

An Analysis of the Challenges of Implementing Women's Rights under International Instruments in Africa

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Abstract

The paper examines the challenges which continue to hamper effective implementation of international instruments on Women's Rights in Africa. The challenges include ingrained cultural practices and beliefs, oppressive socio-economic and political systems and wide spread poverty which especially weakens women's capacity to enforce the rights under these instruments in Africa. It proposes measures that will promote gender equality more effectively and enhance the realization, in concrete terms, woman's rights under these instruments particularly the Convention for the Elimination of all Forms of Discrimination against Women (CEDAW) and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

1.0. Introduction

The promotion and protection of women's rights in Africa continues to be hindered by deep-seated and ingrained cultural practices and beliefs, oppressive socio-economic and political systems, religious bias and economic underdevelopment. Africa women have been and still subjected to inequalities in virtually all fields- political, social, economic and cultural.¹

Discrimination against women in Africa is largely rooted in the historical evolution of its cultures and this has tended to slow down the momentum of women's rights in the continent. The growing and relentless global clamour to accord women equal status and rights with their male counterparts² in every facet of human endeavour seems to have made very limited impact. The concept of gender equality has not resonated well in the continent. There is a need to push more vigorously women's rights and a new strategy devised that will enhance the realization and enjoyment of their rights in the continent.

This paper examines the challenges in the way of women's rights in Africa, appraises the existing legal instruments on women's rights and proposes measures that will promote more effectively gender equality while reducing the tension between cultural values which are uniquely African and women's rights whose intrinsic nature and contents emanated from different socio-economic and cultural environments.

2.0. An Overview of International Crusading for Women's Rights.

The United Nations Declaration of Human Rights in 1948³ was a significant milestone, on broad multilateral platform for proclaiming gender equality and condemning discrimination against women. Although the declaration is not in itself a legal instrument in the mould of treaty or convention, it has been described as having "considerable legal effect"⁴ and by some jurists as "part of the law of the United Nations".⁵ More importantly, the Declaration has inspired a number of multilateral treaties, conventions⁶ and conferences specifically directed at institutionalizing gender equality and formulating and promoting women's rights. These included but not limited to the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on June 25, 1993⁷, the Beijing Declaration and Platform of Action adopted by the Fourth United Nations World Conference on Women, 4-15 September, 1995⁸; Convention on the Rights of Women 1953; Convention for the Elimination of All Forms of Discrimination against Women 1979;

¹ Osita Eze, *Human Rights in Africa: Some Selected Problems*, Macmillan Publishers, Ltd, 1984, P. 141.

² There have been several landmark Declarations, Conventions/Treaties such as the Declaration for the Protection of Women and Children in Emergency and Armed Conflict 1974; Declaration on the Elimination of Violence against Women 1993; Beijing Declaration and Platform for Action, Fourth World Conference on Women; Action for Equality, Development and Peace 1995; Convention for the Elimination of All Discrimination against Women 1979; Convention on the Political Rights of Women 1953; Optional Protocol to the Convention on the Elimination of Discrimination against Women 1999; Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa 2003; Declaration on the Elimination of violence against Women 1993; e.t.c.

³ Resolution 217 (iii) December, 1948

⁴ Ian Brownlie and Guy S. Goodwin – Gill, *Basic Documents on Human Rights*, 5th Ed, Oxford University Press, London, P. 23.

⁵ *Ibid.*

⁶ Such as International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Social Economic and Cultural Rights (ICESCR).

⁷ UN doc.A/CONF.157/23, 12th July, 1993.

⁸ UN doc.A/CONF.177/20, 17th October, 1995.

