



HUMAN RIGHTS OF WOMEN IN POST APARTHEID SOUTH AFRICA: ISSUES AND CHALLENGES

Islam Ali

Department of Political Science, Zakir Husain Delhi College (Evening)

University of Delhi, New Delhi, India

✉ islamali123@gmail.com

Islam Ali: <https://orcid.org/0000-0001-5434-8801>

ABSTRACT

Women have historically been the most marginalised groups in South Africa, as their political, social, and economic circumstances are precarious. South Africa's post-apartheid constitution has several provisions to protect women's human rights, however enforcing the constitutional responsibilities remains a difficulty owing to different constraints. This paper deals with the status of human rights of women in post apartheid South Africa. The purpose of this paper is to analyse constitutional and legal provisions for the protection of socio – economic and political human rights of women. It also attempts to explore the real situation of women's rights in independent South Africa. The article concludes some suggestions to overcome the challenges against women's human rights in South Africa particularly after the apartheid era.

Keywords: *Human Rights, Women, South Africa, Constitution.*

Introduction

South Africa is a multiethnic and pluralistic nation on the African continent. South Africa has played a significant role in the welfare, development, and unity of African states since the end of the apartheid system. South Africa's economic strength and potential are its most valuable assets as it rises in global politics. South Africa is one of the world's most unequal countries in terms of income and wealth, contributing to

rising poverty. On the one hand, urban life in 'metro-cities' is as developed as it is in European towns, while rural people live in the worst conditions as they do in other destitute rural districts throughout Africa. Women are main victims of this inequality and poverty. Unemployment, high crime rate, poverty, lack of social dignity, HIV/AIDS, lack of health and education facilities are main characteristics of women's life, especially in non-whites

community. In such adverse condition, women are in more vulnerable and hazardous condition, because of their family, social and traditional liabilities.

During the apartheid regime women were relegated to a subordinated status in the society. The European colonial society and African traditional society were patriarchal and male-dominated. The legal structure was characterises with gross gender inequalities. For example, the implementation of Personal and family laws until recently ensured that women were not treated as equals (Andrews, 1998). Similarly, in African customary law, women were always treat as under the male domination, whether their husband, father, or even a son (KwaZulu Act, 1981 and Moosa, 1998). The customary marriages were not considered as legal because they were potentially polygamous. Therefore these particular patriarchal legal structures were enforced by a culture that did not question the fundamental reason of such gender inequality (Kaganis, 1991). For South African women, these laws have been used to deprive them from their rights. These laws were controlled by white administrator or their African surrogates; thus their focus was to be found in the apartheid regime which codified and maintain patriarchal system (Chanock, 1991). In Post apartheid regime the situation of South African women not much improve as it should be, although the new constitution, which was enforced in 1997, provides the protection of women's human rights. There are so many issues and challenges which need to be addressed to find the way and means to improve the

women's status in new South Africa. In this article the issues and challenges have been analyses, which affecting women's human rights.

Historical Background

The term South Africa comes from the country's location in the southernmost section of the African continent. It is very difficult to say which tribe was first inhabitant, but the 'Khoi' and 'San' was originally inhabitant of South Africa. In 1652, the Dutch East India Company came to the Cape, as permanent settler. Before that, most part of southern Africa was a temporary settlement place for European trade men. During the period of competing colonial interests and the scramble for territories among the colonial powers, the British invaded the Cape to prevent it from falling into French hands. The most significant change in the process of colonization of South Africa in the 19th century, took place after the discovery of gold in 1886. The process of formation of present South Africa had been started after the Anglo-Boer war (1899-1902). In 1909, a draft of constitution for the unification of the four provinces was submitted to the British Parliament. The Constitution was passed without any amendments. On 31st May 1910, the Union of South Africa was inaugurated. Although, it was based on the Westminster model, but there was no provision or a single section for native peoples (Lurrecia, 2003).

