



Gender Equality and Women's Rights Theme: Background Note

Background: The Beijing World Conference¹ probably set the clearest agenda for improving gender equality and women's rights internationally as enunciated in the Beijing Platform for Action [BPFA]². The BPFA provided the background upon which African institutions and states have sought to rectify the challenges of gender inequality and the respect and promotion for women's rights in Africa. While it took the almost ten years from Beijing to the formulation of the African Women's Rights Protocol³; from as early as the preparations for the Beijing Conference, it had become clear that there could be no meaningful development on the continent without regard to gender equality and the rights of women. In particular, the reality that women were not considered as important/meaningful players in the development of their communities and economies nor were they regarded equal citizens to their male counterparts. This inequality manifested in discriminatory laws and the application of the said laws and policies. Against this background, gender equality and women's rights became the key themes in the developmental discourse on the continent. However, despite this recognition of the critical importance of gender equality and the respect and promotion of women's rights, the reality of African women is that there still remains glaring gaps between what is understood to be correct and appropriate and what prevails/subsists on the ground.

Significant policy strides have been made, both at continental and national government levels in addressing gender inequality and women's rights as evidenced by the various legal instruments and frameworks put into place to address the issues of gender equality and women's rights. The African Union has led the way with the African Women's Protocol, the African Union Solemn Declaration on Gender Equality in Africa and the African Union Gender Policy⁴. This has translated into similar sub regional policies such as the SADC Women's Rights Protocol⁵ to national level policies and legislation, seeking to address gender equality and to promote the respect for women and women's rights. All these frameworks are premised on the fact that without recognition of women's rights and gender equality there can be no meaningful development. However despite the well articulated policies, frameworks and legislative provisions, the situation of women in Africa remains marred by inequality and the existence of rights that are rarely protected, and where they are, difficult to enforce. Much has been written on the disconnection between what the laws and policies provide and the reality of women's lives⁶;

¹ United Nations Fourth World Conference on Women, September 1995

² <http://www1.umn.edu/humanrts/instree/e5dplw.htm>

³ The Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, 2005

⁴ African Union: Solemn Declaration on Gender Equality in Africa signed in July 2004 – Addis Ababa

⁵ <http://www.sadc.int/index/browse/page/465>

⁶ African Union Gender Policy REV/ Feb 10, 2009

however that will not be focus on this paper. Rather this paper seeks to highlight some of the current key issues affecting African women and suggesting possible strategies to address the said issues.

Emerging Issues

The challenge of identifying emerging issues under theme of gender equality and human rights is that gender equality and women's rights is both a theme of its own accord, as well as a cross cutting theme in all emerging and key issues. A cursory analysis of the issues to be addressed by the CCP-AU at its strategy sessions, shows that all of the highlighted issues have gender equality and women's rights dimensions, such as peace and security, governance and human rights and economic justice [which will be addressed later herein⁷] and indeed regional integration. For purposes of this paper, there are five key issues that are pertinent to African women and have been highlighted both by the African union and its member states⁸ as key issues at various times in recent years namely;

- i. Peace and Security [*with focus on violence against women conflict*]
- ii. HIV and AIDS
- iii. Governance and human rights
- iv. Participation in leadership and decision making
- v. Economic Justice [*with a focus on the impact of corruption on access to social service delivery*]

The identified issues are noted as a guide of potential issues for the CCP-AU's attention⁹, taking into account that these are issues that the CCP- AU has the opportunities and capacity to focus on both from a mandate and feasibility perspective.

Peace and Security: The continent has been witness to several conflicts since 1990, ranging from internal conflicts such as experienced in Central Africa in the early 1990s to the current conflicts in North Africa¹⁰. The majority of these conflicts, have had similar traits, namely the fact that women suffer the effects of war disproportionately from men because of their roles and location in society, and yet consistently, when the peace building processes are initiated women are absent from these spaces. This led to the formulation of UN Resolution 1325 of 2000, aimed at increasing the participation of women both in the prevention and resolution of conflict as well as to increase the participation of women in building and maintaining peace. The provisions of UN Resolution 1325 have provided the policy

⁷While these issues will be addressed in detail in the different thematic discussions, they will be addressed herein in the context and to the extent that they have gender equality and women's rights connotations.

⁸ The Solemn Declaration of Gender Equality in Africa highlights these issues in paras 1, 2,4,5,6 and 10

⁹ The choice of five issues is so that CCP-AU itself can have a variety of issues to choose the two or three issues for focus. All the issues will be discussed broadly as a basis for further discussion and debate at the roundtable.

¹⁰ Of course Africa has not been alone in the experience of conflict hence the development of the United Nations Resolution 1325 at http://www.un.org/events/res_1325e.pdf

framework for addressing conflict prevention and resolution, on the continent, as shown by the wholesale adoption of its principles in African Women's Protocol, the Solemn Declaration on Gender Equality and the SADC Women's Rights Protocol, in fairly specific terms.

