progress for women candidates compared to 2007 elections where women have won only 31 seats out of 389 seats. This increase followed the adoption of a quota law in January 2012.[[30]](#footnote-30)

In May 19th, 2011, the Egyptian Supreme Council of the Armed Forces (SCAF) announced the adoption of a series of amendments to the Law on the Exercise of Political Rights.[[31]](#footnote-31) The new law on the Exercise of Political Rights amended previous quotas for women, which have been used to allocate 64 seats (or 12%) in the parliament to women. The amended law required each political party to include one woman on their candidate list, but did not require women to be placed in “winnable” slots – each party having the freedom to decide where to allocate the name of the woman candidate, even at the end of the list. The January 2012 parliamentary renewal results in Egypt saw a dramatic drop of 10 percentage points from previous 2010 results, with only 10 women out of 508 members (2%).

**Gender balance in political representation and electoral systems**

The representation of women and marginalized groups in parliament is determined by the type of electoral system adopted. There are many electoral systems observed globally, and there are four main types of electoral systems widely used. Those are the Single Member Plurality (SMP) also known as the First Past The Post (FPTP), the Single Member Majoritarian (SMM), the Proportional Representation (PR) or the Party List System and Mixed Members Proportionality (MMP), with multiple variations within and permutations amongst them.

The Proportional Representation List system is considered as the preferred electoral system. The use of PR has shown a dramatic increase in women’s representation particularly in the SADC’s region. A PR electoral system tends to give women a slight advantage in governance compared to the FPTP electoral system used in several African states, which gives women modest gains in political processes as a constituency-based system in which the electorate votes for candidates and not political parties. Unfortunately, this model tends to support the incumbent and popular candidates to the disadvantage of women who have limited experience and exposure to political processes. The combination of quota’s systems and majority electoral system has seen the inclusion of women at all levels of decision-making in the East African region, which presently has the highest level of women in governance beyond other regions in Sub-Saharan Africa.[[32]](#footnote-32)

**Women Presiding Officers in Parliament**

7 women out of 30 Presiding Officers in Single or Lower Houses of Parliament[[33]](#footnote-33) (Botswana; Ghana; Lesotho; Mozambique; Rwanda; Uganda; United Republic of Tanzania;) and 3 women out of 11 Presiding Officers in Upper Houses of Parliament[[34]](#footnote-34) ( Gabon; Swaziland; and Zimbabwe.) are African.

**African Women in national parliaments,**

*Situation as of****31 October 2012*** [[35]](#footnote-35)

|  |
| --- |
| **WORLD CLASSIFICATION** |
| **Rank** | **Country** | **Lower or single House** | **Upper House or Senate** |
| **Elections** | **Seats\*** | **Women** | **% W** | **Elections** | **Seats\*** | **Women** | **% W** |
| 1 | **Rwanda** | 9 2008 | 80 | 45 | 56.3% | 9 2011 | 26 | 10 | 38.5% |
| 5 | **Seychelles** | 9 2011 | 32 | 14 | 43.8% | --- | --- | --- | --- |
| 6 | **Senegal** | 7 2012 | 150 | 64 | 42.7% | --- | --- | --- | --- |
| 8 | **South Africa**[**1**](http://www.ipu.org/wmn-e/classif.htm#1) | 4 2009 | 400 | 169 | 42.3% | 4 2009 | 53 | 17 | 32.1% |
| 12 | **Mozambique** | 10 2009 | 250 | 98 | 39.2% | --- | --- | --- | --- |
| 20" | **United Republic of Tanzania** | 10 2010 | 350 | 126 | 36.0% | --- | --- | --- | --- |
| 21 | **Uganda** | 2 2011 | 386 | 135 | 35.0% | --- | --- | --- | --- |
| 22 | **Angola** | 8 2012 | 220 | 75 | 34.1% | --- | --- | --- | --- |
| 28 | **Algeria** | 5 2012 | 462 | 146 | 31.6% | 12 2009 | 136 | 7 | 5.1% |
| 31 | **Burundi** | 7 2010 | 105 | 32 | 30.5% | 7 2010 | 41 | 19 | 46.3% |
| 36 | **Ethiopia** | 5 2010 | 547 | 152 | 27.8% | 5 2010 | 135 | 22 | 16.3% |
| 39 | **Tunisia** | 10 2011 | 217 | 58 | 26.7% | --- | --- | --- | --- |
| 41 | **South Sudan** | 8 2011 | 332 | 88 | 26.5% | 8 2011 | 50 | 5 | 10.0% |
| 43 | **Lesotho** | 5 2012 | 120 | 31 | 25.8% | 6 2012 | 33 | 9 | 27.3% |
| 48 | **Sudan** | 4 2010 | 354 | 87 | 24.6% | 5 2010 | 28 | 5 | 17.9% |
| 50 | **Namibia** | 11 2009 | 78 | 19 | 24.4% | 11 2010 | 26 | 7 | 26.9% |
| 60 | **Malawi** | 5 2009 | 193 | 43 | 22.3% | --- | --- | --- | --- |
| 61 | **Mauritania** | 11 2006 | 95 | 21 | 22.1% | 11 2009 | 56 | 8 | 14.3% |
| 68 | **Cape Verde** | 2 2011 | 72 | 15 | 20.8% | --- | --- | --- | --- |
| 75 | **Mauritius** | 5 2010 | 69 | 13 | 18.8% | --- | --- | --- | --- |
| 78 | **Sao Tome and Principe** | 8 2010 | 55 | 10 | 18.2% | --- | --- | --- | --- |
| 79 | **Madagascar** | 10 2010 | 365 | 64 | 17.5% | 10 2010 | 164 | 20 | 12.2% |
| 75 | **Mauritius** | 5 2010 | 69 | 13 | 18.8% | --- | --- | --- | --- |
| 82 | **Morocco** | 11 2011 | 395 | 67 | 17.0% | 10 2009 | 270 | 6 | 2.2% |
| 85 | **Libya** | 7 2012 | 200 | 33 | 16.5% | --- | --- | --- | --- |
| 87 | **Gabon** | 12 2011 | 114 | 18 | 15.8% | 1 2009 | 102 | 18 | 17.6% |
| 90 | **Burkina Faso** | 5 2007 | 111 | 17 | 15.3% | --- | --- | --- | --- |
| 93 | **Chad** | 2 2011 | 188 | 28 | 14.9% | --- | --- | --- | --- |
| 96 | **Cameroon** | 7 2007 | 180 | 25 | 13.9% | --- | --- | --- | --- |
| 97 | **Djibouti** | 2 2008 | 65 | 9 | 13.8% | --- | --- | --- | --- |
| "97 | **Somalia** | 8 2012 | 275 | 38 | 13.8% | --- | --- | --- | --- |
| 98 | **Swaziland** | 9 2008 | 66 | 9 | 13.6% | 10 2008 | 30 | 12 | 40.0% |
| "99 | **Niger** | 1 2011 | 113 | 15 | 13.3% | --- | --- | --- | --- |
| 101 | **Sierra Leone** | 8 2007 | 124 | 16 | 12.9% | --- | --- | --- | --- |
| 103 | **Central African Republic** | 1 2011 | 104 | 13 | 12.5% | --- | --- | --- | --- |
| 107 | **Zambia** | 9 2011 | 157 | 18 | 11.5% | --- | --- | --- | --- |
| 109 | **Togo** | 10 2007 | 81 | 9 | 11.1% | --- | --- | --- | --- |
| 110 | **Cote d'Ivoire** | 12 2011 | 254 | 28 | 11.0% | --- | --- | --- | --- |
| "110 | **Liberia** | 10 2011 | 73 | 8 | 11.0% | 10 2011 | 30 | 4 | 13.3% |
| 116 | **Mali** | 7 2007 | 147 | 15 | 10.2% | --- | --- | --- | --- |
| "117 | **Equatorial Guinea** | 5 2008 | 100 | 10 | 10.0% | --- | --- | --- | --- |
| 117" | **Guinea-Bissau** | 11 2008 | 100 | 10 | 10.0% | --- | --- | --- | --- |
| 118 | **Kenya** | 12 2007 | 224 | 22 | 9.8% | --- | --- | --- | --- |
| 120 | **Democratic Republic of the Congo** | 11 2011 | 492 | 44 | 8.9% | 1 2007 | 108 | 5 | 4.6% |
| 125 | **Benin** | 4 2011 | 83 | 7 | 8.4% | --- | --- | --- | --- |
| 126 | **Ghana** | 12 2008 | 230 | 19 | 8.3% | --- | --- | --- | --- |
| 127 | **Botswana** | 10 2009 | 63 | 5 | 7.9% | --- | --- | --- | --- |
| 128 | **Gambia** | 3 2012 | 53 | 4 | 7.5% | --- | --- | --- | --- |
| 129 | **Congo** | 7 2012 | 136 | 10 | 7.4% | 10 2011 | 72 | 10 | 13.9% |
| 130 | **Nigeria** | 4 2011 | 352 | 24 | 6.8% | 4 2011 | 109 | 7 | 6.4% |
| 140 | **Comoros** | 12 2009 | 33 | 1 | 3.0% | --- | --- | --- | --- |
| 142 | **Egypt** | 11 2011 | 508 | 10 | 2.0% | 1 2012 | 180 | 5 | 2.8% |
|  |  |  |  |  |  | --- | --- | --- | --- |
|  |  |  |  |  |  |  |  |  |  |

*\* Figures correspond to the number of seats currently filled in Parliament*

*Libya: Following the popular uprising and protracted fighting that eventually ousted Col. Muammar Gaddafi, the General People's Congress - the unicameral parliament of the now defunct Libyan Arab Jamahiriya - has ceased to function. Parliamentary elections are expected to be held in 2012 under the supervision of the National Transitional Council, the interim government of the new Libya.*

*1 - South Africa: The figures on the distribution of seats do not include the 36 special rotating delegates appointed on an ad hoc basis, and all percentages given are therefore calculated on the basis of the 54 permanent seats.*

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**Executive participation of Women**

In line with increases registered of women’s representation in national parliaments, women’s representation in ministerial positions has also progressed significantly. However, an increase in number of women in parliament may not necessarily reflect the same success in ministerial positions in that country. For example, even if Rwanda is the world’s leader in women’s parliamentary representation, it ranks 16th in ministerial representation with a representation rate of 32 % (8 of 25 total ministerial positions are women).[[36]](#footnote-36)

Countries that have shown comparable progress in parliamentary and ministerial positions include South Africa, Burundi, Uganda and Mozambique. Cape Verde, Botswana, Gambia and Niger have made commendable progress in appointing women specifically to ministerial positions. Countries like Cape Verde and South Africa, with a ministerial representation rate respectively of 47% (8 women out of 17) and 40 % (14 women out of the total 35) have the highest rates of women’s representation. Countries with the lowest rates are Morocco and Algeria with respectively 3.3% (One female minister in a 30 - member cabinet) and 3.1%, (one female Minister out of 32 members of government).