After the configuration of the Union, South Africa began to legalize the segregation of blacks and whites that had always been inherent in society. Various

laws were passed during this period with an underlying motive of segregation. The Mines and Work Act (1913), the Native Act (1913) and the Native Urban Areas Act (1923) were most significant Acts to maintain racial separation and establish white supremacy. In 1948, the National Party won the elections, since then new leadership had a calculated and systematic political and socio-economic plan motivated at marginalizing the black community. Apartheid system was introduced by new regime and extended racial discrimination in the government, private and socio-economic spheres under new racist system (Lurrecia, 2003).

In the new regime whole political system and economic resources were in the hands of the white minority. The native people had raised their voice through the African National Congress and other organizations. The apartheid system was an account of exploitation of black people. During the apartheid system all legal and administrative steps were against the interest of blacks. This led African leaders to flee the country and built up military wings in exile. The apartheid regime faced resistance and criticism not only at domestic front but from outside as well. Even serious calls for economic sanctions were made by the United Nations (Lurrecia, 2003).

After long exploitation and atrocities, apartheid regime was failed to crush the national movement and finally racist regime bowed. President F.W. De Klerk has announced various steps to initiate the process of liberalization and democratization. Nelson Mandela and other

leaders were released from jail. The African National Congress, the Pan African Congress, and the South African Communist Party all had their bans lifted. The ANC suspended its thirty years old arms struggle in the interest of negotiation for independence. The Groote Schuur Minutes, result of the ANC and government meeting, provided for the establishment of a working group, given the task of making recommendations for the release of political prisoners. The government recommitted itself to the Groote Schuur Minutes. Finally, Peace Accord was signed on September 14, 1992, which was aimed to establish a code of conduct and mechanisms to get the common purpose of bringing an end to political violence. It was an important step towards meaningful negotiation. Next step towards success was the Convention for a Democratic South Africa (CODESA), which was the platform that served as the catalyst for achieving a negotiated settlement. Bilateral meetings between the ANC and the National Party paved the way for solution. In March 1993, the multiparty talks were also organized, to find out a settlement for South Africa's political transfer of power. Finally, after some initial hurdles, the negotiating council and nine representatives from each party were agreed on a draft of Interim Constitution on December 6, 1993, which was passed by Parliament as fourth Constitution of South Africa on September 22, 1993 (Act 200 of 1993). After some amendments (March 3, 1994 and April 26, 1994), it came into operation on April 27, 1994, the day on which the first national democratic election was held. According to this Interim Constitution, the Constituent

Assembly was required to draft and approved a final constitution (Europa Year Book, 49th Edition). Present constitution was eventually certified by constitutional court and adopted by the National Assembly on October 11, 1996 and was promulgated by the President at a ceremony in Sharpeville on December 10, 1996 and entered into force on 4th February, 1997 (Europa Year Book, 49th Edition).

Status of Women in Apartheid Era

Since the creation of apartheid, women's economic and social roles have grown to horrific dimensions as they struggle to harvest enough food from the land to feed their family. With their husbands away working as migrant labourers, the women must juggle their daily chores at home and in the field. The disappearance of men from rural regions (when they were "on contract," working as low-wage migrant labourers) had a significant negative impact on the women who were left in the reserves. Land scarcity was widespread in many places, resulting in agricultural production stagnating or declining over time. Furthermore, women's work had been expanded to cover all aspects of agriculture as well as other tasks such as producing mud for hut walls and thatch for roofs, as well as tending cattle. They are also in charge of milking the cows twice a day, taking the cattle out to graze every morning, returning at sunset, and closing the buyers at night (Report, July 1980).

Without land, it was impossible to exist, and the salaries offered to migrant labourers were insufficient as well. Migrants had to make a significant personal sacrifice

in order to save away a percentage of their hard-earned salaries to send home. Even with the greatest of intentions, these contributions were unable to significantly improve the dreadful living conditions of those who remained behind. Supplements arrived in sporadic and inconsistent amounts, and others simply did not come at all. A large number of families were obliged to exist without them, and no rural community was spared the troubles brought on by the lack of financial help from male relatives on contract. Migrant labor's impact on women and their families was not limited to economic hardship. Women were also subjected to significant emotional strain as a result of being separated from their male counterparts and having to raise their children alone. One of the most heinous features of apartheid was the disruption of family life. For months, men were compelled to leave their homes. Many of them came back every year. They got isolated and established a new life in the towns, while their spouses waited for a letter and money month after month. Despite the problems that women felt as a result of the dissolution of their families, many realised that it was not their husbands who were to blame, but rather the societal conditions created by apartheid legislation (UNO Report, July 1980).