While the policy frameworks on peace and security are fairly recent phenomena both in international and continental context, the reality that conflict has affected women and men disproportionately is to be noted in the development of appropriate strategies for conflict prevention and management. This is the basis of the Nairobi Declaration on Women's and Girls' Rights to Remedy and Reparation¹¹. In fact the Nairobi Declaration is one of the key strategies through which efforts are being made to address the issues of both the participation of women in conflict prevention and management, from a women's rights perspective. The Nairobi Declaration is premised on the fact that women and girls are more likely to suffer gender based violence, in particular sexual violence more often than their male counterparts. This is critical to note, as one of the key reasons UN Resolution 1325 was put into place was to address the fact that conflict entrenches discrimination against women, from not properly acknowledging their experiences of conflict, to not having them participate in conflict management as a key stakeholder and player.

A key issue emerging from the question of peace and conflict prevention and management is the question of gender based violence against women that occurs in pre and post conflict situations. The discussions on peace, security and conflict management have almost created the impression that violence against women is a phenomena only linked to broader conflict, rarely existing in non-conflict/peaceful situations. This is important to state in that, the issue of women's security and bodily integrity outside of conflict seems to increasingly be fading away. More often than not, in the discussion on violence, the tendency is to locate violence against women only in the context of conflict, to the exclusion of the violence women suffer in societies generally. Thus while the policy frameworks on addressing violence against women in conflict are a welcome development, there is also need to address the question of why gender based violence outside of conflict is still almost invisible. Indeed while an increasing number of countries do have violence against women laws and policies, more often than not these are not supported by the requisite budget support or political will¹².

Against this background, a critical issue for consideration by the CCP- AU may be the need to motivate for a commitment at continental level [the African Union] for a specific framework dealing with violence against women outside of conflict; to complement the violence against women in the context of conflict policies currently in place. The African Union Commission on Human and People's Rights has a Special Rapporteur on Violence against Women. It would be worthwhile for the CCP-AU to engage with this office, in order to increase continental understand this

¹¹http://www.womensrightscoalition.org/site/reparation/signature_en.php

¹² For example Seychelles, South Africa and Zimbabwe all have domestic violence/gender based violence laws, that are difficult to implement more for lack of resources rather than clarity of the policy framework.

office's mandate with a view to enhancing its interaction and with civil society organizations; which would ensure that civil society is strengthened to deal more forcefully with issues of violence against women both in conflict and non-conflict situations. The CCP- AU could also use reports from the work by this office over the years to lobby for a special African Union policy document on Violence against Women.

HIV and AIDS: As stated in the preamble to the Solemn Declaration on Gender Equality in Africa, HIV and AIDS remain highly prevalent among women and girls in Africa, with statistics indicating that women are the majority of the affected and infected. The policy framework on HIV and Aids is vast, from the Abuja Declaration on HIV/Aids¹³, through the Maputo Declaration on Health¹⁴ to the recent UN General Assembly 2011 Political Declaration on HIV and AIDS¹⁵. HIV and AIDS, is possibly one area where there is no shortage of policies at international and regional level, and fairly comprehensive national level legislation and policies. This broad policy environment has facilitated significant strides made in the various attempts to curb the spread of HIV and AIDS.

However, there still remain challenges related to the lack of gender equality in African communities. Research has shown links between the prevalence of HIV and AIDS among women and their perceived subordinate status in society.¹⁶ Where women are perceived to be beneath husbands/male partners and male family members, both in the context of culture and religion; these perceptions have had far reaching implications on women's sexual and reproductive health rights. This has translated into women's lack of control over their own bodies, so that frequently women lack or have limited control over their own bodies; ranging from inability to protect themselves from sexual violations, to lack of control whether or not to have children and the number of children to have and whether or not the said children will be breastfed. A key emerging dimension to the issue of HIV and AIDS is the return of fundamentalisms both in culture and religion, which have emasculated women, making them unable or limited in their decision making about accessing healthcare. Increasingly the church [in the case of religion] and the family [the man and society] make the decision about what healthcare/attention is acceptable and proper in each situation, with little or no input from the affected woman. This has seen women dying unnecessarily for lack of urgent action on the part of their health decision makers.

¹³ ABUJA DECLARATION ON HIV/AIDS, TUBERCULOSIS AND OTHER RELATED INFECTIOUS DISEASES, April 2001 at http://www.un.org/ga/aids/pdf/abuja_declaration.pdf

¹⁴ MAPUTO DECLARATION ON HIV/AIDS, TUBERCULOSIS AND OTHER RELATED INFECTIOUS DISEASES, July 2003 at http://www.rbm.who.int/docs/maputo_declaration.pdf. In addition to these are other policy documents such as the 2001 Declaration on Commitment to HIV and AIDS, 2006 Political Declaration on HIV and AIDS.