2.1. Universal Declaration of Human Rights 1948.

Article 1 of the document provides:

“All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in the spirit of brotherhood”

Article 2 proclaims further:

“Every one is entitled to all rights and freedoms set forth in this Declaration, without distinction of any kind such as race, colour, sex, languages, religions, political or other opinion, national or social origin, property, birth or other status”

Article 16 is more specific on gender relationship. It provides:

“Men and women of full age, without any limitation due to race, nationality or religion have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and its dissolution”

The Declaration provided a universal framework for gender equality and set the tone for subsequent initiatives of multilateral conferences and conventions on various aspects of discrimination against women.

A major weakness of the Declaration, however, is that it does not make provisions for the implementation of human rights and that it does not impose any obligations upon the parties.

2.2. Convention on the Political Rights of Women, 1953.¹

The Convention was signed on 31st March, 1953 and entered into force on 7th July, 1954. One hundred and nineteen states were signatories. The Convention provided that women shall be entitled to vote in all elections on equal terms with men without discrimination², women shall be eligible for election to all publicly elected bodies established by national law, on equal terms with men, without any discrimination³ and women shall be entitled to hold public office and to exercise all public functions established by national law on equal terms with men without any discrimination⁴.

The Convention was aimed at “implementing the principle of equality of rights for men and women contained in the Charter of the United Nations”⁵ and to recognize the rights of everyone to take part in the government of his country directly or indirectly through freely chosen representatives, and has equal access to public service in his country and desiring to equalize the status of men and women in the enjoyment and exercise of political rights.....⁶

Again, this Convention is silent on implementation and monitoring strategies. It is therefore not clear the extent of compliance by State-Parties.

2.3. Convention on the Elimination of All Forms of Discrimination against Women 1979.⁷

The Convention was signed by one hundred and eighty states. It came into force on 3rd September, 1981. The Convention was preceded by the Declaration on the Elimination of Discrimination against Women adopted unanimously by the General Assembly of the United Nations on 7th December, 1967. The Convention was meant to implement the principles set forth in the Declaration on the Elimination of Discrimination against Women and towards that purpose, adopted the measures required to achieve the objective. It was thus essentially a strategic document or plan of action.

Article 2 enumerates measures which State-Parties are obliged to undertake as:

- (a) To embody the principle of equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of the principle;
- (b) To adopt appropriate legislative and other measures, including sanctions, where appropriate, prohibiting all discriminations against women;
- (c) To establish legal protection of the rights of women and on equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection against any act of discrimination;
- (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
- (e) To take all appropriate measures to eliminate discrimination against women by any organization or enterprise;

¹ See 193 UNTS 135, <http://untreaty.un.org>; <http://www.unhchr.ch/html/int/inst.htm>.

² Article 1.

³ Article II.

⁴ Article III.

⁵ The Preamble to the Convention, see the source, Op. cit.

⁶ Ibid.

⁷ 1249 UNTS 13, <http://untreaty.un.org>; <http://www.unhr.ch/html/int/inst>.

- (f) To take appropriate measures including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women.
- (g) To repeal all penal provisions which constitute discrimination against women.

Article 5 of the Convention is particularly interesting as it evokes cynical feelings regarding the practicality of its provisions. It provides:

States-Parties shall take all appropriate measures:

- (a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;
- (b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the premodial consideration of all cases.

As we shall see later in this paper, “social and cultural patterns of conduct of men” alluded to above in relation to women in African cultures are so ingrained that eliminating or even modifying them by legislation alone has become very grave challenge.

Article 6 enjoins States-Parties to take appropriate measures including legislation to suppress all forms of traffic in women and exploitation of prostitution.

Prostitution and women trafficking have become pronounced inspite of legal measures to contain it in Africa. Poverty and economic underdevelopment seem to explain the persistence of this problem.

Articles 7-14 enumerate specific measures required to be taken to eliminate discrimination against women in the fields of political and public life,¹ education,² employment,³ health,⁴ and social and economic field⁵.

Under Article 7, members are obliged to ensure that women are treated equally with men during voting in elections and public referenda, both sexes to be eligible for election into public officers; to participate in the formulation of government policy and its implementation and to participate in non-governmental organizations and associations concerned with the public life of the country.