The resettlement programme, in which over two million people were relocated to distant and underdeveloped sections of the reserves, was one of the most inhumane aspects of the apartheid regime's policy. The government used this to eliminate "black spots," or pockets of land owned by Africans in government-designated "white"

zones or locations considered too near to white-owned farms or towns. In order to minimise the number of Africans living in white urban centres, forced removals were also carried out under inflow control regulations. "Non-productive" Africans were forced to leave, and if they had a home or family, the only option was a resettlement camp. Close to four million individuals were estimated to have lived in the relocation communities or camps. Women were once again disproportionately harmed by these regulations. They made up the majority of individuals being ejected from metropolitan areas because they were deemed essentially unproductive. When villages were uprooted, the already small male population shrank even further as men left to seek work as poverty levels were increased (UNO Report, July 1980).

Status of Women in Post Apartheid Era: Women's Human Rights and New Constitutional Framework

New Constitution has ensured the human rights of every citizen. It is based on the principles of non-racialism and non-sexism, equality and the protection of human rights. It is based on the principle of the separation of powers. Judicial independence is guaranteed by the judicial powers in the courts in section 165. The Constitution also provides a number of state institutions to protect and maintain human rights e.g. the Human Rights Commission, the Commission for the Promotion and Protection Rights of Cultural, Religious and Linguistic Communities, the Commission on Gender Equality and the Electoral

Commission (The Constitution of South Africa, 1996).

Most of the rights are explained in Chapter 2 of the Constitution. The majority of these rights are traditional and conventional first generation rights such as the right to equality (section 9), human dignity (section 10), life (section 10), freedom of opinion, expression and privacy (section 14-16), rights related to free political activities (section 17-20), rights related to the protection of private property (section 25), the right of detained, arrested, and accused persons (section 35) etc. Equality is one of the fundamental values for gender and sexual equality, which is provided by section 9. This section guarantees the right to equality before law and equal protection by law. It also provides for measures to be taken for the protection and advancement of groups previously disadvantaged by unfair discrimination. This section clears that the constitution makers intended to render equality before the law of reality. The equality provisions are also applicable to non-citizens (Lurrecia, 2003).

During apartheid, blacks were out of democratic rights. "There were rights including - the right to a healthy environment (section 24), the right of access to land [section 25(4), (5)], secure tenure (section 25(b), and land restitution [section 25(5)(9)], the rights of access to adequate housing and protection against arbitrary evictions and demolitions (section 26), the right to access to health care, food, water and social security (section 27), the right to education (section 29), certain rights for children such as basic nutrition, shelter,

basic health care services and social services and the right to be protected against maltreatment, neglect, abuse and degradation [section 28(1) c and d]" (The Constitution of South Africa, 1996). All rights guaranteed by the Bill of Rights can only be limited by a law of universal application to the degree that such limitation is reasonable and justifiable in an open and democratic state based on human dignity, equality, and freedom (under Section 36 and 37).

International Conventions and Regional Arrangements for Gender Equality

South Africa is a signatory to a number of international treaties and agreements on gender equality, which provide defined gender equality targets and indicators. The following are a few of them: (i) The UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which was adopted in 1979. (ii) The African Charter on Human and Peoples' Rights Protocol on Women's Rights in Africa (2003) (iii) The Gender and Development Protocol of the SADC, 2008 (iv) The Beijing Platform for Action (1995) (v) The Millennium Development Goals of the United Nations (2015).