¹⁵ At

http://www.unaids.org/en/media/unaids/contentassets/documents/document/2011/06/20110610_UN_A-RES-65-277_en.pdf

¹⁶ Echoed in all the policy documents related to HIV and AIDS

What is worrying though, is over the years there has been enough information communicated to communities on the prevalence and effective ways to curb the spread of HIV and AIDS, and indeed information on access to treatment and support; however women still remain as vulnerable to infections as they were when the Solemn Declaration on Gender Equality in Africa was signed. While indeed infections may have declined or reached a plateau, women still remain the majority of the infected and affected. A worrying trend in all HIV aids reports with statistics produced by bodies such as UNAIDS is the disproportionate numbers of young women infected by HIV compared to young men. These statistics tell the story of increased vulnerability of young women in our continent. Thus a key issue for consideration must be an analysis of the current strategies being employed to curb the spread of HIV and AIDS on the continent. There must be an understanding of why the current policies and strategies have failed to achieve the desired result of reduced infections and management of pre-existing infections. The CCP- AU may need to consider commissioning an analysis of the reasons why women and especially young women continue to be disproportionately affected by HIV and AIDS, despite the existence of policies aimed at the opposite, with a view to providing background data for both the AU and civil society to consider revision of the current policy frameworks to address the noted anomalies.

Governance and Human Rights: The key issue for women in relation to governance and human rights is arguably the question of discrimination against women and their perceived lower status in society. As far back as 1979, United Nations adopted the Convention on the Elimination of All Forms of Discrimination Against Women [CEDAW]¹⁷, it was clear that the definition of human rights seemed to exclude women's rights, hence the need to formulate a specific treaty addressing women's rights and in particular the critical issue of discrimination against women and the need for creating equality between men and women. While CEDAW has continued to exist as a framework for women's equality and ensuring their access to public life at par with male counterparts, there have been other developments both within the context of the United Nations¹⁸ and at continental level that has reaffirmed the fact that women's rights are also human rights¹⁹. The African Women's Protocol and the Solemn Declaration on Gender, as stated above form the basis for regional and national governance and human rights framework for women in Africa.

The various policies at continental level [and to some degree, national levels] on governance and human rights are all premised on the fact that women suffer discrimination on the basis of gender and sex and significant progress has been made in recognition of these facts. This has been achieved through deliberate efforts ranging from increasing the enrolment of girls in school, through affirmative action initiatives to accelerate women's rising in government and private institutions and increased support for women's national economies; in different ways. However

¹⁷ At <http://www.un.org/womenwatch/daw/cedaw/cedaw.htm>

¹⁸ The United Nations Millennium Development Goals at <http://www.un.org/millenniumgoals/>

¹⁹ Slogan of women present at the Vienna Conference on Human Rights; which led to the Vienna Declaration and Platform of Action [at <http://www.unhcr.ch/huridocda/huridoca.nsf/%28symbol%29/a.conf.157.23.en>] which consolidated the fact that women's rights are an integral part of what human rights

women's lived realities generally seem to indicate that despite the recognition of the discrimination and in the majority of cases, good policies enunciated above, women continue to be discriminated against. Reports on progress made in achieving gender equality indicate that progress towards attaining full equality for women is far from being a reality²⁰ and that in fact sub Saharan Africa seems to be the worst performing continent in improving the lives of women.

What is clear from the foregoing is that the policy frameworks are not consistent with the prevailing realities on the ground. Various explanations have been proffered for the reason why women are generally absent, or where they are present are invisible in governance and why their rights are violated. The issues range from lack of political will on the part of those in leadership to ensure that women realize their rights, while in some cases resources are cited as the major factor state parties become unable to meet their obligations to promoting the rights of women. Whatever the cause, what is clear is that there is need for greater recognition of the rights of women and their right to participate and influence in governance processes in their countries and regions.

CCP- AU may need to consider advocating for more stringent monitoring of the various women's rights policies and laws. They may also be need to consider creating a structure for monitoring implementation of women's rights and their engagement with governance processes at continental civil society level, to be used as an information tool both for the AU and the partners of the CCP-AU,

Participation in Leadership and Decision Making: Possibly the one area that most signifies the challenge of gender inequality on the continent is the women's participation in leadership and decision making. The world over, women's participation in decision making has been at best low and at worst impossible, largely due to women and men's inequality and the impact of violence against women both in the private and public spheres. Women constitute the majority in most countries on the continent and yet they are not proportionately represented nor adequately represented in key decision making bodies. This exclusion of women from leadership and decision has also negatively impacted on development of the continent, because as noted by the former UN Secretary General "*there is no tool for development more effective than the empowerment of women*".