Eight African countries have surpassed the goal of over 30% representation (South Africa, Cape Verde, Lesotho, Burundi, Uganda, Rwanda, Gambia, and Benin). Seven are approaching the 30% benchmark (Angola, Nigeria, Mozambique, United Republic of Tanzania, and Madagascar). Niger and Senegal are in the 25- 29.9% representation rate range.

Countries below 10% representation (5 to 9.9%) are, Ethiopia, Sao Tome and Principe, Sudan, Equatorial Guinea, Libya, Mauritius, Sierra Leone, Tunisia, Somalia Morocco and Algeria.

In numerous African countries, women hold or have held positions traditionally regarded as male preserves. This has been the case in Mozambique (Prime Minister and Foreign Affairs); Gambia (Vice President); Uganda (Vice-President and Finance Minister); Zimbabwe (Vice-President); Ethiopia (Deputy Speakers and Assistant Whips); South Africa (Deputy President); Ghana (Attorney General, Chief Justice, Trade Minister, and Speaker of Parliament); Nigeria (Ministers of Finance, Drug and Narcotics, Foreign Affairs); Liberia (Finance, Foreign Affairs and Trade); Niger (Foreign Affairs); and Senegal (Trade).[[37]](#footnote-37)

**The challenges faced by women in politics**

Despite registered development and progress of African women representation in political positions, the gender equality and equity principles are yet to be fully integrated and articulated into democratization processes, structures of power and decision-making. Unfortunately, particular weakness still persists in Africa. Studies and research have shown that underrepresentation of women is mostly symptomatic of persistent gender stereotypes, poverty, conflict between family and work, patriarchy and the lack of an enabling political environment, inadequate funding to support female candidates, absence of special measures/quotas, low literacy levels, lack of job security in politics, absence of female role models, lack of training for political participation and impact of armed conflict and natural disasters that affect some of the countries of the continent.[[38]](#footnote-38). In addition, gender disaggregated data needed to evaluate progress and achievements made in women’s advancement to leadership positions across all sectors, is still unavailable. Without reliable and up-to date data on the status of women in the labor market, public administration and justice sector, the impact of policies, programs and projects on women’s empowerment and advancement is very difficult to assess.

**Religion** also plays a key role in influencing the extent to which women are able to access their democratic rights. All the major religions such as traditional religion, Christianity, and Islam emphasize the superiority of men and the subordination of women. Various churches and other religions fight against the advancement of women. Some religious fundamentalists in the region are currently engaged in oppression and harassment of women who attempt to access their rights. In Nigeria for example, the use of Sharia Law in a number of states in the North has denied women's human rights. In North Mali, the situation is tragic when women are pressed violently by members of the Ansar Eddin armed group to change their behavior, in accordance with their fundamentalist interpretation of Islam.

**Violence** is also known to be a great obstacle to women political representation. It prevents access to political and economic opportunities that are central to overcoming women’s marginalization from decision-making and to increase their economic power. The physical and psychological aspects of violence against women constitute barriers to participation, when violence or the fear of violence stops women from attending public meetings and demonstrations. Violence is also an indisputable barrier for girls attending and completing school. Research on girls’ education projects in Ghana, Kenya and Mozambique conclude that more than 86% had reported some form of violence against them in the previous 12 months. [[39]](#footnote-39)

Research has also demonstrated how violence has prevented women from countries in transition to exercise their citizenship and thus being represented in decision-making positions. According to the International Alert paper on Women, Elections and Violence in West Africa[[40]](#footnote-40), female candidates and their supporters in Sierra Leone and Liberia are routinely confronted to gender-based intimidation. The aggressive climate created by the opponents to gender equality pushes some women to abandon their campaigns. The Author pointed out that this kind of intimidation is more severe in Sierra Leone, where all-male secret societies use threats of violence to scare off female candidates and their supporters. He considers that cultural marginalization has severely limited women’s educational opportunities, resulting in high illiteracy levels and a lack of qualifications and skills. These factors block women’s participation, both formally and informally. Furthermore, traditional and religious practices relegate women to traditional household roles, often leaving them in fear of rejection or even a violent reaction from their families if they attempt to enter politics. In addition, he observes despite their public commitments on the subject, parties have done little to promote women’s participation in party structures and as candidates for elections.

1. **Achievements in eliminating laws which directly or indirectly discriminate against women in political and public life in the past three decades and adoption of affirmative actions**

***Compliance with Treaty Requirements***

The UNECA’s Beijing + 15 Review Report[[41]](#footnote-41) as well as national reports submitted to the Committee of CEDAW and national responses[[42]](#footnote-42) to the questionnaire of the Working Group on the Issue of Discrimination against Women in Law and Practice, provide information on the domestication of CEDAW provisions at national level. Several countries report activities for integrating CEDAW into their respective legal texts and constitutions:

* Benin recognizes in Article 26 of the 1990 Constitution, the principle of equality before the law as well as that of equality between men and women;
* In Ethiopia, article 35 (3) of the constitution of 1994 states: The historical legacy of inequality and discrimination suffered by women in Ethiopia taken into account, women, in order to remedy this legacy, are entitled to affirmative measures. The purpose of such measures shall be to provide special attention to women so as to enable them to compete and participate on the basis of equality with men in political, social and economic life as well as in public and private institutions;[[43]](#footnote-43)
* The Equatorial Guinea Constitution of 1995, in addition to the recognition of the principle of equality between all citizens, affirms that the woman have equal rights and opportunities with men in all spheres of public life, private and family in the civil, political, economic, social and cultural. It states in Article 15 that any act of bias or discrimination duly recognized, tribal, ethnic, gender, religious, social, political, is punishable by law. Furthermore, the constitutional reform of 2011, incorporated into Article 13 paragraph 2, calls the authorities to take legal initiatives and mechanisms to promote adequate representation and participation of women in the performance of duties and other charges in all state institutions;
* South Africa has a very progressive constitution which contains a Bill of Rights that stipulates that equality is a non-derogate right to protection against unfair discrimination on the grounds of race, color, ethnic or social origin, sex, religion, marital status, pregnancy, disability and language. It has also a forward legislative framework geared towards advancing women’s rights;[[44]](#footnote-44)
* The new constitution of the kingdom of Morocco adopted in 2011, states in several articles the principles of equality between men and women (articles 19, 31 and 34);

Numerous countries indicate that they have enacted legislation to reflect CEDAW and other treaty related provisions. ( Algeria, Angola, Benin, Botswana, Burkina Faso, Cape Verde, Chad, Comoros, Cote d’Ivoire, Djibouti, Eritrea, Gabon, Gambia, Ghana, Lesotho, Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, Republic of Congo, Rwanda, Sierra Leone, Swaziland, Uganda, United Republic of Tanzania, Zambia and Zimbabwe).[[45]](#footnote-45) In 2007, Morocco reformed the Nationality Code allowing Moroccan women to pass their nationality on to their children. Uganda amended the Land Act in 2004 to include sections that protect the rights of women to own, use and inherit land and Mauritius adopted an Equal Opportunity Act in December 2008.

Several countries indicate that they have strengthened programs to protect the human rights of women (Angola, Benin, Botswana, Burkina Faso, Cap Verde, Chad, Comoros, Cote d’Ivoire, Djibouti, Gabon, Gambia, Ghana, Lesotho, Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, Republic of Congo, Rwanda, Sierra Leone, Swaziland, Uganda, United Republic of Tanzania, Zambia and Zimbabwe).[[46]](#footnote-46)

Efforts have also been made to address the unequal relations between men and women within the national gender framework, and effective strategies for tackling VAW (e.g. Algeria, Botswana, Cameroon, Côte d’Ivoire, Malawi, Mauritius, Morocco, Namibia, Nigeria, Republic of Congo, Rwanda, and Tunisia).[[47]](#footnote-47)

Progress has been made in terms of gender specific programs and projects that gender machineries have put in place. In South Africa, a Strategic Framework has been developed in order to achieve women’s empowerment and gender equality within public service.[[48]](#footnote-48) In Equatorial Guinea, the government has put in place programs to promote women’s participation in employment in all sectors of the economy.

**Affirmative action: quotas**

Countries that have made progress in parliament, have either instituted affirmative action/quotas in their constitutions or adopted rules to enforce gender quotas in their dominant parties. For instance, in Burundi, Rwanda, Tanzania and Uganda, constitutional provisions established quotas to ensure women’s representation mostly within the range of 30%.

There are a variety of types of quotas –those mandated by a constitution, those mandated by legislation, and those that are voluntary on the part of political parties:

* Constitutional quotas: some countries, including Burkina Faso and Uganda, have constitutional provisions reserving seats in national parliament for women.
* Election law quotas: Provisions are written into national legislation, as in Sudan.
* Political party quotas: Parties adopt internal rules to include a certain percentage of women as candidates for office. This is the case with the governing parties in South Africa and Mozambique. In South Africa, the Municipal Structure Act established a 50% quota for local government while the African National Congress (ANC) established a 30% quota at the level of parliament. Similarly, in Mozambique, the Front for the Liberation of Mozambique adopted a 30% quota for women.