Article 8 grants equal right to women to represent their government at international level and to participate in the work of international organizations.

Article 9 confers equal rights on women to acquire, change or retain their nationality to ensure that neither marriage to an alien nor change to nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.

Article 10 requires equal treatment of the sexes by establishing same conditions for career and vocational guidance for access to studies and for achievement of educational degrees and diplomas; access to same curricula, same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality.

Article 10 requires further the elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging co-education and other types of education which will help to achieve this aim and in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods. The Article requires the same opportunities in the grant of scholarships and other study grants; the same opportunities for access to programmes of continuing education; the reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely; the same opportunities to participate actively in sports and physical education and the same opportunity to access educational information to help to ensure the health and well-being of families, including information and advice on family planning.

Article 11(i) grants equal rights to work, to same employment opportunities, to free choice of profession and employment, to promotion, job security and all benefits and conditions of service to receive vocational training and retraining. It also confers rights to equal remuneration, to social security, to protection of health and to safety in working conditions. And to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective rights to work, Article 11(2) requires measures to prohibit dismissal on ground of pregnancy or of maternity leave or on ground of marital status; to introduce maternity leave with pay or comparable social benefits; to encourage provision of necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities. It also requires the provision of special protection to women during pregnancy in types of work proved to be harmful to them.

¹ Articles 7 & 8.

² Article 10.

³ Article 11.

⁴ Article 12.

⁵ Articles 13 & 14.

Article 12 guarantees elimination of discrimination against women in the field of health care. It requires equal access to health services.

Article 13 grants equal rights in economic and social life, in particular, the right to family benefits, to bank loans and mortgages, to participate in recreational activities, sports and all aspects of cultural life.

Article 15 grants women equality with men before the law. In civil matters, legal capacity identical to that of men; equal rights to conclude contracts and to administer property and treat them equally in all stages of procedure in courts and tribunals.

Article 15 (2) provides that “States parties agree that all contracts and other private instruments of any kinds with a legal effect which is directed at restricting the legal capacity of women shall be null and void”.

Article 16 obliges states parties to take measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular, ensure on the basis of equality of men and women the same rights to enter into marriage, to freely choose a spouse and to enter into marriage only with their free and full consent, to decide freely and responsibly on the number and spacing of their children. Other are same rights during marriage and its dissolution, same rights and responsibilities with regard to guardianship, ward ship, trusteeship, and adoption of children; the same rights as husband and wife including the right to choose a family name, a profession and an occupation; same rights in respect of ownership, acquisition, management, administration, enjoyment and disposition of property whether free or charge or for a valuable consideration.

Article 16 (2) forbids betrothal and marriage of a child saying such shall have no legal effect. It also requires states parties to specify a minimum age for marriage by legislation and to make registration of marriages in an official registry compulsory.

The Convention is far-reaching in its provisions. Implementation and enforcement have however been impeded by ingrained cultural practices and beliefs which have refused to go despite all these initiatives.

2.4. Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa, 2003

The Protocol to the African Charter on Human and People’s Rights relating to the rights of Women was adopted by the 2nd Ordinary Session of the Assembly of the African Union on 11th July, 2003. The Protocol is largely a re-instatement of the provisions in the previous multilateral convention on women’s rights, particularly the Convention on the Elimination of all Forms of Discrimination against Women 1979. Thus Articles 6 to 14 confirm basic rights such as consensual marriage, though it now pegs the minimum age of consent at 18 years¹; property rights during marriage²; equal rights in case of separation³; equal protection by law⁴. Equal representation in political life⁵; promotion of equal remuneration and occupational freedom⁶; and the right to control fertility and method of contraception⁷.

