

Status of Women's Rights in South Sudan

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Abstract: South Sudan's women's rights are the result of a complicated interaction between social, political, and cultural elements that have been moulded by years of strife and fluctuating government. Women in Sudan have historically had numerous legal and social obstacles, especially when severe interpretations of patriarchal ideologies and gender norms have been applied. The paper seeks to underscore the importance of women's right and need to underline legal frameworks as a basis for promoting women's right Specifically, the paper will identify women's rights provisions in the international, regional and national frame works and modalities for implementation. It will also explore if the national frame works for women's are aligned or are in conformity with the regional and Interntional Frameworks

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INTRODUCTION

Can you name one or two international treaties that promote women's rights?

Do you know which international laws your country has signed or ratified?

Do you know the status of implementation of the law(s)?

Why are international laws important?

Because they provide better provisions on human rights which are more comprehensive than local, national or customary laws.

In addition, they are designed to influence national laws towards a more progressive direction in which all human rights are respected and valued, including those of women and girls

What is CEDAW?

CEDAW adopted on 18th December 1979, with more than 188 signatories

CEDAW is often referred to as the 'women's bill of rights which calls for women's equal access to political, economic, social, cultural and civic rights.

It is a human rights charter that provides an expansive definition of discrimination against women as:

"... discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental

Why is it important?

CEDAW's seeks "substantive equality" between men and women, going beyond the written law to assesses women's lived realities as a measure of State's commitment.

It holds States responsible in ensuring all entities operating within it (private and public organizations and corporations) adhere to the principles of the law.

And most importantly, CEDAW provides temporary special measures (also known as affirmative action policies) aimed at "accelerating" equality between men and women which are not considered as (reverse) discrimination.

Such measures are allowable until such time as equality is achieved. They include quotas in political office, etc.

CEDAW Quick & Concise: Explaining the Principle of Non-discrimination



Link: <https://www.youtube.com/watch?v=OBdDB5PKrmk>

Implementation process

The first step to adherence is to sign the treaty – which means that the country agrees in principle with the ideological goal of the convention.

The next step is ratification, which means a country agrees to adopt the law fully (without reservations) or partially (with reservations), meaning it will not be legally bound by obligations.

Many countries choose to ratify with reservations while they streamline national laws to comply with the international obligations.

Once they are able to do so, they remove the reservations to the ratification, thus engaging in focusing on the domestication of the laws.

These include the establishment of laws, policies and procedures for mainstreaming women's equality in society.

The party country is required to report to CEDAW Committee within a year on implementation process, and then every four years after that

Barriers to implementing CEDAW

Articles 1 and 16 are considered significant barriers to the ratification of the treaty by many countries, mostly Muslim-majority ones who have strong cultural/religious laws that contravene CEDAW's stance on gender equality and rights of girls.

By allowing reservations, States avoid obligations to protect women's rights as required by law.

This often occurs when there is conflict between CEDAW and statutory or customary (i.e., family) law.

Lack of State commitment to protecting women's rights. This happens in multiple ways, including inability to enforce the harmonization of civil and customary laws to enable women to claim their rights.

Lack of funding for States to support programs that enhance awareness raising on women's rights and underpin advocacy efforts.

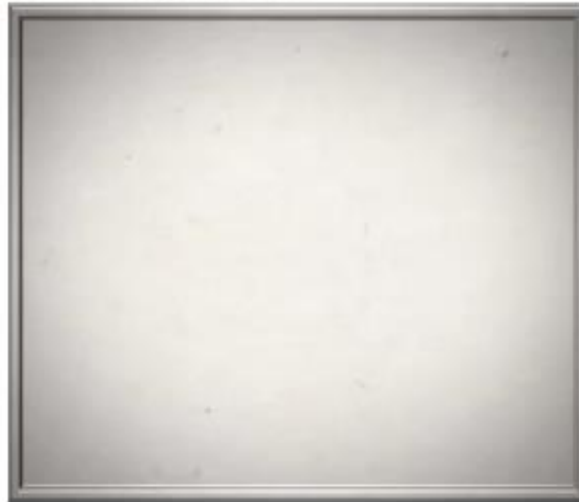
Lack of adequate women's representation at national and international spaces hinders implementation efforts.

Lack of sufficient knowledge about the law limit's ability of women's organizations and activists to successfully advocate for it.