International and regional organizations’ recommendations have led to the introduction of gender quota systems supported by several actors working at the country level. The CEDAW Committee provided guidance and orientations to member states. This was supported by the recommendations of the 1995 Beijing Platform for Action, which called on governments to take steps to ensure women’s equal access to, and full participation in, power structures and decision-making positions.

 **Challenges**

Most of African countries have tried to comply with CEDAW provisions, but have done it with many nuances and contradictions. In fact, several states have introduced into their constitution clauses on gender equality but didn’t include definition of discrimination against women in accordance with article 1 of the CEDAW. Furthermore, the Constitution of some countries that have included such principles, excludes customary personal laws from the reach of the non-discrimination provision, meaning in effect that discrimination against women in personal status law is permitted.[[49]](#footnote-49)

The challenge of using mixed legal systems, affects the effective implementation of Article 16 related to non-discrimination within family. The Equality Now Report on Discrimination against Women in Law reveals that several African countries[[50]](#footnote-50) have an explicit discrimination within family and inheritance laws. Family laws have an indirect and direct impact on women’s participation in public life and are intricately connected to all women’s human rights such as political representation, citizenship, education, employment, reproductive and sexual rights and health, violence, property rights to land and inheritance. It’s worldwide recognized that gender inequalities in public and decision making spheres have their roots in family patterns. Gender disparities in the division of household tasks and responsibilities limit also women's ambitions and impede their full participation in other activities.

The CEDAW Committee repeatedly stressed its concern on the absence discrimination definition in State party legislation, in accordance with article 1 of the Convention and/or provisions on equal rights of women in line with article 2 of the Convention. Indeed, in March 2012, the monitoring mechanism has reviewed Zimbabwe’s Report review and formulated the following observation : “While noting that Section 23 of the Constitution of the State party prohibits discrimination on the basis of race, tribe, place of origin, political opinions, colour, creed, sex, gender, marital status or physical disability, the Committee expresses its concern at the absence of a specific prohibition of discrimination against women as defined in article 1 of the Convention. The Committee is also concerned that section 23.3 of the State party’s Constitution represents a “claw back clause,” which allows for the application of discriminatory customary law in respect of personal laws...”

The Committee has also addressed the reservations formulated by African countries and has identified reservations to articles 2 (State obligations), 9 (nationality), 15 (equality and freedom of movement), 16 (marriage and family relations) as contrary to the object and purpose of the Convention, and therefore impermissible. In general comment 21 CEDAW urged: “States parties should where necessary to comply with the Convention, in particular in order to comply with articles 9, 15, and 16 enact and enforce legislation.” According to the new guidelines for the preparation of initial and periodic reports, States parties are obliged to inform the CEDAW Committee on progress on reservations. For the review of North African countries reports, the CEDAW Committee has regularly and consistently reported "concerns on the fact that reserves are maintained and urges the State party take the necessary steps to gradually reduce and then withdraw its declarations and reservations to the Convention.”[[51]](#footnote-51)

Another challenge raised by human rights activists is the non- dissemination of new laws adopted by states, such as the Persons and Family Code and Benin’s Laws on the repression of FGM and sexual harassment[[52]](#footnote-52). The CEDAW Committee discusses regularly the issue of effectiveness of laws in place to promote gender quality and non-discrimination in diverse areas. In July 2005, the Committee recommended to Benin to develop and implement comprehensive educational measures and awareness-raising campaigns on the provisions of the Personal and Family Code and on other laws designed to eliminate discrimination against women, in order to achieve full compliance with their provisions. The Committee recommends that those efforts be undertaken in combination with educational programs designed to raise awareness and challenge discriminatory harmful customs, traditions, practices and stereotypical attitudes regarding the roles and responsibilities of women in the family and society, as required under articles 2 (f) and 5 (a) of the Convention.[[53]](#footnote-53)

**III. Implementation of laws on equality and non-discrimination and women’s human rights**

While several examples of discriminatory legislation reviews are taking place throughout the continent in an effort to eliminate discriminatory laws, enforcement remains the most serious problem facing African women in several sectors, notably in family law and violence against women areas. Implementation of women’s rights is being hampered by persisting negative attitudes and perceptions of society towards gender equality and women’s empowerment; in some cases, religious and customary practices undermine women’s rights, in others law is not implemented due to judges’ resistance. The contradictions between customary law, religious law and codified law undercut women’s rights procedures.

How new laws promoting women’s rights are implemented? It's not easy to reply in the absence of a compilation of court decisions on gender equality and violation of women’s rights. The research on gender equality in Justice is not well developed within the continent except in some countries such South Africa. In addition, it’s not easy to find specific decisions on women's political representation that we can refer to and use as a good example. However, some decisions collected by the African Women’s Rights Observatory of UNECA and the African Human Rights Case Laws Database of the Centre for Human Rights of the University of Pretoria show how women’s rights are interpreted and trends in this area.

**The complexity of African legal systems**

A variety of legal and judicial systems exists in Africa, owing to different approaches to the regulation of the social order. First of all, there is systems inherited from the colonial period, such as the Anglo-Saxon System (of Common Law) and the Roman-Dutch System, and then there is traditional systems which are customary or religious. Judicial pluralism has two dimensions: institutional and material. Some countries, such Algeria, Egypt, Mauritius, Morocco and Tunisia, have established a unique judiciary system which falls under the Ministry of Justice. However, there is a multiplicity of juridical roots even within groups of countries with one judiciary system. In Egypt, for example, the State abolished all religious-based courts, by law No. 642/1955, but their laws remained in force. In addition to Islamic Law, Christian and Jewish laws are also applied.

In several Sub-Saharan African countries, customary and religious legal systems exist with modern courts. While the former apply custom, the so-called modern courts are often able to choose between applying positive law or customary law. This duality in judicial systems and in law has a number of disadvantages, and raises many problems at the application level, where women are the big losers. This kind of problems emerge when conflict between modern law and customary law lead to the application of customary law by taking precedence in some countries. These laws, nonetheless, are still applied even in countries where the legislator has abrogated the ones that are discriminatory towards women[[54]](#footnote-54). Cases cited below illustrate the existing tension and how the situation is going :

Ethiopia[[55]](#footnote-55): The Right to Choose between Religious and Civil courts Court in Ethiopia: Positive precedent setting ( 2004) Kedija lived with her husband, with whom she gave birth to three children. After her husband’s death, his grandchildren from a prior marriage sued Kedija and her children at the Naiba first instance Sharia Court claiming they were entitled to inherit her husband’s house. Kedija and her children, based on their Constitutional right of Article 34(5), refused to be judged at the sharia Court and opted to take the case to a regular court of law. Article 34(5) of the Constitution states that: ‘the Constitution shall not preclude the adjudication of disputes relating to personal and family laws in accordance with religious or customary laws, with the consent of the parties to the dispute. Particulars shall be determined by law.’ According to the article above, the consent of both parties in dispute is essential if the case is to be decided in accordance with religious or customary laws. However, the Naiba first instance sharia Court denied Kedija's request to be judged by a regular court and gave judgment in favor of the grandchildren. Kedija took her case to the sharia High Court stating that neither she nor her children consented to be judged by the sharia court and any decision given without such consent was void. The High Court reaffirmed the judgment of the first instance sharia Court. Kedija took the case to sharia Supreme Court, and the Federal Supreme Court but it was to no avail, as both courts reaffirmed the decision of the lower courts. With the assistance of the Ethiopian Women Lawyers Association, Kadija took her case to the Constitutional Inquiry Commission mandated to resolve issues related to interpretation of the constitution. Finally, the Constitutional Inquiry Commission acknowledged the error in the constitutional interpretation and judgment was made in favor of Kedija to take her case to a regular court of law.

Mauritius: 1. Bhewa v. Government of Mauritius- Positive precedent setting (1990). The case involves the petition by two Muslim couple who challenged the right of the state to give preference to civil marriage and its accompanying rights and requirements where both civil and customary legal system operate simultaneously. The couple argued that enforcement of civil laws on mandatory bases to regulate marriage and divorce is unconstitutional since the Constitution provides freedom of religion and prohibits discrimination on the basis of religion. The Supreme Court of Mauritius confirmed the supremacy of civil laws over religious laws in cases of conflict between the two systems. The Court was of the view that in plural legal systems, law and practice should uphold the system that best protects women from discrimination and unfair treatment. The couple made an issue that such civil laws are unconstitutional since the Constitution provides freedom of religion and freedom from discrimination on the basis of religion. The Supreme Court of Mauritius supported the co-existence of the civil laws and the “personal laws” (religions laws) without encroaching on one another. The court underlined that religious laws cannot prescribe the rights and responsibility created by marriage since this would amount to providing religious systems equal force of statuary law. In effect, the court decided that in case Muslim couples desire to apply Muslim laws before marriage, during marriage and at divorce including on the issue of property division during divorce or permission of polygamy, they have to be within the framework of civil laws created to uphold the right of all citizens without any discrimination on the basis of sex or religion.

Supreme Court of Appeal (SCA) of **South Africa:** Ngwenyama v Mayelane and Another – reflects inadequacies within the South African legal system: The judgment delivered on Friday 1st June 2012 by the Supreme Court of Appeal in the matter of Ms. Ms. Ngwenyama is a victory towards advancing the rights of women. But it also highlights the many inadequacies within the South African legal system. The Court found that Ms. Ngwenyama's marriage was still valid even though her deceased husband had failed to register the marriage in terms of the Recognition of Customary Marriages Act 120 of 1998 (RCMA). In doing so, the SCA overturned a judgment of the High Court, which had found that such marriages are not valid. The effect of the SCA ruling is that wives in polygamous marriages, whose husbands have not done the required contract, are no longer barred from asserting claims for maintenance and inheritance. On the other hand, this will be an acknowledgment and endorsement of polygamous marriages, a practice which does not match international women’s rights standards.

