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## **THE PROMOTION OF ECONOMIC, SOCIAL, AND CULTURAL RIGHTS OF VULNERABLE GROUPS IN AFRICA PURSUANT TO TREATY OBLIGATIONS: CRC, CEDAW, CERD, & CRPD**

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### I. INTRODUCTION

This Article will examine the promotion of the economic, social, and cultural rights of vulnerable groups, such as women, children, persons with disabilities, and racial minorities through the human rights treaty body review process. It will highlight the range of mechanisms at the international level that can be used to enforce the rights of vulnerable communities in Africa, and the extent to which these mechanisms have been utilized by African States, with a focus on four applicable international treaties. These treaties are the Convention for the Rights of the Child (CRC),<sup>1</sup> the Convention for the Elimination of All Forms of

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1. United Nations Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3, available at <http://www.refworld.org/docid/3ae6b38f0.html> (last visited May 31, 2015) [hereinafter *CRC*].

Discrimination against Women (CEDAW),<sup>2</sup> the Convention for the Elimination of All Forms of Racial Discrimination (CERD),<sup>3</sup> and the International Convention on the Promotion and Protection of the Rights and Dignity of Persons with Disabilities (CRPD).<sup>4</sup> These treaties are monitored by committees bearing names similar to the treaties and thus the same initials will be used: Committee on the Rights of the Child (CRC); Committee on the Elimination of Discrimination Against Women (CEDAW); Committee for the Elimination of Racial Discrimination (CERD); and the Committee on the Rights of Persons with Disabilities (CRPD). This Article will analyze the participation of African states in the treaty bodies and the articulation and implementation of the rights under those treaties for the identified vulnerable groups. The purpose of the review of African countries is to consider the effect that treaty participation has had on the continent, with the view of assessing the capacity that the treaty bodies have for promoting and protecting human rights by documenting laws and practices in various countries. It is hoped that the Article will provide an overview of the laws as well as some positive practices that have been adopted by various African countries in line with the human rights treaties.

The adoption and implementation of the treaties reveals that the African continent is the center of the focus of this analysis because of its vast diversity and relative lack of information in regards to the adoption and implementation of UN agreements. Rather than lumping the different countries into a single narrative, this Article gives a cursory look at various issues and how they are being approached in the context of individual countries.

Because it is often difficult to get information in these countries, the research is based primarily on the Concluding Observations of four treaty body committees, and on other resources from governmental and non-governmental organizations. Concluding Observations report on individual countries' compliance with the relevant treaty, taking into account the

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2. United Nations Convention on the Elimination of all forms of Discrimination Against Women, Sept. 3, 1981, 1249 U.N.T.S. 13 *available at* <http://www.un.org/womenwatch/daw/cedaw/> (last visited May 31, 2015) [hereinafter *CEDAW*].

3. United Nations International Convention on the Elimination of All Forms of Racial Discrimination, Dec. 21, 1965, 660 U.N.T.S. 195 *available at* <http://www.refworld.org/docid/3ae6b3940.html> (last visited May 31, 2015) [hereinafter *CERD*].

4. United Nations Conventions on the Rights of Persons with Disabilities, Dec. 13, 2006, 2515 U.N.T.S. 3, *available at* <http://www.un.org/disabilities/convention/conventionfull.shtml> (last visited May 31, 2015) [hereinafter *CRPD*].

states' reports, dialogues, and other information received from Civil Society.<sup>5</sup>

The countries reviewed, and the issues discussed, are a reflection of some of the most positive changes in law and practice that have occurred in the last several years. The countries covered, along with the solutions offered, are not representative of the continent as a whole, and are not intended to be taken as such. The primary principle for selection of the countries included reflects the availability of reports that address both the situation of vulnerable groups and the protection of economic, social, and cultural rights. Within the constraints of the reporting system, there is a variety of geographic, demographic, and governmental structures covered that show models of successful implementation.

While it is difficult to document the connection between participation of countries in the treaty body system and their subsequent human rights record, it is postulated that the system is having an effect on legislation and programs aimed at protecting the rights of vulnerable people. In addition, the system allows for reporting of practices, both of which can be emulated by other countries.