South Sudan Engagement with CEDAW and Existing challenge

- Mandate of the MGCSW is to ensure normative frameworks are ratified, domesticated and adopted
- Republic of South Sudan ratified the convention on the 30th April 2014 and entered into force in February 2015
- The Ministry led the process of compiling the first ever country report on CEDAW and submitted to the CEDAW Committee in 2019
- South Sudan defended its first report to the CEDAW Committee on the 5th of November 2021 and recommended concluding observations for the country to implement.
- We are yet to start implementation of the concluding observation in 2024

CEDAW Quick & Concise: The Principle of State Obligation



Link: <https://www.youtube.com/watch?v=umETapJ4b8o>

Accountability Mechanism: CEDAW Committee/Optional Protocol

The ratification process is easier than domesticating international laws. CEDAW contains a compliance process in which countries must submit an initial report within one year of ratification.

This initial report provides progress on the convention implementing and harmonization with national laws.

After that, countries are required to submit a report every four years to the Committee in Geneva on the status of women and impact of CEDAW.

The Committee relies on non-governmental actors to hold the signing country accountable for fulfilling convention norms.

These groups present a shadow report to the Committee which outlines implementation status of CEDAW and weaknesses in government domestication process.

. Advocates also push countries to remove all reservations to the law (which significantly decrease its effect) in realizing gender equality and improvements in women's lives

Optional Protocol

The Protocol established two mechanisms that provide women opportunities to seek redress for State violations of their rights.

1. The communication procedure enables women to submit complaints contending that a State Party has violated their rights in CEDAW

2. The inquiry procedure empowers the Committee to conduct inquiries into reliable information that a State

Party has committed grave or systematic violations of rights in CEDAW

Why the Optional Protocol?

Seek redress for human rights violations if there are no other means of addressing the issue domestically

Hold a State Party accountable for its actions

Draw international attention to the case, mobilize support and apply pressure on the State Party to act

Prevent occurrence of similar violations in the future

Bring her case to a body of gender equality experts that can scrutinize the State Party's actions

Establish an international legal precedent

Provide a focus for national advocacy on women's rights issues

Advocacy role of WRO in strengthening CEDAW

Women's rights groups and activists are currently focused on three activities with regards to strengthening CEDAW:

1. Achieving universal ratification of the Women's Convention and removal/narrowing of States' reservations

2. Strengthening awareness of CEDAW and of the capacity of women's organisations to use it in their advocacy work

3. Collaborating with other partners to support the work of the CEDAW Committee and strengthening the Women's Convention.

Discussions

How can WRO/A contribute to holding governments accountable in implementing CEDAW?

How do WRO/A support the work of CEDAW accountability mechanisms? In which other way can WRO/A support these accountability mechanisms?