Article 5 prohibits and condemns all forms of harmful practices which negatively affect human rights of women and which are contrary to international standards. It requires states parties to take all legislative and other measures to eliminate such practices which include:

- (a) Creation of public awareness in all sectors of the society regarding harmful practices through information, formal and informal;
- (b) Prohibition, through legislative measures backed by sanctions, of all forms of female genital mutilation, scarification, medicalisation, and para-medicalization of female genital mutilation and all other practices in order to eradicate them;
- (c) Provision of necessary support to victims of harmful practices through basic services such as health services, legal and juridical support, emotional and psychological counseling as well as vocational training to make them self-supporting;
- (d) Protection of women who are at risk of being subjected to harmful practices or all other forms of violence abuse and intolerance.
- (c) Provision of necessary support to victims of harmful practices through basic services such as health services, legal and juridical support, emotional and psychological counseling as well as vocational training to make them self-supporting.
- (d) Protection of women who are at risk of being subjected to harmful practices or all other forms of violence, abuse and intolerance.

¹ Article 6(a), (b), (j).

² Article 7(d).

³ Article 7 (c).

⁴ Article 8.

⁵ Article 9

⁶ Article 13(b) (d).

⁷ Article 14 (i) (a), (c).

3.0. The Challenges of Implementing Women's Rights in Africa.

Women's Rights enunciated under most international instruments stated above and the regional Protocol to the African Charter on Human and Peoples' Rights are extensive and cover nearly every conceivable aspect of woman's life.

Some of the Conventions and Protocols also establish machineries for monitoring compliance by States Parties in form of committees. States Parties are also required to include substantive provisions of those Conventions and Protocols in their respective national law. An attempt will be made to evaluate the impact of those initiatives and their efficacy in improving women's rights in Africa. But before then, a brief examination of the challenges which continue to hinder the implementation and enforcement of these rights in Africa is apposite.

Under most cultures in Africa, women social status remains diminished in relation to males. Elias made this observation when he said:

"It is a notorious fact that women in Africa as in even, many a modern society plays little, if any part, in public. Their place is in the home, looking after their husband and children..... the position of women can therefore, only be the result of the particular mode of ordering social, economic and even military affairs in a given society....."¹

The above sums up the prevailing orientation and ingrained attitude of an average Africa man to the female gender. It is this mindset that has continued to thrive and which has refused to bow to the avalanche of legal instruments on women's rights in the continent.

The female gender is perceived as unequal species, generally; women are thus not treated equally in a number of relationships which include inheritance and marriage. In the Nigerian case of Yusuf vs. Dkhia², a woman lost her husband by death. She was requested to accept the deceased's brother as a substitute husband. She refused and quit the family. Thereafter, she moved into another man's house and the brother of the husband brought an action against the woman saying that she had not performed the final funeral rites and had therefore committed adultery. Although the court dismissed the action holding that the customary law which permitted an action for adultery and enticement of a woman whose husband was already dead was repugnant, it brought out the view that in some cultures in Africa, women are themselves objects of inheritance. Also in some cultures in Africa, spouses do not succeed to each other's estate. In the Yoruba case of Oloko vs. Giwa³, the court firmly declared the land allocated to each of his wives by the intestate still belonged to the family because the allocation conferred no title on the women. They were entitled to remain in the house if they chose subject to good behaviour.

This is the general pattern in most customary laws⁴. The Nigerian Supreme Court held on this same issue of the relative status of female viz-a-viz male on the question of inheritance as follows:

*"The Onitsha native law and custom postulates that a married women, on the death of her husband, without a male issue, with the concurrence of her husband's family may deal with the deceased property ----- but cannot assume ownership of the property or alienate it"*⁵.

A notable scholar summarized the gender relationship, thus: "In ancient African societies, marriage conferred on the man greater political and social status....."

In the ancient time and still, women do not enjoy full legal status⁶. In classical customary law, a woman could not own property in her personal capacity. Even property owned by her as queen or regent belonged to the stool and not her property⁷. Her capacity to enter into contractual relationship on her own was denied under customary law except it was in connection with purchases of household utensils and other domestic appliances. The more serious transactions had to have approval... and indeed, the participation of her husband⁸.