## II. CONVENTION ON THE RIGHTS OF THE CHILD

The Convention on the Rights of the Child (CRC) is an international treaty adopted by the United Nations General Assembly.<sup>6</sup> Adopted in 1989, 195 countries are parties to the CRC.<sup>7</sup> The United States of America and Somalia are the only two countries that have signed the treaty but have not yet ratified it,<sup>8</sup> while South Sudan, which seceded from Sudan in 2011, has yet to sign or ratify the Convention.<sup>9</sup>

This part will focus on six countries, including those that have made significant progress, as well as those that require stronger laws and practices in order to ensure the protection of children. The countries are Botswana, Liberia, Mali, Namibia, Algeria, and Cameroon, based on

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5. Civil Society is a term of art at the UN and refers to participants other than governments and United Nations agencies and staff.

6. *CRC*, *supra* note 1.

7. United Nations Treaty Collections, Chapter IV Human Rights, *11. Convention on the Rights of the Child*, Nov. 20, 1989 available at [http://treaties.un.org/Pages/ViewDetails.aspx?mtmsg\\_no=IV-11&chapter=4&lang=en](http://treaties.un.org/Pages/ViewDetails.aspx?mtmsg_no=IV-11&chapter=4&lang=en) (last visited May 18, 2015).

8. *Id.*

9. U.N. Human Rights Treaties, *Status of Ratification: CRC*, available at [http://www.bayefsky.com/pdf/crc\\_ratif\\_table.pdf](http://www.bayefsky.com/pdf/crc_ratif_table.pdf) (last visited May 31, 2015).

Concluding Observations by the CRC in 2004 for Botswana,<sup>10</sup> 2007 for Mali,<sup>11</sup> 2010 for Cameroon,<sup>12</sup> and 2012 for Liberia,<sup>13</sup> Namibia,<sup>14</sup> and Algeria.<sup>15</sup>

The rights of children encompass a wide variety of issues, and the following will focus on themes that are presently addressed in multiple African countries, with a focus on positive changes, as well as shortcomings, and how they can be remedied. These issues are child labor, trafficking and sex tourism of children, educational standards, corporal punishment, health care affecting children, and the formulation of the justice system as it applies to minors.

#### A. Child Labor, Trafficking, and Sex Tourism

In regards to child labor, Article 32 of the CRC states that children have the right to be “protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, . . . health, or physical, mental, spiritual, moral or social development.”<sup>16</sup> The same Article also states that parties to the CRC must establish a minimum age for employment, regulate hours and conditions of

10. U.N. Committee on the Rights of the Child (CRC), *Concluding Observations: Botswana*, Nov. 3, 2004, CRC/C/15/Add.242, available at <http://www.refworld.org/docid/42d2888b4.html> (last visited May 31, 2015) [hereinafter *CRC: CO: Botswana*].

11. U.N. Committee on the Rights of the Child (CRC), *Consideration of reports submitted by States parties under article 44 of the Convention: Convention on the Rights of the Child: concluding observations: Mali*, 3 May 2007, CRC/C/MLI/CO/2, available at <http://www.refworld.org/docid/478ca72a2.html> (last visited May 31, 2015) [hereinafter *CRC: CO: Mali*].

12. U.N. Committee on the Rights of the Child (CRC), *Consideration of reports submitted by States parties under article 44 of the Convention: Convention on the Rights of the Child: concluding observations: Cameroon*, 11–29 Jan. 2010, CRC/C/CMR/CO/2, available at [http://www.bayefsky.com/pdf/cameroon\\_t4\\_crc\\_53.pdf](http://www.bayefsky.com/pdf/cameroon_t4_crc_53.pdf) (last visited May 31, 2015) [hereinafter *CRC: CO: Cameroon*].

13. U.N. Committee on the Rights of the Child (CRC), *Concluding observations on the combined second to fourth periodic reports of Liberia, adopted by the Committee at its sixty-first session* (17 Sept.–5 Oct. 2012), 13 Dec. 2012, CRC/C/LBR/CO/2-4, available at [http://www.bayefsky.com/pdf/liberia\\_t4\\_crc\\_61\\_2012\\_adv.pdf](http://www.bayefsky.com/pdf/liberia_t4_crc_61_2012_adv.pdf) (last visited May 31, 2015) [hereinafter *CRC: CO: Liberia*].