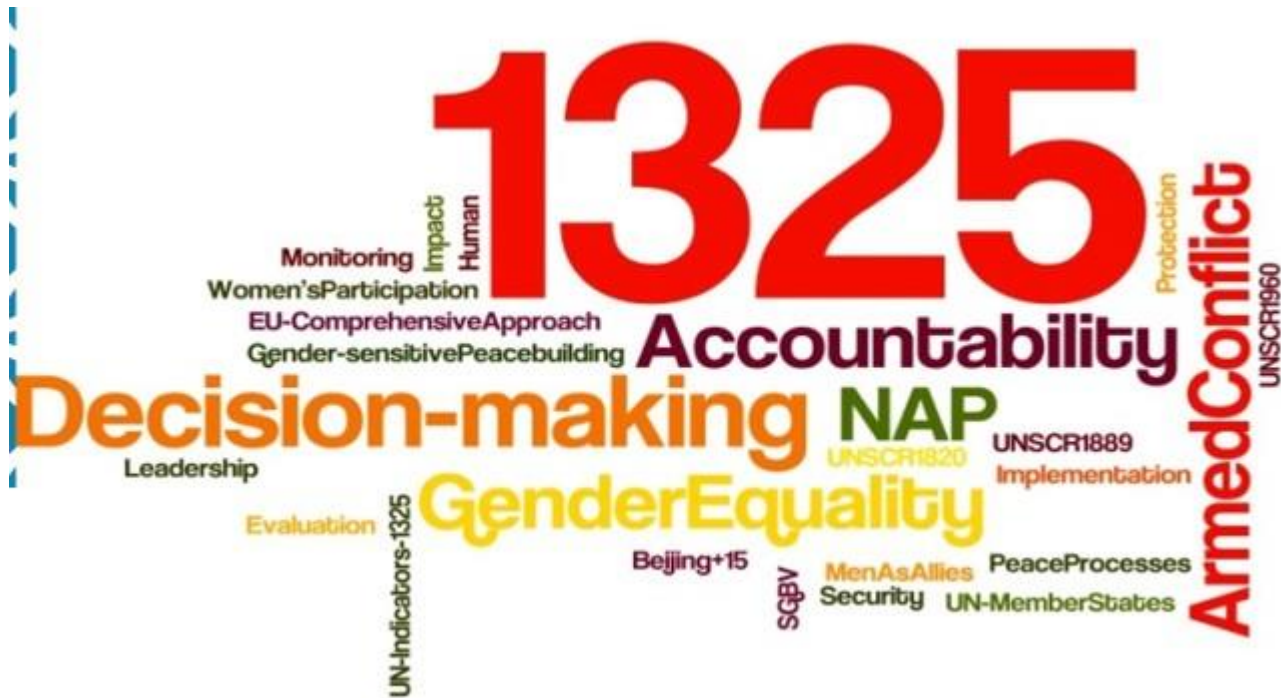
Tanzanian Case Study

a) How common is this experience (of women being deprived of their rights) in your communities?

b) How likely is it that women will pursue their cases all the way to UN committees?

What usually stops them from pursuing cases all the way to UN?

c) As WRO/A, how can we support such processes?



Introduction

What is your understanding of UNSC 1325?

Have you ever advocated for the UNSC 1325 in your work?

If yes, explain.

What were the successes? What hindered success, if any? Please explain

UNSCR 1325

Adopted unanimously in October 2000, UN Security Council Resolution 1325 on Women, Peace and Security is a landmark commitment to women in conflict that seeks to:

- Repair the lack of equal participation of women in peace and post conflict negotiations across the world
- Safeguard women and children wherever conflict erupts
- Resolution 1325 makes it clear that women's participation and security is critical for international peace and security

• It also provides a ground breaking policy and practical framework for women's participation in peacebuilding
UNSCR 1325 was the culmination of intense civil society advocacy and effort, principally by women's organizations
It builds upon the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW-1979); and the Beijing Platform for Action - 1995

UNSCR is primarily concerned with international peace and security.

It recognises:

- ✓ Women and men (boys and girls) have a different experience of war, both as combatants and non-combatants
- ✓ Women have equal rights to participate as agents in the resolution and prevention of conflict

Why is it Important?

—Gender relations within the conflict-affected societies may shift during, and after war

—That the use of sexual violence as a weapon of war (or side/aftereffect of its ravages) is a neglected reality which must be responded to, stopped, prevented and prosecuted

—Peace processes and their implementation present a special opportunity to promote gender equality in societies and should in principle, be gender mainstreamed

Women's Participation in the Peace Process

In 2018, 10 of 22 peace process in Africa were in states with a NAP. (Peace talks report 2019)

Progress with inclusion of gender language in peace agreements, However, there is a widespread lack of women & gender perspectives in the negotiation processes.

However, there is a widespread lack of women & gender perspectives in the negotiation processes.

In Burundi- Women's presence in has been declining.

In CAR, the 2019 Political Agreement for Peace and Reconciliation, had 18% women negotiators and only one female signatory.

The South Sudan 2018 peace process - 25% women delegates, securing 35% women representation in elective positions. Implementation of gender provisions is however a challenge.

The 2019 Sudan revolution, 70% of women protesters-many gains on women's right achieved in the interim transitional constitution of 2019.

Pillars of UNSCR 1325, WPS

1. **Prevention:** Prevention of conflict and all forms of violence against women and girls in conflict and post-conflict situations

2. **Participation:** Women participate equally with men and gender equality is promoted in peace and security decision-making processes at national, local, regional and international levels

3. **Protection:** Women's and girls' rights are protected and promoted in conflict-affected situations

4. **Relief and Recovery:** Women and girls' specific relief needs are met and women's capacities to act as agents in relief and recovery are reinforced in conflict and post-conflict situations

Implementation Process

Adherence to international laws like UNSC 1325 is an obligation on the Member State.

It is a long-term process that requires commitment to gender equality.