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) creates an International Bill of Rights for Women by defining gender equality and establishing a framework for state action to ensure equal rights for women. This agreement is a necessary component of a democratic government that respects everyone's human rights. The convention is overseen by the

Committee on the Elimination of Discrimination Against Women, which meets three times a year in New York, United States of America. The CEDAW is made up of 23 independent experts who are elected for a four-year term by member states.

South Africa ratified CEDAW in December 1995 after signing it in January 1993. According to Article 18 of the CEDAW, each member state must submit a report within one year after ratification, followed by regular periodic reports. The committee reviews annual reports and expresses concern about violence against women, prostitution, trafficking, and women's health in its final conclusions (HDR, 2008). Despite the fact that the position of women's rights improved after 1994, violence against women, particularly domestic and sexual violence, continues to be a danger to women's rights. Furthermore, women are long-lasting in the poor condition in comparison to men.

The African Union Assembly enacted the Protocol to the African Charter on the Rights of Women in Africa on "July" 2003, which went into effect on November 25, 2005. Domestic violence, polygamy, HIV/AIDS, and medical abortion are all covered under the women's protocol [Articles 4(2), 6(c), 14(1) (e), and 14(2) k]. It further elaborates on the protection of women in armed conflict (Art. 11) and emphasises the importance of providing international law protection to women refugees [Art. 4(2) (k)]. The women's protocol provides categories of "discrimination against women" [Art. 1(j)],

which includes economic harm), "harmful behaviours," and "violence against women" that are unambiguous and wide. Female genital mutilation and other "harmful practices" are expressly forbidden (Art.5). South Africa is a signatory to the Southern African Development Community's (SADC) Declaration on Gender and Development. Following that, an amendment on the Prevention and Eradication of Violence against Women and Children was signed. In addition, member states accepted the drafting of the SADC Protocol on Gender and Development during the 2005 SADC Summit, because protocols, unlike declarations, have binding force.

Since 1994, South Africa has made great progress in enacting laws and policies that promote equality and empowerment for women, children, and persons with disabilities. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and its Optional Protocol were adopted without reservation by the South African Parliament on December 15, 1995, subjecting the country to a wide range of international commitments. The late former State President, Nelson Mandela, signed into law a final constitution for South Africa on December 10, 1996, International Human Rights Day, allowing the establishment of the Commission on Gender Equality (CGE) in April 1997. The CGE is an independent statutory agency formed to promote and preserve gender equality under Section 187 of the South African Constitution Act 108 of 1996.

Other important international and regional instruments signed by South Africa include the Beijing Platform for Action, the Millennium Declaration, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, the Solemn Declaration on Gender Equality in Africa, and the SADC Protocol on Gender and Development, as well as domestic legislation promoting gender equality. The Employment Equity Act, the Promotion of Equality and Prevention of Unfair Discrimination Act, the Domestic Violence Act, the Criminal Law (Sexual Offences and Related Matters) Amendment Act, the Protection from Harassment Act, the Prevention and Combating of Trafficking in Persons Act, the Recognition of Customary Marriages Act, the Maintenance Act, and the Occupational Safety and Health Act are among the laws in place. The ANC considered the 50/50 gender concept during its Polokwane congress in December 2007. In this principle, it was proposed that every alternative leadership position be reserved for a female candidate, with a change to the ANC Constitution stating that equity extends to the entire National Executive Committee, not only alternative positions. As a result, women do not have to be included in the top six officials of the party (Buthlezi, 2007).

Right to Equality

Any type of equality is unattainable without legal protection and supply. The right to equality is one of the most important aspects of the South African Constitution. It contains founding provisions, Sections 9 and 39 of the Constitution, in the preamble. The

Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 (Equality Act) was enacted in accordance with section 9(4) of the Constitution to give effect to the spirit and provisions of the Constitution and to provide measures to aid in the eradication of unfair discrimination, sexual harassment, and other forms of gender discrimination. The Equality Courts are informal, participatory institutions that make it simple for victims of discrimination to get the help they need (Albertyn, 2000).