Virginity Test banned by Military Court in **Egypt**: The case of Samira Ibrahim - A Land mark step: Virginity test is a practice used to control women’s sexuality and behavior. The practice is also used to humiliate and restrict women’s freedom of assembly and expression with the view to stigmatize such women as loose and lucking discipline. On the 9th March 2011, Samira, along with other women were arrested while participating in a protest at the Tahrir Square. In military prison the women were subjected to virginity test. The military generals initially tried to deny that the tests took place. However, subsequently the Head of the Military Intelligence Department explained that those tests are performed to “protect the army against possible allegations of rape”. On behalf of Samira Ibrahim human rights groups have filed a case before the Military administrative Court. Samira was the only detainee who decided to defy the authority, and agreed to speak up and challenge the violation despite the threats she was facing. Late December, the court made its decision to ban “Virginity Tests” and deemed it a violation of both Egyptian constitution and the international agreements that Egypt is party to. The court rule is a confirmation of the fact that the test done on Samira and on other women was unlawful. The next steps involving charging the doctors that have violated the rights of Samira. However, reports show that further legal developments were not as promising; only one military doctor has been brought to justice in front of a military court. The doctor was charged for public indecency which is a much lesser charge than sexual assault. Furthermore, the case has been postponed several times and the outcome is not clear.

In October 2012 a High Court in **Botswana** struck down a customary law which denied women the right to inherit the family home. The case is reported by Southern Africa Litigation Center. In the case, the Court found that such a law violated the right to equality as guaranteed under the Botswana Constitution. The High Court categorically rejected the idea that culture could be used as an excuse for continued discrimination. It stated: “[t]he law is biased against women…This gross and unjustifiable discrimination cannot be justified on the basis of culture…It cannot be an acceptable justification to say it is cultural to discriminate against women…Such an approach would…amount to the most glaring betrayal of the express provisions of the Constitution and the values it represents…[it] has no place in a democratic society that subscribes to the supremacy of the Constitution—a Constitution that entrenches the right to equality.” The High Court in Botswana also notably rejected the Attorney General’s argument that even though the law was discriminatory, the Court needed to look at broader public opinion in determining whether to strike it down. [[56]](#footnote-56)

In the same line, the **Lesotho** Constitutional Court is currently facing whether to entrench inequality by letting a law that denies women the right to succeed to chieftainship or whether to follow in the footsteps of the Botswana High Court and reject such inequality. On 22 and 23 February 2012, the Lesotho Constitutional Court heard a case challenging a women’s right to succeed to chieftainship in Lesotho. The case brought by Senate Masupha, the first born child of a chief, argues that denying her the ability to succeed to chieftainship solely due to her gender violates her constitutional rights to equality and freedom from discrimination. SALC has intervened as amicus curiae, friends of the court, in the matter**,**[arguing](https://www.rocketsite.co.za/library/item/salc_amicus_masupha_v_the_senior_resident_magistrate_for_the_subordinate_court_of_berea_and_others)that the law not only violates Masupha’s rights under the Lesotho Constitution but Lesotho’s regional and international law obligations. Judgment is expected in 2013.[[57]](#footnote-57)

**Women’s Political Participation: Times of political transition**

This section examines women political participation in different political transitions which have occurred in Africa since the adoption of CEDAW in 1980, using case-examples (South Africa, Rwanda, Liberia, Senegal and Tunisia,)

**The case of Rwanda:** This case study presents some of the strategies undertaken by the government of Rwanda to promote women’s political participation.

Rwanda emerged from one of the most destructive conflicts in modern history with a strong commitment to gender mainstreaming and increasing women’s political participation. Currently, Rwanda is classed first in the world in terms of female representation in parliament with 56.3 percent in the lower house and 34.6 percent in the upper house. This achievement has been possible thanks to the political commitment of the Rwanda Government and active involvement of women and civic groups. Women representation in parliament during the post-genocide interim period from 1994 to 2003 was done by appointment and reached up to 25.7 percent. The constitution adopted in 2003 contains an enabling framework that empowered women to gain 48.8 percent of seats in the lower house of parliament in the 2003 post-genocide democratic elections. The constitution granted in its article 9 women “at least 30 percent of all posts in all decision-making organs.[[58]](#footnote-58)

The government also established interesting balloting mechanisms in order to encourage women’s candidacy for local election. For example, in the 2001 local elections, and again in the 2006 local elections, there was a triple ballot used. Each voter received 3 ballots when they entered the voting booth: a general ballot, a women’s ballot and a youth ballot. Voters had to select one candidate from each ballot. So they had to vote on the general ballot—it did not necessarily have to be a man but often was a man. They had to choose a woman from the woman’s ballot and they had to choose a younger person from the youth ballot. This was a deliberate attempt to make voters comfortable with voting for women and to increase the number of women in local government.[[59]](#footnote-59)

Furthermore, the Government of Rwanda undertook the review of laws in order to remove discriminatory provisions, adopted a national gender policy to facilitate effective integration of gender equality in all policies and various programs and strategies that give high priority to the prevention and repression of violence against women.

Women parliamentarians created the Forum for Women Parliamentarians in 1996[[60]](#footnote-60) . Their efforts led to the revision of laws discriminating women, notably the nationality law, the land law, the law on Matrimonial Regimes, Liberalities and Successions and the gender based violence law). [[61]](#footnote-61). Polygamy was outlawed in 2009.

In civil society, a powerful women’s advocacy civic umbrella group, Pro-femmes, was set up to oversee the conglomeration of over 40 women’s advocacy and civic organizations These groups advise the government on key social and political issues that affect women in particular and Rwandans in general.

 In contrast with all efforts deployed to address gender equality, Rwanda still faces several gaps in the implementation of the Convention. The CEDAW Committee, on September 2009 highlighted a number of issues including the absence of an explicit prohibition of discrimination against women, in line with Article 1 of the Convention, which addresses direct and indirect discrimination, in either the Constitution or other legislations. It also urges the State party to accelerate its law review process and to work effectively with Parliament to ensure that all discriminatory provisions in the Criminal Code, the Family Code, the Commercial Code, etc., are repealed so asto bring legislation into compliance with the Convention and the Committee’s general recommendations. It encourages the State party to set a clear time frame for such reforms. The Committee also recommends that the State party incorporate into its Constitution or other appropriate legislation a prohibition of discrimination against women, encompassing both direct and indirect discrimination, in line with articles 1 and 2 (b) of the Convention. [[62]](#footnote-62)

**South Africa**

South African democracy is characterized by credible regular elections, media freedom and a reasonably strong rule of law. Since the end of the apartheid system and the first democratic elections in 1994, women have continued to make gains in South African politics and governance. Prior to the 1994 elections, female representation in parliament was 2.7 percent. During the 1994 post-apartheid elections, women won 27 percent of parliamentary seats. This was followed by earning 30 percent of representation in the 1999 elections. By 2004, representation increased to 32 percent. In the 2009 elections, South African women had a very strong showing by winning 178 of the 400 legislative seats in the lower house of parliament, which translates into 44.5 percent. In the upper house of parliament, women won 16 of the 54 seats, which is equivalent to 29.6 percent. There has also been a steady increase in women’s political participation at the local level. The 1995 local elections resulted in women capturing 19 percent women of local offices. This percentage increased to 29.6 after the 2000 local elections and climbed to 40 percent in 2006[[63]](#footnote-63) and 42.3% in 2009.

Gender equity in South Africa’s political governance is rooted in the country’s history and enshrined in the 1996 Constitution of South Africa. In Article 1, the constitution spells out universal suffrage, equality and non-sexism among the fundamental values upon which the country was founded (Republic of South Africa, 1996). Even though the constitution does not explicitly provide quotas to increase women’s political participation, steps have been taken both by the legislature and political parties to institutionalize women’s equitable political participation.

The African National Congress (ANC), which is currently the largest party in South Africa, has been at the forefront of increasing women’s political participation by pursuing a voluntary quota system in the party structure in fulfillment of the general quest for gender mainstreaming and, in compliance with the Southern African Development Community (SADC) Protocol on Gender and Development. As such, the party has been taking consistent steps to reach the women’s 50 percent target.

The country adopted a progressive legislative framework to ensure equality between women and men such as the adoption of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, the Children’s Act of 2005, which seeks, amongst other things, to ensure a gender responsive treatment of girls in conflict with the law; and the Promotion of Equality and Prevention of Unfair Discrimination Act (Equality Act), 2000 and a number of policies, programmes and plans of action to promote gender equality and eliminate discrimination against women such as the National Gender Policy and the 365 day National Plan of Action to end Gender Violence. It also established in 2009 the Women’s Empowerment and Gender Equality branch within the Ministry for Women, Children and People with Disabilities.[[64]](#footnote-64)

However, like Rwanda’s case, South Africa’s Constitution and legislation didn’t enshrine the principle of substantive equality between women and men, or prohibits direct and indirect discrimination against women in accordance with article 1 of the Convention. This issue was raised by the CEDAW Committee during the last review report on April 2011[[65]](#footnote-65). The monitoring Committee is also concerned by the problem of the Traditional Courts and women’s access to justice and equality of treatment before the law.

**West Africa Region**

**Liberia and Senegal cases**

Since the late 80s, West Africa has been marked by violent conﬂict and wars, from Sierra Leone, Liberia, Cote d’Ivoire, Guinea Bissau, Casamance in Senegal and Togo, to the Niger Delta Nigeria and now North Mali. The West Africa region is also known, with some variations, to be male dominated, highly patriarchal and characterized by inequalities and gender imbalances that perpetuate violence and discrimination against women. Though conﬂicts have given women greater responsibilities, and with them the possibilities of exerting greater leverage in decision-making processes and increasing their political participation, the region didn't record the same level of increase of female representation in politics like the Southern and East regions. Research indicates that average representation of women in government and decision-making bodies in the African continent stands at 20%, which is far below the 30% agreed in the Beijing declaration and global resolutions and falls way below the AU parity principle. For West Africa, the situation is worst as it has the least representation of women on the continent, with an average of 9 percent.

Despite low scores recorded by the region, the election in 2005 and reelection in 2011 of Mrs. Ellen Johnson Sirleaf as President of Liberia as well as the impressive progress of female parliamentarians in Senegal give a glimmer of hope for women in the region.