14. U.N. Committee on the Rights of the Child (CRC), *Concluding observations on the consolidated second and third periodic reports of Namibia, adopted by the Committee at its sixty-first session* (17 September–5 October 2012), 13 Dec. 2012, CRC/C/NAM/CO/2-3, available at [http://www.bayefsky.com/pdf/namibia\\_t4\\_crc\\_61\\_2012\\_adv.pdf](http://www.bayefsky.com/pdf/namibia_t4_crc_61_2012_adv.pdf) (last visited May 31, 2015) [hereinafter *CRC: CO: Namibia*].

15. UN Committee on the Rights of the Child (CRC), *Consideration of reports submitted by States parties under article 44 of the Convention: Convention on the Rights of the Child: concluding observations: Algeria*, 18 July 2012, CRC/C/DZA/CO/3-4, available at [http://www2.ohchr.org/english/bodies/crc/docs/co/CRC\\_C\\_DZA\\_CO\\_3-4.pdf](http://www2.ohchr.org/english/bodies/crc/docs/co/CRC_C_DZA_CO_3-4.pdf) (last visited May 31, 2015) [hereinafter *CRC: CO: Algeria*].

16. *CRC*, *supra* note 1, art. 32(1).

work, and establish and enforce penalties for those who violate standards and/or subject children to child labor.<sup>17</sup>

Namibia is one of the African countries that has made positive progress in this respect. In 2012, the state launched a five-year (2012–2016) call of action in order to implement the constitutional mandate that reflects the obligations outlined in the CRC.<sup>18</sup> Enacted in June 2012, the Namibia National Agenda for Children centers on five principles: “health and nourishment; early childhood development and schooling; HIV prevention, treatment, care and support; adequate standard of living and legal identity; and protection against neglect and abuse.”<sup>19</sup> Namibia promoted education and awareness of children’s rights through various initiatives including the “Day of the African Child” and the “Day of the Namibian Child”.<sup>20</sup> Namibia also printed child-friendly versions of the CRC, although only in English so far.<sup>21</sup>

Algeria has implemented numerous initiatives to eradicate child labor, some of which were focused on raising awareness about the dangers of this practice, and involved around 300,000 children in educational and vocational training establishments.<sup>22</sup> Although the minimum legal age to work is 16, the government lacks the ability to enforce such laws when they apply to children employed in the informal sector. This has resulted in the age restriction having little or no substantial impact.

With respect to trafficking, Article 35 of the CRC provides that “States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.”<sup>23</sup> Algeria passed a law in 2009 that criminalizes human trafficking, with increased penalties for those who are involved in the trafficking of children.<sup>24</sup> A network of civil society organizations also manages a helpline specifically for children.<sup>25</sup> Despite these laws and the efforts of non-governmental organizations, Algeria is still lacking in terms of the implementation and enforcement of these

17. CRC, *supra* note 1, art. 32(2).

18. CRC: CO: Namibia, *supra* note 14, ¶ 12.

19. Eastern & Southern Africa Regional Inter Agency Task Team on Children and AIDS, *Namibia National Agenda for Children 2012-2016*, at ii, June 2012, available at <http://www.riatt-esa.org/resources/namibia-national-agenda-children-2012-2016> (last visited May 31, 2015).

20. CRC: CO: Namibia, *supra* note 14, ¶ 22.

21. *Id.*

22. CRC: CO: Algeria, *supra* note 15, ¶ 71.

23. CRC, *supra* note 1, art. 35.

24. CRC: CO: Algeria, *supra* note 15, ¶ 77.

25. *Id.* ¶ 79.

laws.<sup>26</sup> Cameroon, for its part, has a few measures in place to fight this problem including laws that criminalize the trafficking and smuggling of children and the National Plan to Combat Trafficking and Sexual Exploitation, approved in 2009, as well as other measures taken to address this human rights violation specifically in the context of tourism.<sup>27</sup>