Legal Provision

Despite law that particularly protects the rights of victims of gender-based violence, South Africa is one of the countries with the highest levels of gender-based violence in the world. Domestic Violence Act No. 116 of 1998 was enacted with the purpose of providing maximum protection to domestic violence victims. The court can issue a protection order under Section 7 of the Act, banning the abusers from committing any further acts of domestic violence or sexual abuse. It is a critical legal instrument for women in abusive situations to seek protection and redress through the criminal justice system, as well as appropriate support from other sectors, such as health. Domestic violence is defined as – intimidation, harassment, stalking, property damage, entry into the victims' residence without their consent, where the parties do not share the same residence, or any other controlling or abusive behaviour toward a victim, where such conduct harms or threatens the victim's safety, health, or well-being (Department of Justice, 1998).

In post-apartheid South Africa, the Sexual Offences Act No. 32 of 2007 initiated a reform process. On the 13th of December, 2007, the President signed the Act. It provides a number of legal safeguards against sexual offences. The definition of rape is expanded in this act to encompass the penetration of one person's mouth, anus, and genital organs with the genital organs or another bodily part of another person, or an object or part of an animal's body. The Act recognised the gravity of oral and anal penetration, as well as the gravity of male sexual violation. In South Africa, domestic violence, sexual harassment, and rape are all fairly common. In addition, sexual exploitation of female children and women with disabilities is rampant. Sexual grooming, the use of children, individuals with mental problems, or the presentation of pornography to youngsters are all examples of sexual exploitation (HDR, 2008).

According to Section 8 of the Equality Act, no one may be unfairly discriminated against on the basis of gender, including:

- Gender based violence.
- Female genital mutilation.
- The system of preventing women from inheriting family property.
- Any practice, customs or religious practice, which impairs the dignity of women and undermines equality between women and men, including the dignity and well-being of the girl child.
- Any policy or conduct that unfairly limits women's rights to access to land, finance and other resources.

- Discrimination on the ground of pregnancy.
- Limiting women's access to social services or benefits, such as health, education and social security.
- Systematic inequality of access to opportunity by women as a result of the sexual division of labor (HDR, 2008).

Other Legal Provisions

The South African government has taken many incentives to remove sex based inequality and sexual harassment. Various laws have also been passed and enforced by the government to safeguard women and female children by providing them with resources and legal status. Recognition of Customary Marriages Act 120 of 1998, Maintenance of Surviving Spouses Act 27 of 1990, Interstate Succession Act of 1987, Divorce Act 70 of 1979, Administration of Estates Act 66 of 1965, Maintenance Act No. 49 of 1998, and Termination of Pregnancy Amendment Act No. 38 of 2007 are just a few examples (HDR, 2008). However, crimes against women continue to show that women's social lives in South Africa are not safe, despite legal and human rights standards (HDR, 2008).

Reproductive Rights

Reproductive rights are of fundamental significance to women. Since 1997 abortion in South Africa has been regulated by the choice on Termination of Pregnancy Act (Act 92 of 1996, came into operation on 1st February 1997) and since 1998, sterilization has been regulated by the Sterilization Act (Act 44 of 1998). Both

Acts repeated the discriminatory provisions of 1975 Abortion and Sterilization Act (Act 2 of 1975). The 1975 Act severely restricted access to termination of pregnancy and indirectly discriminated against black women wishing to obtain terminations. It also regulated sterilization performed on persons incapable of giving consent.

The Post-apartheid Choice Act stipulates that a pregnancy may be terminated at any time during the first 12 weeks at the request of the woman. However, after that time, terminations are only possible in certain conditions. This stipulates that only pregnant women's consent is required for an abortion. It does not necessitate the consent of a spouse, nor does it necessitate parental approval in the event of a minor (Section 2 and 5 of Choice Act). This Act proved useful and helpful for women, because it had positive impact on maternal morbidity from incomplete abortions and extremely significant reduction in abortion associated mortality (Murray, 2005). In comparison to 1994, the year 2001 shows that the mortality rate has been reduced 91.06 percent, in deaths from unsafe abortion (Murray, 2005). But, so far medical facilities for abortion are not available for every needy person, especially in the rural areas extension of credit and access to land. Existing title holders, for example, who tended to be men, benefited from township home transfer initiatives. Traditional leadership institutions, which often include a chief or a council of elders, are in charge of most rural communities, and they did not award women land tenure, which is a requirement for receiving housing subsidies.