**Liberia**

Mrs. Ellen Johnson Sirleaf was elected the first women President of Liberia in 2005, two years after the nation emerged from a brutal civil war that claimed more than 200,000 lives and displaced a third of the population. During her first mandate, the state revised existing legislation that discriminates against women and enacted new laws, including the 2006 Rape Law which amends chapter 14, sections 14.70 and 14.71 of the new Penal Code, the 2003 Inheritance Law, and the Fairness Bill/Bill for the Equal Participation and Representation of Women in the Political Process, which is pending in Parliament. Plans, policies and programs aimed at promoting gender equality, including the National Gender-based Violence Plan of Action (2006), the National Health Policy (2007), the National Policy on Girls’ Education (2006), the HIV/AIDS Strategic Plan of Action (2006), the Poverty Reduction Strategy (2008-2011), the National Rural Women’s Program (2008), and the national action plan for the implementation of Security Council resolution 1325 (2000) have been adopted. Regarding the adoption of affirmative actions to increase political participation of women, the female President Mrs. Sirleaf had to face a strong resistance from male-dominated political parties which impacted the 2011 elections.

Thus, the 2011 polls saw the re-election of President Ellen Johnson Sir leaf to office, but without any increase in the number of women in the Legislature. In fact, elections showed a decline in the overall representation of women, from nine representatives out of a total of 64 in the 52nd Legislature, to eight representatives out of a total of 73 in the 53rd Legislature and a decrease in number of female senators from five to four. Liberia is a specific case because it successfully became a female-headed democracy after 14 years of civil conflict. The question of why the representation of women in the Legislature declined in 2011 has been a subject of discussion for many observers, political analysts and women since the end of the elections. Several reasons have been advanced by observers to explain this turn of events: Firstly, Liberia didn’t adopt until now a binding gender quota system. In August 2011, Liberia’s Women’s Caucus presented a draft of a Gender Equity Bill to Parliament which includes a legislated gender quota. But, the bill was rejected by the assembly which is male dominated. Moreover, political parties did not actively promote and support female candidates. “Women were often left to fight for themselves.  In many cases, the only step the parties took was to formally register their female candidates.  Influential male candidates were given preference because they received more campaign funds, staff and support”, said Senator Gloria Musu Scott who lost her seat following the elections.[[66]](#footnote-66) Another factor raised, the absence of a critical mass of women strongly lobbying and advocating for women’s participation in the electoral process. In addition, women frequently lack support to achieve their goals and gain representation leading to unequal access to campaign resources, media coverage and public exposure.

So, gender equality road is still long for Liberian women and the CEDAW Committee expressed its concern during the review of the country’s initial and periodic reports in August 2009. It observed that, despite the ratification of the Convention by the State party in 1984, it has yet to be incorporated into Liberian law and is not justiciable in Liberian courts. The Committee also expresses concern that, although article 11 (b) of the Constitution guarantees the fundamental rights and freedoms of all persons irrespective of sex, there is no definition of discrimination in the State party’s Constitution or legislation in line with article 1 of the Convention, which covers both direct and indirect discrimination, nor is there any legislation embodying the principle of equality between women and men.[[67]](#footnote-67)

**Senegal**

The emergence of Senegalese women, 42% in the national assembly following the last elections in 2012, could have, as an historical moment, an important impact on the other countries of the region. Sixty-four women now have seats out of 150-member National Assembly, thanks to a law on gender parity. At the executive level, 7 women out of 31 have been appointed to ministerial position. The polls come three months after Macky Sall won presidential elections, evicting ex-president Abdoulaye Wade after 12 years in office.

The Senegal parity law (Law n° 2010-11 of 28 May 2010,) introduced gender parity in Senegal, by obliging political parties to submit candidate lists that present men and women in an alternate manner. This implies that any political party wishing to be represented in assembly at national, regional or local level should present a male-female ratio as closest as possible to 50% which is very high. The law also adopted the zipper method, which places male and female candidates alternately in frontline and deputizing positions, to protect women from situations where they are packed at the bottom, where candidates have fewer chances of being elected.

 However, the new parliamentarians are going to face several challenges, mainly in promoting women’s human rights. Although Senegal has ratified the main international and regional women’s rights protection instruments, many of their provisions continue to be violated in law and practice. Discriminatory legislation, notably in family law, harmful traditional practices, such as early and forced marriage and female genital mutilation, widespread violence against women, limited access to education, employment, decision-making positions, health services and land are still remaining. We also note that the country has not submitted to the CEDAW Committee, periodic reports since 1994, the date of the presentation of its initial report.

**North Africa**

The popular uprisings in North Africa and Arab region constitute a historic event that has fundamentally changed the notion of governance in the region. Accordingly, a number of activists have thought that it might be relatively simple to allow women to participate in the democratic transition and adopt reforms to guarantee strong participation of women in politics. However, the post-revolutionary phase crystallizes new realities and challenges. The political context in each country is highly specific, and each country has its own gender regime. Despite these specific contexts, there are common features for all States.

***Tunisia and the risk of backsliding***

Tunisia is passing through a critical historical moment. Tunisian women participated actively in the uprisings, but fear backlash after the victory of the moderate Islamist party, Ennahda, in the first free election after the fall of President Ben Ali. In the current debates about the new constitution, the role of sharia in public life and women’s rights are among the most central issues.

Tunisia’s legislation on women’s rights is the most modern in the Arab world. Under [Tunisia’s 1956 Code of Personal Status](http://chnm.gmu.edu/wwh/modules/lesson9/lesson9.php?s=11) women were given the right to vote and to be elected to parliament, to earn equal wages to men and to divorce. The code outlawed polygamy and raised the age at which girls could marry to 17 years old. [Abortion was legalized in 1965](http://cimorene.com/2012/11/20/womens-rights-in-post-arab-spring-tunisia/www.un.org/esa/population/publications/abortion/doc/tunisia.doc), at time when it was still a taboo topic in many western countries.

Habib Bourguiba, President of the Republic of Tunisia during the period1956-1987 and the liberator of the country, promulgated the revolutionary Code of Personal Status with the support of enlightened religious scholars. The family code is considered by most Tunisians as a major achievement of the first republic which has deeply changed the norms associated with women’s position in society and within marriage. Since the adoption of the Personal Status Code (PSC) in 1956, Tunisian women have acquired rights within the private sphere, facilitating their participation in public life.

Zine el-Abidine Ben Ali, Tunisia’s toppled dictator, continued Bourguiba’s work. During his mandates, Tunisian women's representation in the legislative structure has been marked by a quota system (27.6% of the members of parliament “elected” in 2009 were women.) But Ben Ali, the ousted president, was often perceived to be increasing the women's quota in parliament as a *mere façade* for democracy. He was presenting itself as a champion of women rights and modern and secular state. He promoted women’s rights, while violating other basic human rights like freedom of expression and physical integrity. The Tunisian democrat women have always complained about their inability to express their opinions freely in issues related to politics and gender discrimination and this proves that advancing women’s rights without basic human rights and freedoms is meaningless.

***Women’s place in the transition process***

After the revolution, the interim government ratified several treaties[[68]](#footnote-68) and lifted[[69]](#footnote-69) the reservations concerning article 9, paragraph 2, article 16, paragraphs (c), (d), (f), (g) and (h), and article 29, paragraph 1, as well as the declaration related to article 15, paragraph 4, of the CEDAW Convention.

In order to ensure women’s representation in the new Constituent Assembly tasked to draft the new constitution, the transitional authorities adopted a decree[[70]](#footnote-70) which establishes gender parity and states that all candidate lists must include alternating male and female candidates. This measure was further supported by the voting system chosen, namely the proportional representation system. Unfortunately, despite the lobby and advocacy campaign attempting to ensure that women occupy at least 50% of the heads of lists (conducted in partnership with representatives of political parties and independent lists), only the list of the modern democratic coalition Pole (PDM) was close to meeting parity (48%).According to the official statistics of ISIE, only 7% of the party lists were headed by women candidates. This percentage varied from 3% among the independent lists to 7% on the party lists, reaching only as high as 35% on the lists put forward by coalitions. Consequently, women had a significantly lesser opportunity to access the Assembly and gain a place in the new government. The behavior of citizens observed by the mission during the election campaign confirms women’s experiences of discrimination. For example, many lists displayed did not include pictures of women candidates and for the parties that did include women candidate’s photos, the pictures were often torn, defaced, or smeared with comments or defamatory insults. In addition, women candidates have been marginalized within their own parties, without support, coaching and training. However, women participated actively as voters, candidates and observers, and represented 45% of the 3,882,727 Tunisians over 18 years old enrolled in the electoral registers (55% of 7 million voters), and 51% of the enrolled population between 18 and 35 years.

The electoral lists of the Islamist party Ennahdha received 41 percent of the votes and captured 89 of the Parliament’s 217 seats. Forty two of the fifty seven female representatives in the new assembly are members of Ennahdha. Women have thus acceded to some of the most visible positions in the National Constituent assembly, with Mrs. Mehrzia Laabidi serving as Vice-President of the Assembly. In the Executive branch, only four 4 women have been appointed in the government out of a total of 51 members.

***Women’s rights***

One of the main concerns of women’s rights activists in Tunisia is the new constitution draft. They fear backsliding on key gains and are scrutinizing and following actively the NCA’s work in order to ensure that the current constitutional reforms clearly and unequivocally embody the concept and practice of equality between women and men and non-discrimination in both the private and the public sphere.

In 13 August 2012, thousands of [Tunisians took to the streets to protest article 28 of the recently released draft constitution](http://mideast.foreignpolicy.com/posts/2012/08/20/complementary_status_for_tunisian_women)which refers to women as “partners” of men throughout the country’s history. It also mentions that women and men share “complementary” roles within the family.[[71]](#footnote-71)The new concept has been removed under national and international pressure. According to the latest version (October 2012), “the State guarantees women’s rights and what has been achieved already in all areas.” It even adds to the previous sentence about combat against violence against women – “combating all forms of discrimination against women”. [[72]](#footnote-72)

In addition to the fear of regression in rights, there is a climate of violence and insecurity in the country which also target women. The International Federation for Human Rights (FIDH) reports that women were during the uprising period subjected to specific forms of police violence, including sexual harassment and rape[[73]](#footnote-73). The “Association tunisienne des femmes democrates” (ATFD) documented cases of rape by members of Ben Ali's special forces in Kasserine and Thala during the repression of protests. In Tunis, from 14 - 15 January, women protesters were raped when held in detention in the Ministry of Interior.