### *B. Education Standards*

Article 28 of the CRC provides that children have the right to education.<sup>28</sup> In order to afford this positive right, the CRC lists potential party actions, including implementing “measures to encourage regular attendance at schools and the reduction of drop-out rates,” and making “primary education compulsory and available free for all.”<sup>29</sup> Algeria is a country that shows significant advancement in this respect. In 2007, Algeria reached a 98% primary education enrollment rate.<sup>30</sup> In 2009, Algeria implemented a strategy to eliminate illiteracy by 2015 and achieved a girl’s right to education by making education compulsory for boys *and* girls between the ages of 6 and 16;<sup>31</sup> however, education in Algeria is still not free as required by the CRC.<sup>32</sup> Families still have to pay 10% of school fees at the primary level and around 21% at the secondary level.<sup>33</sup>

### *C. Corporal Punishment*

In regards to corporal punishment and various types of abuses that are often times legitimized by local cultures, Article 19 of the CRC states in part that countries need to “take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation.”<sup>34</sup> In some societies, corporal punishment is seen as an appropriate vehicle for influencing and teaching behaviors to children. In addition to its use in the nuclear family structure,

26. *Id.* ¶ 77.

27. *CRC: CO: Cameroon*, *supra* note 12, ¶ 73.

28. *CRC*, *supra* note 1, art. 28.

29. *Id.*

30. *CRC: CO: Algeria*, *supra* note 15, ¶ 63.

31. *Id.*

32. *CRC*, *supra* note 1, art. 28.

33. *CRC: CO: Algeria*, *supra* note 15, ¶ 63.

34. *CRC*, *supra* note 1, art. 19(1).

corporal punishment is also used in schools to discipline young children;<sup>35</sup> however, as parties to the CRC, States are required to take measures to protect children from any form of physical abuse.<sup>36</sup>

Mali is commendable in this regard for implementing various legislative, administrative, social, and educational measures to outlaw many forms of corporal punishment.<sup>37</sup> Corporal punishment is prohibited in schools through internal regulations, and it is an unlawful criminal sentence or disciplinary method within penal institutions;<sup>38</sup> however, corporal punishment still exists in settings beyond the reach of the state's legislative authority.<sup>39</sup> Mali recently replaced the Family Relations Code (1973), in which Article 84 explicitly gave fathers the right to “custody, [...] management, surveillance and correction” of their children.<sup>40</sup> Article 565 of the new Family Code (2009) (later amended in 2011) silently repealed the inference of legality for corporal punishment, now only providing that parents are responsible for “maintenance and education” of their children and eliminating the “right of correction.”<sup>41</sup> Even so, corporal punishment is still practiced within the privacy of families and in Koranic schools.<sup>42</sup> A 2001–2007 UNICEF study of women between the ages of 15 to 49, indicated that 75% of women believed a husband's violent physical behavior toward his wife is justified in certain circumstances.<sup>43</sup> In contrast, Liberia, which made corporal punishment illegal in all correctional facilities, has yet to extend the same requirement to schools, homes, or alternative care settings.<sup>44</sup>

Algeria is another encouraging example in this area. Not only did Algeria prohibit all forms of corporal punishment in educational settings, it also outlawed any psychological ill-treatment and all forms of bullying in schools as of January 2008.<sup>45</sup> Of course, the cultural norms have yet to fully adapt to the law as corporal punishment is still widely accepted in society and remains lawful in the home and alternative care settings;<sup>46</sup>

35. Global Initiative to End All Corporal Punishment, *Mali—Country Report*, Feb. 2013, at 2, available at <http://www.endcorporalpunishment.org/pages/pdfs/states-reports/Mali.pdf> (last visited May 31, 2015) [hereinafter *Mali—Country Report*].

36. *CRC*, *supra* note 1, art. 19.

37. *CRC: CO: Mali*, *supra* note 11, ¶ 39.

38. *Mali—Country Report*, *supra* note 35.

39. *CRC: CO: Mali*, *supra* note 11, ¶ 39.

40. *Mali—Country Report*, *supra* note 35, at 2.

41. *Id.*

42. *CRC: CO: Mali*, *supra* note 11, ¶ 39.

43. *Mali—Country Report*, *supra* note 35, at 2.

44. *CRC: CO: Liberia*, *supra* note 13, ¶ 45.