In comparison to men, black women have lower salaries and poorer job stability. The majority of women work as low-wage domestic workers or in micro-businesses with little job security or benefits. According to the Business Women's Association (2006) poll, women made up 41% of the working population but just 16.8% of executive-level roles and 11.5 percent of director-level positions (Murray, 2005).

Female farm workers sometimes face prejudice and discrimination in the agricultural sector, and their access to housing is frequently contingent on their relationship with male farm employees. Female agricultural labourers on maternity leave who were unable to receive timely compensation through the Unemployment Insurance Fund were frequently forced to return to work soon after giving birth (Murray, 2005).

Participation of Women in Governmental Affairs

Before 1994, black women had no rights to hold a political or constitutional post in centre or province government. If, any class or sex has rights without enough share in the government and administration, it means, their rights are useless. But during apartheid period, women of non-white race had no rights. It's a matter of satisfaction that representation of women in public offices increased after 1994. A new wave of women empowerment has been started in every segment of government under the new constitutional and legal provisions. Post apartheid South Africa witnessed 129 women out of 400 in the National Assembly.

It was ranked 13 out of 183 countries in 2005, by the Inter-Parliament Union (IPU, 2005). The National Assembly's Speaker and Deputy Speaker, as well as the Deputy Chairperson of the National Council of Provinces, were all women. In addition, thirteen members of the 30 member's national cabinet and 10 of 21 deputy ministers were women. Women are also entertaining post of premier in the provinces. In the commerce sector, according to a 2004 report, South Africa has the third-highest percentage of corporations with women in top management positions. South Africa has the eighth-highest number of women in senior management positions, with women filling 26 percent of total senior management positions, surpassing the global average by 7% and placing the country eighth in the world (Report on Gender Disparity, 2017).

In the judiciary, at the end of apartheid in 1994 there were only two women judges and a handful of women magistrates. Now the number of women in the judicial field has been increased. After one decade, there were two women on the eleven-member constitutional court, and two on the twenty members Supreme Court of Appeal and out of 167 High Court judges, 27 were women. 524 women were magistrates out of total number 1822 in the country (Murray, 2005). This participation is not as per expectations of women claim, but in comparison of pre 1994 judiciary, it is significant opening of a new era for women empowerment.

Role of Police and Legal Authorities

Domestic abuse law has been plagued by societal views as well as a lack of

infrastructure, money, and training for new enforcement officials. According to some NGOs, over 25% of women are in violent relationships, but only a small percentage of them disclose it. Judges, police officers, and medics frequently mistreat battered women. The South African Police Service has been turning Child Protection Units to Family Violence Chits in order to protect women and children (FCS). There were 66 FCSs in March 2006. Gender sensitivity training was given to FCS investigating officers and other police officers on an annual basis. Domestic violence awareness efforts were continued by the government. Rape is prohibited, including spousal rape, but it continues to be a severe problem. A bleak security atmosphere, as well as societal norms that condone sexual aggression against women, persist. According to Amnesty International, the number of recorded rapes accounts for only one-third of the total number of rapes. As a result, the situation of women has not improved significantly as a result of the new legislative measures.

The statutory sentencing criteria are frequently followed by judges in rape cases. As a result, women's advocacy groups have occasionally chastised judges for imposing lower penalties based on dubious criteria such as the victim's behaviour or relationship with the rapist. Domestic violence and crime against women are more prevalent in black communities and among migrant female farm labourers than in other groups. Farm owners, managers, and other farm workers frequently target women.