While many countries in Africa have signed, few have met the basic requirements of party states. Implementing the law requires countries that have ratified the convention to submit a national action plan (NAP) that:

✓ Outlines government approach and course of action in mainstreaming women, peace and security agenda

✓ Includes mechanism and actions plans on how to ensure the safety and well-being of women and girls in conflict settings, prevent armed conflict and violence against women and girls

✓ § Ensures the meaningful participation of women in peace and security

✓ Align with the national development agendas, gender equality policies, and other relevant policy frameworks.

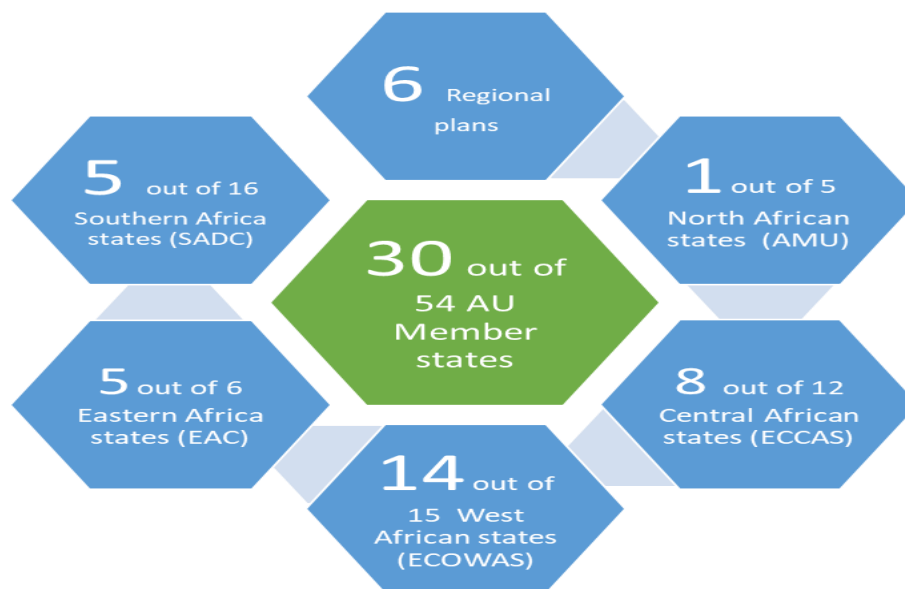
State Obligation

Resolution 1325 requires UN member states to develop National Action Plans (NAPs) that provide for women's participation in peace and conflict decision-making; the protection of women and girls; and gender training.

South Sudan developed the first NAP on UNSCR 1325 in 2015-2020

Progress review on the first NAP is done in 2021

Currently, developing the second NAP for WPS in south Sudan (draft awaiting validation)



Women, Peace and Security Landscape in Africa

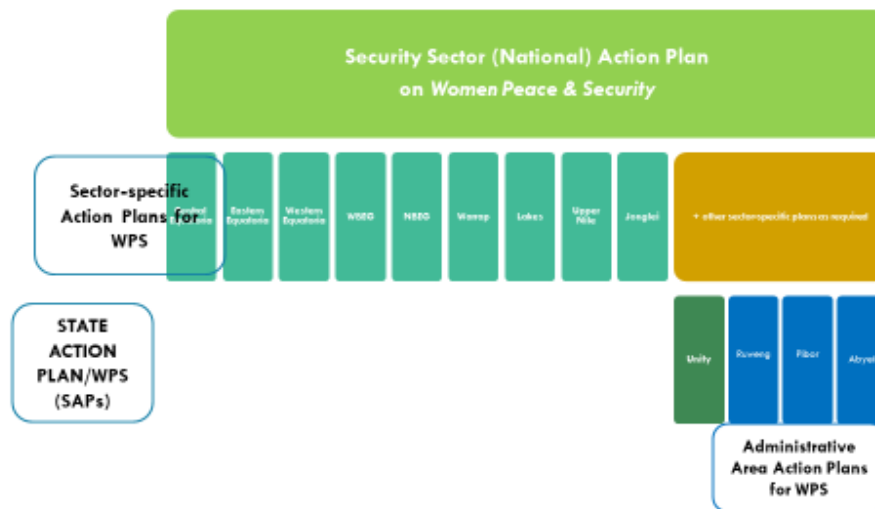
30 NAPS in Africa

18 first generation of NAP

9 Second generation of NAP

3 third generation of NAP

Enhanced South Sudan NAP implementation structure: sector specific + State Action Plans



Building stronger NAP implementation

Enhanced coordination structures

Sectoral and State Action Plans, Move beyond the MoGCSW as lead into a cross-government-wide plan, with clearer commitment by the relevant lead ministries and agencies; Secretariat to support overall NAP mechanisms and monitoring;

Regular meetings of National Steering Committee which receives reports from states, monitoring TWG etc.