45. *CRC: CO: Algeria*, *supra* note 15, ¶ 43.

46. *Id.*

however, a United Nations Children's Fund (UNICEF) report<sup>47</sup> on disciplinary practices of families at home in 11 African countries, including Algeria, showed that many caregivers and parents use a combination of violent and non-violent means to discipline children, even if most of them do not believe corporal punishment is a necessity.<sup>48</sup> This report notes that it is not sufficient to focus only on changing people's attitudes towards corporal punishment.<sup>49</sup> A legislative reform prohibiting all forms of violence is a necessary step for preventing corporal punishment in all contexts.<sup>50</sup>

At the other extreme, Botswana is a country where corporal punishment is still legal.<sup>51</sup> It continues to be used as a disciplinary method for children, whether in the intimacy of home, at school by teachers, or as a sanction in the juvenile justice system.<sup>52</sup> Botswana could remedy this by following the examples of other African countries. Its obligations under the CRC dictate that it should take steps to outlaw all forms of abuse towards children, whether it is corporal punishment or psychological and emotional abuse.

#### *D. Primary Health Care*

Primary health care is mainly dealt with in the part of this Article covering CEDAW; however, the CRC specifies a child's right to "the highest attainable standard of health" and requires states to maintain certain facilities that provide "treatment of illness and rehabilitation of health."<sup>53</sup>

Botswana is a notable example in this field. By decentralizing the healthcare system and establishing mobile units, Botswana has made healthcare more accessible to many in need.<sup>54</sup> Botswana has also engaged in dialogues with traditional leaders to ensure health care strategies are compatible with local ideologies.<sup>55</sup> Botswana was also successful in

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47. African Committee of Experts on the Rights and Welfare of the Child, *Ending Corporal Punishment of Children: Africa E-Newsletter*, May 2011, at 5, available at <http://www.endcorporalpunishment.org/pages/pdfs/newsletters/Africa-newsletter-May-2011-EN.pdf> (last visited May 31, 2015).

48. *Id.*

49. *Id.*

50. *Id.*

51. *CRC: CO: Botswana*, *supra* note 10, ¶ 36.

52. *Id.*

53. *CRC*, *supra* note 1, art. 24.

54. *CRC: CO: Botswana*, *supra* note 10, ¶ 48.

55. *Id.*



establishing the National AIDS Council<sup>56</sup> to combat the HIV/AIDS epidemic that has stifled the development of the state and the implementation of children's rights.<sup>57</sup> The government has reported that based on lessons learned from its earlier years of existence, the National AIDS Council has become one of the highest ranked institutions in the State and ensures that HIV/AIDS issues are a priority on the political and economic agenda of the country.<sup>58</sup>

The CRC has commended Liberia's "high-level commitment to the fight against HIV/AIDS through the National AIDS Commission,"<sup>59</sup> and its continued efforts to reach a wider population in the education and prevention of HIV testing through clinics and the availability of antiretroviral drugs to those who need it.<sup>60</sup> More outreach is still necessary, however, in order to provide essential coverage throughout the country and to reach everyone who needs it.<sup>61</sup> Liberia has also increased access to primary health-care services and has recently shown improvements in child health indicators.<sup>62</sup> Similarly, Mali is another African state that is providing free antiretroviral drugs.<sup>63</sup>

#### E. Justice System

Article 37(a) of the CRC prohibits torture or other cruel, inhuman, or degrading treatment or punishment of any child.<sup>64</sup> It also prohibits the death penalty, as well as life imprisonment without the possibility of release, for crimes committed by those who are younger than 18 years old.<sup>65</sup> As a principle to be applied for children in the justice system, Article 3 of the CRC states that "[i]n all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration."<sup>66</sup> The Committee has commended

56. *Id.* ¶ 4.

57. *Id.* ¶ 7.

58. Republic of Botswana: Botswana 2013 Global AIDS Response Report, *Progress Report of the National Response to the 2011 Declaration of Commitments on HIV/AIDS*, National AIDS Coordinating Agency, Mar. 31, 2012, available at [http://www.unaids.org/sites/default/files/country/documents/BWA\\_narrative\\_report\\_2014.pdf](http://www.unaids.org/sites/default/files/country/documents/BWA_narrative_report_2014.pdf) (last visited Mar. 15, 2015).