In order to give justice, the government built 61 Sexual Offenses Courts

across the country, each with specific waiting rooms and victim counselling. The Sexual Offenses and Community Affairs Unit (SOCA) has built ten "Thuthuzela Centers" that specialise in rape case handling and have streamlined a network of existing investigative, prosecutorial, and medical health centres and hospitals where victims can be found. Sexual harassment is a national issue in the United States. Sexual harassment affects high-profile individuals as well. Following an investigation into claims that Goniwe sexually assaulted a party intern, the ANC dismissed its parliamentary chief whip, Mbulelo Goniwe, in December 2006 (Country Report, 2006).

Domestic Violence against Women

Domestic violence against women is a crime not only according to legal provisions, but it is also according to human dignity and respect, which is every human being's claim. The term "violence against women" refers to acts of gender-based violence that cause physical, sexual, or psychological injury or suffering to women (Article 1, 1994). There are two aspects of violence against women, for example - domestic violence and sexual assault, which are considered only for adult women. After 1994, in South Africa one side is positive, which represent the equal status and other dignified provisions in terms of equality according to constitution. But, the negative side represents that violence against women increased around fifteen percent after the completion of first decade of democracy (Nick, 2005).

Violation of Constitutional Provisions for Women

According to Section 12(1) (c) of the Constitution, everyone has the right to be free of violence from both public and private sources (The Constitution of 1996). Women's rights to bodily and psychological integrity, equality, dignity, and protection, as well as their right to life, are all harmed by this sort of violence [Section 12(2), Section 9, 10, and 11 of the Constitution]. It's also a breach of section 7(2), which requires states to respect, protect, promote, and implement the Bill of Rights' rights (The Constitution of South Africa, 1996). Discrimination against women continues to be a severe problem in the post-apartheid period, notwithstanding equal rights under the Constitution, family law, and property law. In social life, earnings, and other economic-financial activities, women have faced socioeconomic discrimination.

The Challenges Ahead

- Public budgets dedicated to women and girls – Despite the fact that South Africa has one of the most transparent budgets in Africa (second only to New Zealand in the world, with a score of 90 out of 100 in the most recent Open Budget Index), there is no clear indication that the budget is gender responsive. The Department of Women received R187, 002,000 in FY 2015-2016, but it is unclear whether this allocation was based on up-to-date gender disaggregated statistics.
- Health - Ensure that pregnant women, mothers, and children have access to prenatal, maternal, and pediatric care.

In South Africa, there are around 6 million HIV/AIDS patients. Women and girls account for 56 percent of the almost 3.5 million people living with HIV/AIDS. Challenges such as lack of easy access to medication and early access to prenatal care to avoid mother-to-child transmission have had the greatest impact on them.

- Economy – Expanding Economic Opportunities – Women, for example, have limited access to land in South Africa, where they own barely 1% of the land. Women also have higher problems when it comes to obtaining credit, as most are unfamiliar with the methods and procedures of borrowing money from a bank. Women receive only 7% of agricultural extension assistance and fewer than 10% of the loans available to small-scale farmers. Women's land rights should be strengthened by the government, for example, by revising family and inheritance laws. The White Paper on South African Land Policy and the Land Reform and Gender Policy (both of 1997), should for instance be translated into practice.
- Political participation - Increase women's political representation. South Africa's 50/50 by 2015 Campaign for women's representation in parliament suffered a modest setback in terms of women's political empowerment. In the May 2014 elections, women's representation in parliament decreased by 4%. This was a setback, as women's representation had reached 44 percent in 2009.

- Education, Science, and Technology – A 2013 gender benchmarking study found that, while South Africa showed that women had more opportunities than ever before, their participation in the science and technology workforce remained low, and women remained severely under-represented in degree programmes in engineering, physics, and computer science.
- Gender-Based Violence (GBV) and Access to Justice — Gender-based violence (GBV) is still a major issue in South Africa, with intimate partner violence accounting for 40% to 70% of female murder victims. At least 77% of women in Limpopo, 51% in Gauteng, 45% in the Western Cape, and 36% in KwaZulu-Natal have suffered some sort of violence.