Violence against women is continuing during the transition phase. A woman allegedly raped by police in Tunisia has been questioned by a judge who will decide whether to prosecute her for "indecency" with her fiance.

Violence committed by students and against female and male professors has also been a source of concern. The conflicts are also located at the university, for instance Manouba University of Arts and Letters has been closed for almost one month because of Salafists bearded men and women in burkas occupying the grounds, vowing not to leave until burkas, separate classes for women and men are imposed in the university.

Initiatives to guarantee a transition with justice, a solid rule of law and respect for human rights and gender equality have been supported by the international community. The Office of the UN High Commissioner of Human Rights (OHCHR), UNDP, UNFPA, UNICEF, UN-Women and other organizations soon started assisting the efforts to build the rule of law end strengthen human rights in the country, through i.e. providing advice and capacity building concerning areas such as the reform of the national human rights institution to adapt it to international standards: strengthening judicial independence; reforming of the security sector, and providing advice and technical support to the Tunisian independent commission investigating human rights violations from the recent past. Recently in October 2012, an international conference on strengthening women's participation in public and political life and their presence in decision-making positions” has been organized in Tunis by the Ministry of Women and Family Affairs, in association with the United Nations' Population Fund (UNFPA), UN Women (Entity for Gender Equality and Empowerment of Women) and the United Nations Development Programme (UNDP).The conference seeks to encourage women to get involved in public and political life and strengthen their participation in the next elections so that they would be present in decision-making positions. Recommendations have been adopted asking notably Government, Constituent Assembly (NCA), civil society and global and bilateral partners to ensure a good representation of women in decision making positions through quota or gender parity law. The Conference’s report is not yet published.

With regard to other North African countries in transition notably Libya and Egypt, the situation is worst. In both countries, women are excluded from the entire transitional political process. In Egypt, very few women were represented in the Constituent Assembly charged with drafting the new Constitution. The last draft does not include the guarantee of non-discrimination based on sex.

**Conclusion and recommendations**

The review of women political participation trends in Africa shows that Africa is recording drastic changes in women’s representation in particular with Rwanda where more than 50 percent of women in parliament. More than ten African countries appear on the first fifty countries globally with high percentage of women in decision-making positions. However, persistent low representation of women in decision making structures and processes remains prevalent across geographical boundaries, economic level, religious identities and democratic systems. In some regions of the continent, there has been notable stagnation or decrease in number of women in parliaments. Women’s representation in Southern and East Africa is better than in North, West and Central Africa. On the other hand, case study analysis across the continent shows that several post-conflict states have high rates of women’s political representation. In these countries, the combination of a strong women’s movement, strong political commitment at the highest government levels, quotas and electoral systems increased the number of women in parliament. The different case studies of the report have shown that each case tends to be context-specific given the peculiarities of each country’s political culture.

Most countries have developed constitutional framework, institutional and policy architecture as an indication of their commitment to attaining gender equality and empowering women. Furthermore, most of national constitutions of the Africa region articulate the principle of equality between citizens. This provision presents an opportunity to hold political leadership responsible for the promotion of political culture of gender equality and the empowerment of women. At institutional level some countries have gender equality policies and gender machineries such as ministries or departments dedicated to implementing international, regional and national commitments to gender equality. Women’s movements also played a great role in different countries and their capacity to exert pressure on governments to comply with commitments to gender equality differs profoundly.

Allocation of adequate resources to ensure effective and sustainable implementation of the commitments is yet an issue. Very few countries have actually taken practical steps to fund the gender equality agenda, and the lack of financial support for female candidates during elections has been cited as the major barrier preventing women from reaching decision-making positions. This therefore suggests that donor funding should not be targeted only to government institutional capacity building but to also be extended to political parties and women’s organizations that work on democracy.

**Recommendations**

 **General recommendations**

 **States**

* **Provide clear and explicit provisions in constitution and legislation on gender equality and non-discrimination against women**
* Finalize the process of withdrawal of all the reservations to the CEDAW as soon as possible;
* Start without delay a process of legislative reform to bring legislation fully into line with the CEDAW;
* Introduce, in the electoral legislation, specific measures aimed at promoting women’s representation in elected public bodies at all levels and establish quotas of at least 30 per cent in all decision-making positions;
* Ensure that electoral commissions monitor political party manifestos regarding gender

policies, processes and practices

* Organize training on gender equality for civil servants and awareness-raising activities on gender equality for educators and students, at all levels;
* Bring legislation in the area of marriage, family, inheritance and personal status law into line with international human rights standards, as set out in the CEDAW and ensure the application of all provisions of the convention;
* Introduce a specific legal framework to prevent and prosecute all forms of violence against women, including domestic violence, female genital mutilation, girl child neglect, and sexual violence, effectively punish the offenders and ensure its implementation;
* Improve the legal training of members of the police and the judiciary in the field of human rights, set up mechanisms to monitor and ensure the consistent implementation of the law throughout their territories, facilitate women’s access to legal advice and representation and organize awareness-raising campaigns on women’s rights;
* Organize training on gender equality for civil servants and awareness-raising activities on gender equality for educators and students, at all levels;
* Strengthen national gender/women’s machineries for effective implementation, monitoring and mainstreaming of national, regional and international commitments on gender equality;
* Ensure gender-responsive national budgets and development plans and capacity to implement;
* Promote women’s access to education and introduce specific measures aimed at addressing the illiteracy rate among women;
* Develop specific policies to improve the situation of women in rural areas;
* Ensure that policies designed to promote women’s participation include accountability measures;
* Create mechanisms to hold all sectors accountable for addressing gender equality issues such a High Authority on Gender Parity;
* Involve the media in promoting a culture of gender equality and combating gender-based stereotypes;

Recommendation to the countries of the region that are processing constitutional reform - To ensure that:

* + The draft constitution is based on an inclusive process and extensive consultation of all the stakeholders, including civil society and human rights and women’s organizations;
	+ The principles of gender equality and non-discrimination are enshrined in the constitution and reflected in the implementing legislation;
	+ The constitution explicitly permits the possibility of taking positive actions and policies in order to promote equality between women and men;
	+ The constitution establishes the precedence of ratified international human rights instruments over national law.

Women in parliaments

* Women parliamentarians should develop legislation that requires political parties to comply with affirmative action policies; and review existing laws and propose amendments to ensure that they are gender-sensitive and respect women’s rights.
* Women in parliaments must forge strong links with their constituents and prioritize women’s issues, including the promotion and protection of women’s rights and the economic and social empowerment of women.
* Women parliamentarians should work with women from all political parties to establish a formal women’s network to advocate for a common women’s agenda.

Political parties

* Political parties must create an enabling environment for the participation of women as voters and candidates.
* Political parties should:
	+ develop mechanisms to increase the number of women in party leadership positions;
	+ adopt internal rules that require the party to advance women in 50 per cent of positions in each election;
	+ address gender equality issues in their platforms;
	+ Allocate equal and adequate resources for women’s political campaigns and electoral processes

Civil society

* women who are active in civil society must do more to prepare women and girls for political engagement, and must reach out to women in government to form coalitions. Women’s civil society organizations should:
* build alliances with men and network with other groups to promote women’s political participation;
* include men in advocacy efforts and networks on behalf of gender equality issues, including the need to enhance women’s political participation;
* take a multigenerational approach to promote women’s human rights and political participation;
* build bridges between communities fractured by extremism through constructive dialogue;
* conduct training and sensitization on existing national and international policies to guarantee their implementation;
* develop alternatives and models for civic engagement to overcome cultural and religious obstacles;
* develop monitoring plans to evaluate governments on their implementation of protocols and commitments related to gender equality, and to evaluate elected officials on their commitments to gender-sensitive government.
* support women to become religiously literate so that they will understand the progressive religious textual interpretations with regard to women, and be able to deal with the political aspirations of religious parties with clarity.

United Nations and other multilateral and bilateral development partners

* Provide financial and technical support to build women’s capacity to become effective leaders, mentors, managers and ultimately change agents.
* Build partnerships with government, private sector and civil society to advance the

equitable participation of women for transformational leadership at all levels of decision-making across the continent.