59. *CRC: CO: Liberia*, *supra* note 13, ¶ 68.

60. *Id.*

61. *Id.*

62. *Id.* ¶ 62.

63. *CRC: CO: Mali*, *supra* note 11, ¶ 56.

64. *CRC*, *supra* note 1, art. 37(a).

65. *Id.*

66. *Id.* art. 3.

Algeria in this respect as it incorporated this principle in the Family Code in 2005 as a standard to be applied in family-related matters.<sup>67</sup> In addition, as of 2008, magistrates are obligated to consider this standard in any civil or administrative proceedings.<sup>68</sup> All juvenile court judges are also given specific training on the CRC and all its requirements.<sup>69</sup>

Cameroon has attempted to take into account the standard for the best interest of the child by allowing this standard to be used at the discretion of officials, including in administrative matters and judicial and penal procedures.<sup>70</sup> Still, the Committee has noted that stronger efforts are needed to fully incorporate these standards where applicable and successfully implement the laws.<sup>71</sup>

#### *F. Conclusion*

Some African countries are progressing in a positive direction with regard to the protection and development of their children. In general, the laws and legislation of many countries tend to reflect the standards set by the CRC, which can make a difference in changing practices and protecting rights; however, the biggest concerns and shortcomings tend to exist in the implementation of these laws, especially in environments where the government has little control (e.g., what happens within the intimacy of families). This can be improved with more education that explains why these laws are necessary to protect children. Although a drastic change cannot be expected, improvement is bound to occur. A country cannot only use advocacy about violent disciplinary actions to eradicate corporal punishment if its local laws do not reflect these values. Therefore, a combination of both practices must be instituted.

### III. CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW)

The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) is an international treaty adopted in 1979 by the United Nations General Assembly.<sup>72</sup> There are 188 countries that are

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67. *CRC: CO: Algeria*, *supra* note 15, ¶ 31.

68. *Id.*

69. *Id.* at ¶ 25.

70. *CRC: CO: Cameroon*, *supra* note 12, ¶ 66.

71. *Id.* ¶ 29.

72. *CEDAW*, *supra* note 2.

parties to the CEDAW,<sup>73</sup> while the United States and Palau are the only two countries that have signed, but not yet ratified the treaty.<sup>74</sup>

The CEDAW defines discrimination against women as:

[A]ny distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.<sup>75</sup>

This part will focus on a few countries that have made significant progress, as well as a few that require stronger laws and practices in order to ensure gender equality, both *de jure* and *de facto*. The countries in need of improvement are Ethiopia, Burkina Faso, Kenya, Chad, Rwanda and South Africa, based on Concluding Observations by the CEDAW adopted in 2004 for Ethiopia,<sup>76</sup> 2009 for Rwanda,<sup>77</sup> 2010 for Burkina Faso,<sup>78</sup> and 2011 for Kenya,<sup>79</sup> Chad,<sup>80</sup> and South Africa.<sup>81</sup>

73. United Nations Treaty Collection, Chapter IV Human Rights, *Convention on the Elimination of all forms of Discrimination Against Women*, available at [https://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtdsg\\_no=iv-8&chapter=4&lang=en](https://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtdsg_no=iv-8&chapter=4&lang=en) (last visited May 31, 2015).

74. *Id.*

75. CEDAW, *supra* note 2, art. 1.

76. U.N. Committee on the Elimination of Discrimination Against Women (CEDAW), *Report of the Committee on the Elimination of Discrimination against Women: Thirtieth session (12–30 January 2004), Thirty-first session (6–23 July 2004)*, ¶¶ 235–273, U.N. Doc. A/59/38 (2004), available at <http://www.refworld.org/docid/4ef9ec682.html> (last visited May 31, 2015) [hereinafter *CEDAW: CO: Ethiopia*].

77. U.N. Committee on the Elimination of Discrimination Against Women (CEDAW), *Draft concluding observations of the Committee on the Elimination of Discrimination against Women: Rwanda*, U.N. Doc. CEDAW/C/RWA/CO/6 (Feb. 12, 2009), available at <http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-RWA-CO6.pdf> (last visited May 31, 2015) [hereinafter *CEDAW: CO: Rwanda*].