Conclusion

Prior to 1994, women in South Africa were in perilous condition. Following the end of apartheid's racial and inequality-based regime, Nelson Mandela's new constitution of the "rainbow nation" ushered in a new phase of human dignity restoration in South Africa, which would be incomplete without the respect and dignity of women, which had been violated by colonial and apartheid rulers. Despite a number of important legal and constitutional achievements, there is still much to be done. Domestic violence, sexual harassment and sex-based inequality, female child trafficking, socio-economic inequalities and high percentage of AIDS/HIV among young women are continuing challenges in the path of restoration of human rights of women in

South Africa. Education and social awareness with positive commitment of whole system is first requirement to improve the status of women. Apart from that, women need more training opportunities, job, shelters, land ownership and representation in decision making. South Africa has undoubtedly made progress in terms of women's empowerment, particularly in terms of legislation and political empowerment. Beyond these gains, greater investments in programmes that empower women and girls to better their status and prospects are still needed. As a result, reform should be viewed as a long-term aim with several advantages. Changing laws is an important element of this process, but it will not close the gender gap in women's human rights. South Africa's history shows that changing social norms takes time, but it might take even longer if the reform is not well thought out.

References

- Albertyn, C. (2000.) *Introduction to the Promotion of Equality and Prevention of Unfair Discrimination Act 4*. Johannesburg: Witwatersrand University Press
- Andrews, Penelope E. (1998). Striking the Rock: Confronting Gender Equality in South Africa. *Michigan Journal of Race and Law* (3), 8-16.
- Article 1 of the Declaration on the Elimination of Violence against Women* (1994). UN GAOR 48th Session UN Doc. A/Res/48/104.

- Buthlezi, (23 May, 2007). *Gender Equality a Priority to IFP*, Mail and Guardian.
- Chanock, Martin (1991). Law, State and Culture: Thinking About Customary Law after Apartheid. *Acta Juridica*, 52- 65.
- Country Report on Human Rights Practices (2006)*. The Bureau of Democracy, Human Rights and Labour, March 6, 2007, 13-14.
- Department of Justice (2 December 1998)*, Vol. 402, No. 19537. *Domestic Violence Act 116 of 1998*, Government Gazette, Cape Town.
- Human Development Report (2008)*. South African Human Rights Commission. 14, 61, 32, 4071, 61,297-98.
- Inter-Parliamentary Union and United Nations Division for the Advancement of Women (2005). *Women Politics*, 36.
- Kaganis, Felicity & Murray, Christina (1991) Law, Women and the Family: The Question of Polygamy in a New South Africa, *Acta Juridica*, 116-129.
- KwaZulu Government Notice 47 (1982). KwaZulu Act on the Code of Zulu Law (1981). These rules have now been eradicated with the passage of the Recognition of Customary Marriages Act No 120 of 1998.
- Lurrecia, Seafield (2003). South Africa: The Interdependence of all Human Rights, in Abdullahi Ahmed An-Naim (ed.), *Human Rights Under African Constitutions*, University of Pennsylvania Press, 295-297.
- Moosa, Najma (1998). The Interim and Final Constitutions and Muslim Personal Law: Implications for South African Muslim Women. *Stellenbosch Law Review*, (9) 196-97.
- Murray, Christina (2005). *Advancing Women's Rights: The First Decade of Democracy*, Faculty of Law, University of Cape Town, 34-35.
- Nick, Helene Comber (2005). The Dark Side of the Rainbow: Violence Against Women in South Africa after ten years of Democracy in Christina Murray, 171.
- Report of the World Conference of the United Nations Decade for Women: Quality, Development and Peace (14-30 July 1980, Copenhagen)*, Published by UNO New York, 1980, 1-216 (www.un.org)
- Report on Gender Disparity (2017) published by Bain and Company, Inc. Johannesburg and London, 1-27.* (www.bain.com).
- The Constitution of Republic of South Africa*, (1996). Chapter 9.
- The Europa World Year Book*, 49th Edition, Vol. 11, 4067-9.