Independent NAP monitoring forum. Role of Gender Focal Points – needs to become higher level and more strategic within each ministry.

Stronger alignment/ better linkages with existing national strategies, plans and commitments (R-ARCSS, Nat. Development Strategy, National CRSV Action Plan etc.) – (mainstreaming of WPS, not a stand-alone NAP);

Strategy to build political will e.g. role of Vice President leading on Gender; stronger Inter-Ministerial Committee (IMC): overall senior high level leadership, lead ministers for each pillar, link with clusters; regular reporting to Council of Ministers;

Resource mobilisation framework to finance the NAP, including capturing NAP activities in the annual budget of line ministries;

Monitoring and reporting: stronger framework, streamlined, clear targets, accessible; Inclusion and diversity: principles and mechanisms to guarantee this; Robust dissemination/ communications strategy.

Localization at the grassroots

Localization requires effort, coordination and resources.

Once LAPs are defined, activists will need to identify the local actors capable of supporting and instituting the policies – which include government, non-government, donor community and other community stakeholders.

Use existing resources to develop synergies between 1325 and other local women's programs (funding, policies, etc.) at local governmental level (ministries, donors, etc.).

Make use of international resources – including pooled humanitarian funds such as Women's Peace and Humanitarian Fund - to support WPS activities, including 1325 localization efforts.

Private sector funds to partner with on WSP

All activities in the NAP are fully budgeted – with its own budget line in the national budget.

UNSCR 1325 Advocacy in Action: Uganda Case Study

a) How is UNSC 1325 being used to enhance the role of women in conflict resolution and peace building in your country?

b) What are some key learnings from this case?

c) What else can be done to ensure that we effectively use the UNSC 1325 to enhance women's role in conflict resolution and peace building?

Reporting and Accountability

Ensuring States party to the charter requires an oversight and accountability mechanism.

The Universal Periodic Review (UPR) is a UN human rights instrument that supports the promotion of universal human rights.

It is convened every 4 years in Geneva, Switzerland and creates a platform for member nations to present reports on the status of human rights in their countries.

The reports must reflect national action plans on protecting human rights, including women's rights. States must develop the reports in consultation with relevant stakeholders developed in consultation.

Secondly, it also allows other countries to make recommendations on how reporting countries can improve the protection of human rights.

Finally, it provides space for civil society organizations to advocate for changes by contributing to the recommendations of third state parties in order to pressure their governments to make credible changes.

UNSCR 1325 uses a dual approach to achieve compliance:

1. It calls on all signatory countries to take special measures to protect women and girls from gender-based violence, particularly rape and other forms of sexual abuse. These violations can result from warring parting or peacekeeping forces dispatched to safeguard the communities.

2. It demands countries party to the law increase the participation of women in peacebuilding processes as well as representation in political decision-making as a move to shift women away from mere victims to agents of peace and conflict transformation.

Discussions

a) Are there are comments or questions about these mechanisms?

b) As WRO/A, how do we position ourselves to support reporting and accountability mechanisms?

c) As WRO/A, how are we supporting reporting and accountability and mechanisms?

Warm -up

What is your understanding of Maputo Protocol?

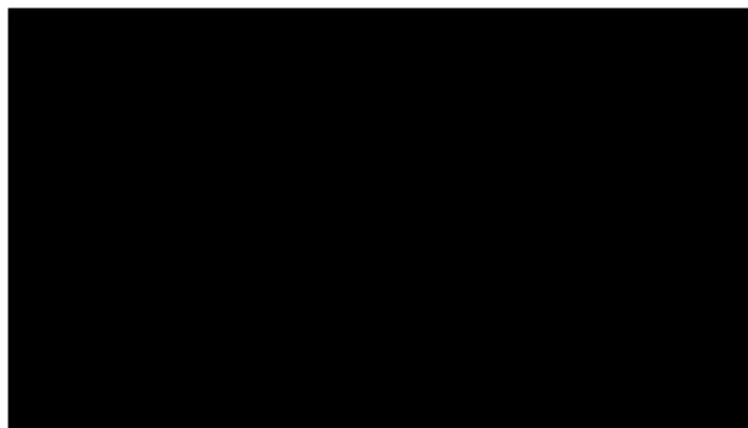
b) Has your country signed or ratified?

c) What activities, if any, are your organizations conducting that can contribute to mainstreaming of the charter in local policies?