78. U.N. Committee on the Elimination of Discrimination Against Women (CEDAW), *Consideration of reports submitted by States parties under article 18 of the Convention: Concluding observations of the Committee on the Elimination of Discrimination against Women: Burkina Faso*, U.N. Doc. CEDAW/C/BFA/CO/6 (Nov. 5, 2010), available at [http://www.bayefsky.com/pdf/burkinafaso\\_t4\\_cedaw\\_47.pdf](http://www.bayefsky.com/pdf/burkinafaso_t4_cedaw_47.pdf) (last visited May 31, 2015) [hereinafter *CEDAW: CO: Burkina Faso*].

79. U.N. Committee on the Elimination of Discrimination Against Women (CEDAW), *Concluding observations of the Committee on the Elimination of Discrimination against Women: Kenya*, U.N. Doc. CEDAW/C/KEN/CO/7 (Apr. 5, 2011) available at <http://www.refworld.org/docid/4eeb60b12.html> (last visited May 31, 2015) [hereinafter *CEDAW: CO: Kenya*].

80. U.N. Committee on the Elimination of Discrimination Against Women (CEDAW), *Concluding observations of the Committee on the Elimination of Discrimination against Women - Chad*, U.N. Doc. CEDAW/C/TCD/CO/1-4 (Nov. 4, 2011) available at <http://www.refworld.org/docid/4eea1e3f2.html> (last visited May 31, 2015) [hereinafter *CEDAW: CO: Chad*].

81. U.N. Committee on the Elimination of Discrimination Against Women (CEDAW), *Concluding observations of the Committee on the Elimination of Discrimination against Women-*

Although the rights associated with gender equality implicate various issues, the following will present some of the more prominent themes, and how the African states have addressed them through legislative change, civil advocacy, and cooperation with other organizations. The themes will include special measures such as quotas in government and education, primary education for girls and gaps in their post-primary education, equal rights in marriage, women's access to family planning and reproductive health clinics, women's access to legal aid and justice, equal pay and employment, female genital mutilation (FGM), and HIV/AIDS prevention.

#### A. *Special Measures: Quotas in Government and Education*

Article 4, Section 1 of the CEDAW mandates the use of special measures to promote women's participation in various aspects of public life and to counteract already existing systems that prevent the advancement of women.<sup>82</sup> Further, it provides that “[a]doption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention [. . .]”<sup>83</sup> The CEDAW Committee has noted that Norway's quota system in the area of education “is in line with the Women's Convention, wherein access to a radical quota system is available when the purpose is to further real gender equality.”<sup>84</sup>

African states have made significant improvements in the advancement of women's rights. Some of the most notable examples include quotas instituted for women in order to make up for the discriminatory cultural biases that may exist and discourage women from pursuing higher education or advancement in their careers, holding governmental positions, or successfully contributing to their respective societies. Four of the top ten countries in the world with the highest percentage representation of women in their governments are African countries.<sup>85</sup>

*South Africa*, U.N. Doc. CEDAW/C/ZAF/CO/4, (Dec. 16, 2011), available at <http://www.refworld.org/docid/4eeb5f8e2.html> (last visited May 31, 2015) [hereinafter *CEDAW: CO: South Africa*].

82. *CEDAW*, *supra* note 2, art. 2(b).

83. *Id.* art. 4(1). The CEDAW Committee has noted that Norway's quota system in the area of education “is in line with the Women's Convention, wherein access to a radical quota

84. Committee on the Elimination of All Forms of Discrimination against Women, Consideration of Reports submitted by State Parties under Article 18 of the Convention of All Forms of Discrimination Against Women, *Sixth Periodic Report of State Parties*, at 7, U.N. Doc. CEDAW/C/NOR/6 (June 5, 2002).

85. Inter-Parliamentary Union, *Women in National Parliaments, World Classification*, available at <http://www.ipu.org/wmn-e/classif.htm#1> (last visited May 31, 2015) [hereinafter *CEDAW: Inter-Parliamentary Union*].