**List of Sources used in this study**

* State’s answers to questionnaire.
* Replies to call for submissions (UN Women, Civil Society Organizations).
* Statements from States before the Human Rights Council.
* National reports presented by African States before the CEDAW Committee
* Concluding observations of the CEDAW Committee
* Reports issued by:
* United Nations agencies (OHCHR, UN Women, UNDP, United Nations Economic Commission for Africa).
* International and regional organizations and agencies (Inter-Parliamentary Union; UNDP and others)
* Civil society organizations.
* Academic articles and literature.
* Facts and figures issued by: Inter-Parliamentary Union; African Women’s Rights Observatory, UNDP and UN Reports;
1. *http://diasporadical.com/2012/09/03/wangari-maathai-charity-ngilu-martha-karua-political-moments-and-the-legacies-of-mama/* [↑](#footnote-ref-1)
2. *Conflicting Agendas? Women’s Rights and Customary Law in African Constitutional Reform, Aili Mari Tripp* [↑](#footnote-ref-2)
3. *National Mechanisms for Gender Equality in the ESCWA region, Islah Jad Consultant 2010* [↑](#footnote-ref-3)
4. *UNAIDS Fact sheet 2010; http://www.unaids.org/documents/20101123\_FS\_SSA\_em\_en.pdf* [↑](#footnote-ref-4)
5. *One of the ten established committees of the Economic, Social and Cultural Council (ECOSOCC) of the AU* [↑](#footnote-ref-5)
6. *In 2006, Ghana, Rwanda and Kenya; in 2007, Algeria and South Africa; in 2008, Benin, Uganda, Nigeria, and Burkina Faso; in 2009, Mali, Mozambique and Lesotho; in 2010, Mauritius and in 2011, Ethiopia.* [↑](#footnote-ref-6)
7. *See http://new.uneca.org/aprm/CountryReports.aspx* [↑](#footnote-ref-7)
8. *See* [*http://www.algerie1.com/actualite/ouyahia-l%E2%80%99algerie-s%E2%80%99attelle-a-conforter-*](http://www.algerie1.com/actualite/ouyahia-l%E2%80%99algerie-s%E2%80%99attelle-a-conforter-) *la-democratie-et-le-pluralisme/* [↑](#footnote-ref-8)
9. *UNECA/ A Fifteen-Year Review of the Implementation of the Beijing Platform for Action in Africa (BPfA) +15 Main Report From 1995–2009* [↑](#footnote-ref-9)
10. *Angola, Botswana, Burkina-Faso, Cameroon, Cape Verde, Cote d’Ivoire, Equatorial Guinea, Gabon, Ghana, Guinea- Bissau, Lesotho, Libya, Mali, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, Senegal, Seychelles, South Africa, Tunisia and Tanzania.* [↑](#footnote-ref-10)
11. *The resolution acknowledges the importance of the participation of women and the inclusion of gender perspectives in peace negotiations, humanitarian planning, peacekeeping operations, post-conflict peace building and governance. In particular, Resolution 1325 calls for the participation of women at all levels of decision-making; the protection of women and girls from sexual and gender-based violence; the prevention of violence again women through the promotion of women’s rights, accountability and law enforcement; the mainstreaming of gender perspectives in peace operations.*  [↑](#footnote-ref-11)
12. *Final Report to the United Nations Department of Peacekeeping Operations, Department of Field Support "Ten-year Impact Study on Implementation of UN Security Council Resolution 1325 (2000) on Women, Peace and Security* [↑](#footnote-ref-12)
13. *The main articles of the Maputo Protocol include the Elimination of discrimination against women; Right to dignity; Right to life, integrity and security of the person; Elimination of harmful practices(especially Female Genital Mutilation (FGM) and other traditional practices that are harmful to women); Marriage, separation, divorce and annulment of marriage; Access to justice and equal protection before the law; Right to Participation in the Political and Decision-Making; Process Right to Peace Protection of Women in Armed Conflicts; Right to Education and Training; Economic and Social Welfare Rights ;Health and Reproductive Rights; Right to Food Security; Right to Adequate Housing; Right to Positive Cultural Context; Right to a Healthy and Sustainable Environment; Right to Sustainable Development ;Widows' Rights ; Right to Inheritance; Special Protection of Elderly Women; Special Protection of Women with Disabilities; Special Protection of Women in Distress; and Remedies.*  [↑](#footnote-ref-13)
14. [↑](#footnote-ref-14)
15. *States Parties are required to take affirmative action to promote equal participation of women in political life, including through measures to ensure that women:*

* Participate without any discrimination in all elections;*

* Are represented equally with men at all levels in all electoral processes; and*

*Participate equally with men in the development and implementation of State policies and development programs* [↑](#footnote-ref-15)
16. *Solidarity for African Women’s Rights Coalition (SOAWR) REPORT OF MAPPING EXERCISE ON THE STATUS OF RATIFICATION OF THE PROTOCOL ON THE RIGHTS OF WOMEN IN AFRICA, September 2012; http://femnet.co/index.php/en/other-publications/item/100-report-on-status-of-ratification-of-protocol-on-the-rights-of-women-in-africa* [↑](#footnote-ref-16)
17. ***States that have signed:*** *Algeria, Angola, Benin, Burkina Faso, Burundi, Cameroon, Central African Republic, Chad, Cote d'Ivoire, Comoros, Congo, Djibouti, Ethiopia, Gabon, Gambia, Ghana, Guinea-Bissau, Guinea, Kenya, Libya, Lesotho, Liberia, Madagascar, Mali, Mozambique, Mauritius, Namibia, Nigeria, Niger, Rwanda, Sahrawi Arab Democratic Republic, Senegal, Seychelles, Sierra Leone, Somalia, South Africa, Sudan, Swaziland, Tanzania, Togo, Uganda, Zambia.*

***States that have Ratified:*** *Angola, Benin, Burkina Faso, Cameroon, Cape Verde, Comoros, Cote d’Ivoire, Democratic Republic of Congo, Djibouti, Gabon, Gambia, Ghana, Guinea-Bissau, Guinea, Libya, Lesotho, Liberia, Mali, Malawi, Mozambique, Mauritania, Namibia, Nigeria, Rwanda, Senegal, Seychelles, South Africa, Tanzania, Togo, Uganda, Zambia, Zimbabwe, Kenya, Equatorial Guinea.*

***States that have neither signed nor ratified:*** *Botswana, Egypt, and Tunisia.* [↑](#footnote-ref-17)
18. *http://au.int/en/sites/default/files/Charter%20on%20Democracy%20and%20Governance\_0.pdf* [↑](#footnote-ref-18)
19. ***Article 29****of the African Charter on Democracy, Elections & Governance (2007) states that:*

*1. State Parties shall recognize the crucial role of women in development and strengthening of democracy.*

*2. State Parties shall create the necessary conditions for full and active participation of women in the decision-making processes and structures at all levels as a fundamental element in the promotion and exercise of a democratic culture.*

*3. State Parties shall take all possible measures to encourage the full and active participation of women in the electoral process and ensure gender parity in representation at all levels, including legislatures.* [↑](#footnote-ref-19)
20. *The objective of the Protocol is to:*

*1. Provide for the empowerment of women, to eliminate discrimination and to achieve gender equality and equity through the development and implementation of gender responsive legislation policies, programs and projects”.*

*2. Harmonize the implementation of the various instruments that the SADC members have subscribed to at the regional and international levels on gender equality and equity*

*3. Address emerging gender issues and concerns*

*4. Set realistic, measurable targets, timeframes and indicators for achieving gender equality and equity* [↑](#footnote-ref-20)
21. *http://www.sadc.int/files/7112/9916/3525/GENDER\_PROTOCOL\_\_ENGLISH.\_With\_Madagascar\_signature\_pdf.pdf* [↑](#footnote-ref-21)
22. *See Aili Mari Tripp”The Changing Face of Africa’s Legislatures: Women and Quotas ,*[*http://www.quotaproject.org/cs/cs\_tripp\_2004.pdf*](http://www.quotaproject.org/cs/cs_tripp_2004.pdf) [↑](#footnote-ref-22)
23. *(IPU 2011 Report)* [↑](#footnote-ref-23)
24. *http://www.ec.or.ug/Elec\_results/2011\_Woman\_MP.pdf* [↑](#footnote-ref-24)
25. *http://www.quotaproject.org/uid/countryview.cfm?CountryCode=UG#additional* [↑](#footnote-ref-25)
26. *http://www.quotaproject.org/uid/countryview.cfm?ul=en&country=159#party* [↑](#footnote-ref-26)
27. *http://www.quotaproject.org/uid/countryview.cfm?country=205* [↑](#footnote-ref-27)
28. *http://www.gouv.sn/-Constitution-du-Senegal-.html* [↑](#footnote-ref-28)
29. *See Decree N°35 dated May 10, 2011 on the Election of the National Constituent Assembly, http://aceproject.org/ero-en/regions/africa/TN/tunisia-decree-no.-35-dated-10-may-on-the-election* [↑](#footnote-ref-29)
30. *See « Loi organique N° 12-03 du 12 janvier 2012 fixant les modalités augmentant les chances d’accès de la femme à la représentation dans les assemblées élues (JO N°01), http://www.interieur.gov.dz/Dynamics/frmItem.aspx?html=36&s=23* [↑](#footnote-ref-30)
31. *http://www.sis.gov.eg/En/Story.aspx?sid=55881* [↑](#footnote-ref-31)
32. *See “WOMEN AND ELECTIONS IN AFRICAN POLITICS” KEMI OGUNSANYA* [*http://www.iag-agi.org/bdf/docs/women\_and\_elections\_in\_african\_politics.pdf*](http://www.iag-agi.org/bdf/docs/women_and_elections_in_african_politics.pdf) [↑](#footnote-ref-32)
33. *IPU 2012 :Albania; Antigua and Barbuda; Austria; Botswana; Bulgaria; Czech Republic; Dominica; Estonia; Ghana; Iceland; India; Jamaica; Lao P.D.R.; Latvia; Lesotho; Lithuania; Mozambique; Netherlands; Pakistan; Poland; Portugal; Romania; Rwanda; Saint Lucia; Serbia; Suriname; Turkmenistan; Uganda; United Republic of Tanzania; and Uzbekistan* [↑](#footnote-ref-33)
34. *IPU 2012 , Antigua and Barbuda; Bahamas; Belize; Belgium; Gabon; Grenada; Russian Federation; Saint Lucia; Swaziland; United Kingdom; and Zimbabwe.* [↑](#footnote-ref-34)
35. *Extracted from the World classification established by OPU, http://www.ipu.org/wmn-e/classif.htm* [↑](#footnote-ref-35)
36. [*http://www.ipu.org/pdf/publications/wmnmap12\_en.pdf*](http://www.ipu.org/pdf/publications/wmnmap12_en.pdf) [↑](#footnote-ref-36)
37. *See UNECA, A Fifteen-Year Review of the Implementation of the Beijing Platform for Action in Africa (BPfA) +15 – From 1995–2009* [↑](#footnote-ref-37)
38. *Beijing plus 15 review UNECA Report :*

*a. There are indications that fewer women than men are presented for electoral processes in situations where political parties do not have gender-sensitive policies especially in nominating candidates for elections;*

*b. Some electoral systems do not support the election of women, especially in societies where strong gender biases against women occupying decision-making positions persist. It has further been demonstrated that the murky nature of the political terrain, characterized often by cut-throat and “dirty linen” attacks on political figures, tend to stifle women’s effective participation;*