Again under African law and culture, a woman does not own a right of action. While a man can bring a charge of adultery, seduction against his wife paramour, a woman cannot complain against the infidelity of her husband⁹. If for whatever reason, a marriage breaks down the woman loses all..... the children property and personal acquisitions from or through the assistance of her husband. Furthermore, the woman has to pay back the dowry received by her parents¹⁰.

There is, however, a different arrangement in matrilineal system, existing in few societies in Africa. Here the woman predominance is unquestionable. The husband depends on the wife's family. Among the Ashanti

¹ Olawale Elias, *The Nature of African Customary Law*, Manchester University Press, U.K, 3rd ed. P.2.

² (1970) ECCR, 4342.

³ (1939) 15 NLR, 31, also *Losumu vs. Dosumu* (1954) NACA 52;

⁴ Akintunde Emiola, *The Principles of Customary Law*. Op. Cit.

⁵ *Nezianya & Anor V Okagbue & Ors*, (1963) ANLR 358.

⁶ See the Listener, Aug 1952, P. 293, (a broadcast talk by her entitled "Cultures In Transition") quoted by Elias Olawale in the nature of *African Customary Law*, Manchester University Press, UK, 3rd ed. P. 3.

⁷ *Ibid*.

⁸ *Ibid*.

⁹ Akintunde Emiola, *The Principles of African Customary Law* Op. Cit.

¹⁰ *Ibid*.

tribe, the woman retains and asserts her independence of her husband. The children of such marriages look upon or until recently used to look upon their maternal uncles as more important than their fathers¹. This is one form of gender inequality, this type, skewed against men.

Gender inequality in most African cultures has been attributed to a number of other factors apart from cultural and traditional beliefs and practices already discussed.

The predominant religions of Islam Christianity and indigenous religious tend to accord men a higher status in relation to women². The impact of the prevalent African political economy has further undermined

African women and encourages inequality. It has occasioned structural inequality. African men are mainly in control of the means of production; women perform generally menial domestic tasks. It has also been observed that discrimination against women is further exacerbated by the underdevelopment of African economies, which the already dominant male has advantage when it comes to competing for jobs or material wealth.³

There is also the economic factor of division of labour between the sexes. The view has been expressed that “efficiency” is created through division of labour according to sexes and children are taught at an early age to perform tasks “appropriate” to their respective sexes. The division of labour becomes a cultural value and remains as part of tradition and culture as long as external influences are kept at minimal.⁴ Various beliefs and religions in Africa also provide a basis for status definition, most of them to the advantage of the male. Colonial agents, traders and missionaries, mostly from the western world, consciously or unconsciously introduced their own definitions of their roles of women, to some extent, have contributed to women’s loss of status. As a result of these influences, even women’s themselves speak of their traditional roles as if it were purely domestic and social rather than economic as well.⁵

4.0. Implementation Strategies of International Instruments

Most international instruments on women’s rights incorporate mechanisms that will ensure that member-states implement the substantive women’s rights norms in their municipal legal systems. The question remains however, how effective are these implementation mechanisms?

The Convention on the Political Rights of Women 1953 focused exclusively on the articulation of political rights of women. It was one of the earliest international efforts aimed at promoting gender equality. The convention did not incorporate any form of enforcement measures, expecting that member-states were already bound to implement the provisions by the sheer operation of *pacta sunt servanda*. As it is obvious today, women’s participation in electoral process in most countries in the world is still poor, even though the legal systems do not expressly discriminate against them.

The Convention on the Elimination of All Forms of Discrimination Against Women 1979 (CEDAW). The Convention had earlier been preceded by the Declaration on Elimination of Discrimination against Women by the General Assembly on 7 December, 1967.