Maputo Protocol

- Adopted by AU on the 11th July (2003) in Maputo, Mozambique
- Entered into force on the 25th November 2005
- Identifies African women's right to peace and inclusion in peace processes and protection from violence during situations of conflict
- Article 10 specifically calls upon member states of the AU to ensure women 's participation in conflict prevention, management and resolution at local, national and international levels
- Article 11 urges state to protect asylum seeking women, refugees, returnees and IDPs against violence and SGBV
- Calls for state parties to take necessary measures to reduce military expenditure significantly in favour of spending on social development

Video: The Journey of 15 years: Maputo Protocol 2003-2018



Link: https://www.youtube.com/watch?v=RyX4IG_bEug

Barriers to Implementation: Member Reservations

For the convention to have meaningful impact in improving women's status in Africa, it must be adopted and implemented without reservations.

Many countries have signed but placed a series of reservation on adoption due to political, cultural and religious incompatibility, resulting in asymmetrical outcomes.

South Sudan has not ratified the Protocol but it has passed the parliamentary procedures to ratify. It has also raised several reservations on articles that discourage

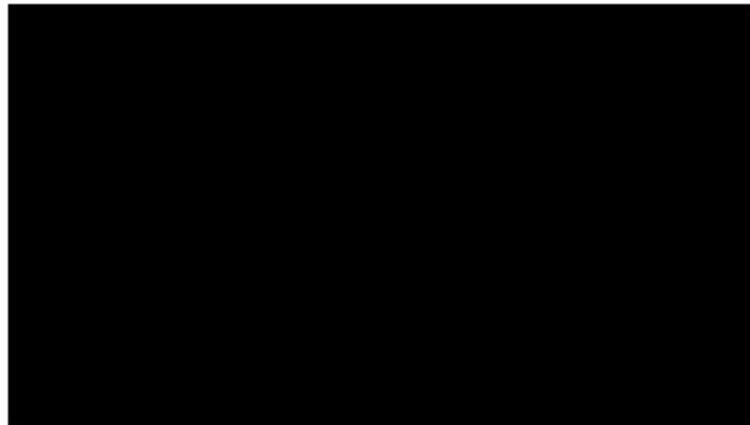
polygamous marriages, women's right to control their sexuality and reproductive rights, including the right to choose contraceptives.

Discussions

a) What are the barriers to fully implementing the Protocol in your country?

b) What are some strategies that each country can do to ensure removal of country reservations that impede effective implementation?

Reporting under Maputo Protocol



Link: <https://www.youtube.com/watch?v=9udsD-mjLC4>

African Commission Mechanism for Advocacy and Accountability:

Maputo Protocol is legally binding meaning that Member States can be held accountable for implementing and mainstreaming its legal provisions.

Article 26 of the law enforces women's rights by requiring Member States to submit periodic progress reports on legislative measures taken in order to adopt and mainstream the convention, although few countries comply with request.

The Protocol also grants NGOs and civil society organizations an opportunity to file shadow reports that detail government's actions in meeting its obligation under the law and to provide input on its implementation challenges and recommendations for improvement. :

African Commission Mechanism

African Commission. Established in 1987, the Commission is based in Banjul, The Gambia, and focuses on the protection of human and peoples' rights, promotion of human and peoples' rights and the interpretation of the African Charter on Human and Peoples' Rights.

The African Commission faces key challenges in carrying out its mandate due to the non binding nature of its decisions on Member countries.

lack of commitment by Member States to adhere to Commission decisions reduce its efficacy and legitimacy. Lastly, financial constrains impedes the Commissions ability to carry out its work.

Wrap-up

International laws provide better provisions on human rights which are more comprehensive than local, national or customary laws.

They are designed to influence national laws towards a more progressive direction in which all human rights are respected and valued, including those of women and girls. As WRO/A, we have a responsibility to see that governments domesticate and implement such provisions.

The resolution specifically addresses how women and girls are disproportionately impacted by violent conflict and war and recognizes the critical role that women can and already do play in peace building efforts.

UNSCR 1325 affirms that peace and security efforts are

more sustainable when women are equal partners in the prevention of violent conflict, the delivery of relief and recovery efforts and in the forging of lasting peace
This can take as a long way in achieving gender equality and women rights.

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