*c. Politics is an expensive process oftentimes requiring substantial financial and human outlays which women tend not to have;*

*d. Most women possess less time than men to devote to the networking required to build a political career, due to their family and care responsibilities;*

*e. Although women’s participation as electors has significantly increased, the representation of women in key positions and elected bodies remains far from parity. The number of women ministers remains low in most countries.*

*f. Despite progress being made in the appointment of women to traditionally male dominated high positions, Ministries headed by women when compared to men remains the same. Women continue to be appointed to traditional ministries considered ‘soft’, such as health, education, social services, gender and human resources and rarely are they appointed to ‘hard’ ministries such as defence, justice, foreign affairs, economy, finance, trade and energy*

*g. Political parties continue to operate gender-biased appointment policies and procedures that tend to focus more on ethnic, geographical and political leanings rather than gender.* [↑](#footnote-ref-38)
39. *Jenny Parkes and Jo Heslop, Institute of Education, University of London, for Action Aid International. September 2011,http://www.actionaid.org/sites/files/actionaid/svags\_\_a\_cross\_country\_analysis\_of\_baseline\_research\_from\_ghana\_kenya\_and\_mozambique.pdf* [↑](#footnote-ref-39)
40. *http://www.international-alert.org/resources/publications/women-elections-and-violence-west-africa* [↑](#footnote-ref-40)
41. *UNECA, A Fifteen-Year Review of the Implementation of the Beijing Platform for Action in Africa (BPfA) +15 Main Report From 1995–2009, http://new.uneca.org/Portals/ngm/CrossArticle/1/Documents/15YearReviewofBPfA.pdf* [↑](#footnote-ref-41)
42. *Countries that have sent responses to the Working Group on the Issue of Discrimination against Women in Law and Practice are: Algeria, Benin, Burkina-Faso, Cameroon, Guinea Equatorial, Mauritania, Morocco, Sudan and Tunisia.* [↑](#footnote-ref-42)
43. *See http://www.servat.unibe.ch/icl/et00000\_.html* [↑](#footnote-ref-43)
44. *UNECA, A Fifteen-Year Review of the Implementation of the Beijing Platform for Action in Africa (BPfA) +15 Main Report From 1995–2009, http://new.uneca.org/Portals/ngm/CrossArticle/1/Documents/15YearReviewofBPfA.pdf* [↑](#footnote-ref-44)
45. *See national reports presented by these States before CEDAW Committee* [↑](#footnote-ref-45)
46. *UNECA, A Fifteen-Year Review of the Implementation of the Beijing Platform for Action in Africa (BPfA) +15 Main Report From 1995–2009, http://new.uneca.org/Portals/ngm/CrossArticle/1/Documents/15YearReviewofBPfA.pdf* [↑](#footnote-ref-46)
47. *UNECA, A Fifteen-Year Review of the Implementation of the Beijing Platform for Action in Africa (BPfA) +15 Main Report From 1995–2009,* [↑](#footnote-ref-47)
48. *http://www.info.gov.za/view/DownloadFileAction?id=126557* [↑](#footnote-ref-48)
49. *See Lesotho Constitution S.18(4)(b) (1993), Botswana Constitution 15(4) amended 1997,Gambia Constitution, S.33 (1997) , Mauritius constitution S 16(3), 16(4) (c) amended 2001, Sierra Leone Constitution S 27 (4) (d) (amended 2000), Zambia, (Constitution Act 1991) S. 23(4); Zimbabwe constitution. S. 23(3) (amended 2005).* [↑](#footnote-ref-49)
50. *Algeria, Benin, Botswana, Burkina-Faso, Burundi, Cameroon, Cape Verde, DRC, Egypt, Eritrea, Gabon, Gambia, Guinea, Guinea-Bissau, Liberia, Libya, Madagascar, Mali, Mauritania, Mauritius, Morocco, Rwanda, Sierra Leone, South Africa, Togo, Tunisia, Uganda and Tanzania* [↑](#footnote-ref-50)
51. *During the last review of Algeria Periodic Report in March 2012, the Committee stated” while welcoming the withdrawal of the reservation to article 9, paragraph 2, of the Convention by the State party, and taking note of the information from the State party that the reservation to article 15 no longer serves a valid purpose, the Committee reiterates its concern at the maintenance of reservations by the State party to articles 2, 15, paragraph 4, and 16 of the Convention. Drawing attention to its statement on reservations (A/53/38/Rev.1, part two, para. 6) and its general recommendation No. 21 (1994) on equality in marriage and family relations, the Committee reiterates its view that reservations to articles 2 and 16 are contrary to the object and purpose of the Convention and thus impermissible under article 28, paragraph 2, of the Convention. The Committee urges the State party to ensure full implementation of the Convention and, to that end, recommends that the State party:*

*(a) Provide comprehensive information on the effect of its reservations on*

*the implementation of the provisions of the Convention and the situation of women in Algeria;*

*(b) Expedite legislative reforms, especially of the Family Code, to allow it to withdraw its reservations to articles 2, 15, paragraph 4, and 16 of the Convention within a specific time frame.*

*http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G12/414/06/PDF/G1241406.pdf?OpenElement*  [↑](#footnote-ref-51)
52. [*Promoting gender equality in Francophone West Africa: Reforming discriminatory laws*](http://www.consultancyafrica.com/index.php?option=com_content&view=article&id=575:promoting-gender-equality-in-francophone-west-africa-reforming-discriminatory-laws&catid=59:gender-issues-discussion-papers&Itemid=267)***,*** *Lassana Kone , October 2010 http://www.consultancyafrica.com* [↑](#footnote-ref-52)
53. *Report of the Committee on the Elimination of Discrimination against Women, 32 and 33 sessions ,A/60/38* [↑](#footnote-ref-53)
54. <http://new.uneca.org/awro/awro_databank.aspx> [↑](#footnote-ref-54)
55. *Source (Ethiopian Women Lawyers Association) – Kadija Bashir’s file* [↑](#footnote-ref-55)
56. http://www.southernafricalitigationcentre.org/2012/11/19/lesotho-ensuring-womens-equality/ [↑](#footnote-ref-56)
57. http://www.southernafricalitigationcentre.org/cases/ongoing-cases/womens-rights/ [↑](#footnote-ref-57)
58. *See ‘Increasing Women’s Political Participation in Liberia Challenges and Potential Lessons from India,Rwanda and South Africa By Samuel Cole* [↑](#footnote-ref-58)
59. *See, Powley,www.ushmm.org/genocide/analysis/details.php*

 *See ‘Increasing Women’s Political Participation in Liberia Challenges and Potential Lessons from India, Rwanda and South Africa By Samuel Cole* [↑](#footnote-ref-59)
60. *with the objectives “to integrate Gender at all levels through different actions, notably, sensitization, strengthening women empowerment and integrating gender in laws, policies, programs, projects and budgets” http://www.rwandaparliament.gov.rw/parliament/forumrwpf.aspx* [↑](#footnote-ref-60)
61. *Polygamy was outlawed in 2009.* [↑](#footnote-ref-61)
62. *See Draft concluding observations of the Committee on the Elimination of Discrimination against Women: Rwanda,, http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N09/236/44/PDF/N0923644.pdf?OpenElement* [↑](#footnote-ref-62)
63. *See Potter, M. J. (2009, April 21). South African women Gaining Large Share of Political Leadership Roles.*

*http://www.mott.org/news/news/2009/genderlinks.aspx* [↑](#footnote-ref-63)
64. [↑](#footnote-ref-64)
65. See Concluding observations of the Committee on the Elimination of Discrimination against Women South Africa [↑](#footnote-ref-65)
66. *http://www.newnarratives.org/featured/slamming-the-girl-power-what-went-wrong-for-liberias-women-at-the-2011-polls/* [↑](#footnote-ref-66)
67. *See Concluding observations of the Committee on the Elimination of Discrimination against Women*

 *Liberia, Forty-fourth session 20 July-7 August 2009. The Committee is also concerned about women’s access to justice and the enforcement of their rights under the Convention. The Committee calls on the State party, within the framework of the legal and constitutional review processes currently under way, to take a holistic approach to law reform that will ensure women’s de jure and de facto equality. It urges the State party to ensure that all discriminatory laws, including customary law, are amended or repealed and brought into full compliance with the Convention and the Committee’s general recommendations as a matter of priority. The Committee also requests the State party to remove all impediments women may face in gaining access to justice; in particular those governed by customary law, and urges the State party to take appropriate measures to enhance women’s legal literacy and awareness of their rights, including their right to seek legal redress in court. It calls on the State party to ensure that the Convention and related domestic legislation are made an integral part of legal education and the training of judicial officers, including judges, lawyers and prosecutors, and law enforcement officers, district officials, chiefs and other traditional and community leaders so as to create a legal culture supportive of women’s equality and non-discrimination. It also calls on the State party to disseminate the Convention widely to the general public so as to create awareness of women’s human rights and to raise the awareness of legislators and the general public of the urgent need to prioritize legal reforms to achieve de jure equality for women…* [↑](#footnote-ref-67)
68. *The International Convention for the Protection of All Persons from Enforced Disappearance and joined the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, which establishes monitoring mechanisms to fight torture, as well as the Second Optional Protocol to the International Covenant on Civil and Political Rights, which requires the state to abolish the death penalty. (See Tunisia’s response to questionnaire)* [↑](#footnote-ref-68)
69. *On 16 august 2011* [↑](#footnote-ref-69)
70. *Section 16 of Decree No. 35 of 10 May 2011 concerning elections to the National Constituent Assembly* [↑](#footnote-ref-70)
71. The suggested formulation in Article 2.28 stated that the State guarantees the rights of women and

 supports what has been achieved for them as real “partners of men” in the building the nation, and that the roles of

 men and women in the family are “complementary”. [↑](#footnote-ref-71)
72. http://www.anc.tn/site/main/AR/docs/rapport\_final/liste\_rapports.jsp [↑](#footnote-ref-72)
73. *http://arabwomenspring.fidh.net/index.php?title=Accuei* [↑](#footnote-ref-73)