The Convention does not only incorporate comprehensive and far-reaching provisions on all aspects of women’s life-social, economic, cultural, educational, health, marriage, it also set up a Committee “for the purpose of considering the progress made in the implementation of the present convention” The Committee consists of “thirty three experts of high moral standing and competence in the field covered by the Convention”⁶

States-Parties are required to submit a report on the legislative, judicial, administrative or other measures adopted to give effect to the provisions of the Convention and the progress made in this respect every four years.⁷ The Committee in turn, reports annually to the General Assembly of the United Nations on its activities and may make recommendations based on the examination of reports and information received from states parties.⁸ The Secretary-General of the United Nations shall them transmit the reports of the Committee to the Commission on the status of Women for its information.⁹

Article 24 provides that States-Parties undertake to adopt all necessary measures at the national level aimed at achieving the full realization of the rights recognized in the Convention.

The Convention was followed by Optional Protocol to the Convention on the Elimination of all Forms of Discrimination Against Women 1999. The Protocol merely provides that communication may be submitted by or

¹ Rattray, Ashanti Law and Constitution, P.41, Danquah, Akan Laws and Customs, Pp. 153 .

² See Van Alten J, “Sitting on a Man: Colonialism and the Lost Political Institutions of Igbo Women”, Canadian Journal of African Studies, Vol. 6, (1972), Pp. 171-172. Christian ethos, for instance requires that a woman must her husband.

³ Osita Eze, Human Rights in Africa: Some selected problems. Op. cit. P. 141.

⁴ Ibid.

⁵ Ibid.

⁶ Article 17

⁷ Article 18

⁸ Article 21(1)

⁹ Article 21 (2)

on behalf of individuals or groups of individuals under the justification of state party claiming to be victims of a violation of any of the right set forth in the Convention by that State-Party¹.

The arrangement of the committee system to monitor compliance and implementation of the rights recognized under the instrument, though laudable, has achieved very little in terms of making States-Parties truly committed to their obligations under the Convention. The Committee simply draws the attention of a State-Party in violation of the Convention to such violations received either from communication sent by individuals or groups or from the annual reports submitted to it, expecting the State-Party in question to address same. Neither the Convention nor its Protocol makes provisions for sanctions where such members remain adamant or continue with the wilful violation of the convention rights.

The Protocol to the African Charter on Human and Peoples Rights on the Rights of Women does not fare better. Article 26(i) provides, in respect of implementation and monitoring thus: States parties shall ensure the implementation of this Protocol at national level, and in their periodic report submitted in accordance with Article 62 of the African Charter., indicate the legislative and other measures undertaken for the full realization of the rights herein recognized.

Article 26(2) provides further:

States parties undertake to adopt all necessary measures and in particular shall provide budgetary and other resources for the full and effective implementation of the rights herein recognized.

Implementation and monitoring of the rights recognized in the Protocol are anchored on two legs-national municipal law of States-Parties and the periodic reporting of human rights of States Parties as stated under Article 62 of the African Charter on Human and Peoples' Rights alluded to above.

With respect to the implementation through national municipal law, there are some obvious challenges. It has been noted that the Protocol provides "little guidance as to what form of law should govern the implementation, interpretation, and application of the articles within the domestic courts of states parties. That is the protocol draws no distinction between statutory law, customary law, and living law. This is particularly relevant because the application of one form of law over another could dramatically alter the result for the affected parties"².

Also, although some provisions requiring affirmative action such as divorce and inheritance had already been made part of the laws of some African countries, there has been problem bordering on the implementation of provisions such as that on a woman's right to seek an abortion, although limited to cases of rape, incest, or a threat to the mother's or fetus health.³ It is a huge challenge because under most legal systems in Africa, abortion is outlawed.⁴ It is also condemned by the prevailing morality and religion.