From CEDAW, to the SADC Protocol on Gender Equality, the issue of women's participation in decision making is reiterated in almost similar terms to the effect that women's representation in decision making is linked to good governance, including increased participation in democratic and governance processes. The provisions in the various instruments related to women's equality are all very clear on what needs to be done to increase women's participation in decision making and leadership. The proposed strategies include capacity building for women to participate and compete effectively, support for the various women's structure and working to change discriminatory attitudes to women's leadership. There are even exhortations

²⁰ See Progress of the World's Women 2002 report at http://www.unifem.org/materials/item_detail.php?ProductID=10

for political parties to ensure they create mechanisms for increased participation by women in internal party processes as a launching pad for enhanced women's participation in national and international contests. The African Union itself came up with its own Gender Policy aimed at increasing gender equality and fairness between men and women on the continent.

As with governance and human rights, the challenge for women's participation in leadership and decision making is lack of implementation of policies, which in some cases have fairly clear strategies. It would be prudent to propose that the CCP- AU seriously considers supporting civil society initiatives aimed at increasing women's participation in leadership and decision making within civil society and in political parties; and in particular facilitating women's organizations access to the African Union to enhance accountability for gender equality. Continued and sustained engagement with political parties to implement their gender sensitive policies and to encourage those without to have gender sensitive policies is critical. Further reform of electoral laws in most African countries is necessary in order to adopt electoral systems that promote the participation of women.

Economic Justice: Consistent in all the policy documents alluded to prior²¹, the question of economic justice is a pertinent one for African women. Women on the continent provide significant labor and yet they rarely have control of the resources they provide labor on. They are even paid less for the same work done by their male counterparts. Thus for example a significant number of women work the land, yet land ownership by women and men on the continent is disproportionately in favor of men. This inequality is rooted in the fact that women are rarely seen independent majors in most communities. This has led to all the major policy documents on women's rights and gender equality addressing the question of economic empowerment of women as a critical issue. While the issue of economic empowerment, is a cross cutting one, as evidenced by its prominence in issues of governance, peace building, leadership and decision making, HIV and AIDS; its value as a standalone issue cannot be overstated. As noted earlier, there can be no meaningful development without women's participation in any society.

Key to economic justice, in the context of gender equality and women's rights, is that there must equal opportunity for men and women to access the means of production [such as land and other resources], access to credit and access to markets and critically for women access to social services as provided for by the state. As already shown above, women have limited or no access to the said resources because of their subordinate status, so that more often than not, poverty in Africa characteristically affects women more than men. Even where women do have access to resources, they tend to be involved in micro-level economic activities because of stringent requirements for credit and their general exclusion from platforms of decision making and leadership.

However a key for women in economic justice is the fact of corruption, in particular with regards to accessing social services. Corruption is endemic to most African

²¹ CEDAW, Beijing Platform for Action, African Women's Protocol, the SADC Gender Protocol etc

communities, with devastating consequences on access to services, especially for women. This led to the formulation of the African Union Preventing and Combating Corruption in 2003²² and the SADC Protocol on Corruption²³, among other policies to regulate this cancer. Over the years, various economic empowerment initiatives have been launched within Africa targeting women and the poor, but more often than not these have failed to yield positive results because of corruption which has seen resources aimed at women diverted to other uses or service providers that fail to deliver. This has resulted in lack of investor confidence in Africa at the micro and macro levels, with significant impact on women who then fail to access basic services. Including but not limited to poor infrastructure, poor development and increased poverty.

The impact of corruption on women's lives is one area, though acknowledged, that has not been addressed in depth. This is an area which, while economic in nature, is critical to improving women's lives and indeed a critical issue for citizens' participation. It is proposed that the CCP- AU considers creating a monitoring framework for implementation of the continental corruption treaties in collaboration with women's organizations. This is because while there are indeed very comprehensive policies on corruption, there seems to be virtually little implementation of the said policies. It is critical therefore for there be effective monitoring of the various conventions which form the basis of most national conventions for enhanced corruption prevention on the continent with a view to enhancing economic justice for women. Additionally, the CCP- AU should consider engaging in the development and monitoring of continental economic policies from a gender perspective and urging movement from engaging women only in micro-economic activity towards getting women involved in macro level economic activities. It would be important in that process to pay attention to the issue of women's unpaid labor and its contribution to national economies. Aspects such as open borders, greater regional integration, and removal of protectionist policies are all part of regional and sub-regional economic developments in Africa that will stand to benefit women and could be part of the advocacy work by CCP-AU

²²[http://www.africa-union.org/root/au/Documents/Treaties/Text/Convention on Combating Corruption.pdf](http://www.africa-union.org/root/au/Documents/Treaties/Text/Convention%20on%20Combating%20Corruption.pdf)

²³<http://www.sadc.int/english/key-documents/protocols/protocol-against-corruption/>