Again some of the rights contained in the Protocol, though couched in an affirmative language could only, in practical terms, be achieved aspirationally. Rights such as rights to food security (Article 15), right to adequate housing (Article 16), right to healthy and sustainable environment (Article 18) and right to sustainable development (Article 19). This is because the realization of these rights is contingent on the capacity of the economies of the African countries. In some African countries such as Nigeria and elsewhere in the world, these rights are simply expressed as aspirations and ideals. In Nigeria it is expressed as Fundamental Objectives and Directive Principles of State Policy and are not legally justifiable.

The other leg of implementation provided for under the Protocol is periodic report in accordance with Article 62 of the African Charter. Periodic report under the African Charter has not been an effective implementation mechanism.⁵ Parties often shirk in their responsibility of presenting timely reports and where they do, the reports often fall short of the standard template.⁶ It is therefore not surprising that women's rights continue to be aspirational in spite of these instruments.

5.0 Effectively Promoting Women Rights in Africa: An Agenda

Cultural impediments identified earlier in this paper have been and remain a major challenge to the realization of women rights provided for in most international instruments particularly, the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) and the African Protocol on Women's Rights. Cultural impediments emerged through gradual process of cultural evolution; as such, they cannot be banished overnight by legislation or convention. Statutory or/and convention provision in conflict with ingrained practices and beliefs have thus remained ineffective.

African countries need to embark on carefully planned process of sensitization and mass education of the

¹ Article 1 & 2, Optional Protocol to the Convention on the Elimination of Discrimination Against Women, 1999.

² Kristin David, "the Emperor is still Naked: Why the Protocols on the Rights of Women in Africa leaves Women Exposed to more Discrimination" *Vanderbilt Journal of Transnational Law*, Vol. 42, P. 963.

³ See Article 14 of the Protocol also see Fareda Banda, *Sex Gender and International Law*, 100 AM, SOL'Y INT'L. PROC. 243, 2006.

⁴ In Nigeria for example section 328 of the criminal code.

⁵ Malcolm Evan & Richard Murray (2002) *The African Charter on Human and Peoples Rights. The system in practice (1986-200)*

⁶ *Ib.*

largely uninformed rural dwellers. These consist largely of men and women and traditional chiefs who are the custodians of cultures and tradition. They need to be educated on the imperative to do away with the practices and beliefs that demean women and hinder gender equality. They should be engaged in implementing policies and programme on gender equality. This integrative mechanism will complement the various initiatives of promoting women's rights under the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) and the African Protocol on Women Rights.

More concerted efforts should be made to restructure the skewed African political economies whose present forms are to the disadvantage of women. The men are predominantly in charge of African economies from production to distribution of goods and services. The ultimate result of this arrangement is that women are disempowered economically, making their rights a mirage. A restructuring of the political economies of African states in this manner will constitute a key component of any effective strategy to push for women equality in Africa.

The African Protocol on Women's Rights does not fare better in terms of implementing the conventions provisions. The reporting system has proved ineffective as most States-Parties often fail to report regularly and when they do, most reports fall short of the standards prescribed. Again some of the rights granted by the convention are, in view of the state of African economies, largely underdeveloped, difficult to implement even though they are expressed as affirmative duties. These initiatives need to be complemented by appropriate sanctions.

Finally, the paper noted that ineffective implementation is largely occasioned by ingrained cultural practices and that for effective promotion of women's rights in the continent, grassroots involvement in the formulation of programme and policies of governments on gender issues must be vigorously pursued.

6.0 Conclusion

The paper has highlighted the major challenges which continue to hinder gender equality and the promotion of women rights in Africa, despite the various initiatives.

The Committee system under the Convention for the Elimination of all Forms of Discrimination against Women (CEDAW) and all the measures adopted in the Convention and that of the Protocol on Women's Rights in Africa need to be complimented by the integrative mechanism proposed in this paper. Mass education of the largely illiterate peoples, particularly the rural dwellers in Africa and their involvement in the formulation and implementation of programmes and policies on gender issues will bring about a paradigm shift in the strategy to achieve gender equality and promote women rights in Africa.