Rwanda is an exemplary country that utilized temporary special measures to achieve equality for women in its legislatures. Rwanda has the highest representation of women in Parliament in the entire world,<sup>86</sup> with women holding 63.8% of parliamentary positions.<sup>87</sup> The use of quotas has been provided for in the Constitution as well as in electoral laws that ensure the representation of women in Parliament and in national level placements.<sup>88</sup> Similarly, Seychelles has the fifth highest rate of representation of women at 43.8%; Senegal has the sixth highest representation at 43.3%; and South Africa has the tenth highest representation at 40.8% (out of 54 permanent seats).<sup>89</sup>

The CEDAW also reviewed the combined fourth and fifth periodic report of Ethiopia in January of 2004.<sup>90</sup> One of the developments was that Ethiopia took direct action to promote gender equality by establishing the Women's Affairs Department in 1995 at the federal level<sup>91</sup> with branches in all regional governments created to facilitate gender equality. This is part of an extensive structure that includes Women's Affairs Departments in respective ministries, Regional Women's Affairs Bureaus at the regional and local level, and women's coordination and desk officers within each zone.<sup>92</sup>

Ethiopia has made great strides towards recognizing and promoting women's participation in political matters, especially noting the crucial effect that political participation has on gender equality, identity, and empowerment. In its periodic report, Ethiopia stated that large numbers of women had participated as voters and that others have been elected to the parliament and the regional councils.<sup>93</sup> Ethiopia has a 27.8% rate of representation of women in its government, ranking 40th among countries in the world with the highest representation of women.<sup>94</sup>

In regards to mainstreaming gender equality, like Ethiopia, Burkina Faso also has implemented a similar approach by creating the Gender

86. CEDAW: CO: Rwanda, *supra* note 77, ¶ 7.

87. CEDAW: Inter-Parliamentary Union, *supra* note 85.

88. CEDAW: CO: Rwanda, *supra* note 77, ¶ 19.

89. CEDAW: Inter-Parliamentary Union, *supra* note 85.

90. CEDAW: CO: Ethiopia, *supra* note 76.

91. *A National Report On: Progress made in the implementation of the Beijing Platform for action (Beijing +10) Ethiopia*, ETHIOPIA PRIME MINISTER OFFICE/WOMEN'S AFFAIRS SUB SECTOR 3 (Mar. 2004), <http://www.un.org/womenwatch/daw/Review/responses/ETHIOPIA-English.pdf>.

92. *Appraisal Report Institutional Support Project to the Women's Affairs Office: Federal Republic of Ethiopia*, AFRICAN DEVELOPMENT BANK (Jan. 2004), at 16, available at [http://www.afdb.org/fileadmin/uploads/afdb/Documents/Project-and-Operations/Ethiopia\\_-\\_Institutional\\_Support\\_for\\_Women\\_Affairs\\_Office\\_-\\_Appraisal\\_Report.pdf](http://www.afdb.org/fileadmin/uploads/afdb/Documents/Project-and-Operations/Ethiopia_-_Institutional_Support_for_Women_Affairs_Office_-_Appraisal_Report.pdf).

93. CEDAW: CO: Ethiopia, *supra* note 76, ¶ 231.

94. CEDAW: Inter-Parliamentary Union, *supra* note 85.

Caucus in 2005.<sup>95</sup> Responsible for developing a national action plan, the Gender Caucus' main goal is to promote gender parity in politics by raising awareness of the importance of gender mainstreaming and by undertaking appropriate initiatives aimed at promoting the gender equality approach.<sup>96</sup> The Committee also commended "civil society working with governments at the local level for their active role in promoting the participation of women in political life and decision making in the State party."<sup>97</sup>

While Burkina Faso reported on a new law on the implementation of quotas, there are still concerns regarding the "underrepresentation of women in all areas of public, political and professional life and the existing challenges to the implementation of measures to address the situation."<sup>98</sup> Although some advances have been made, there is a discrepancy between the implementation of the Committee's recommendations and existing measures to achieve gender equality, and the practical implications of both for Burkinabe women.<sup>99</sup> A similar concern exists in Rwanda, which, although reporting the highest number of women in parliament in the world, still has an underrepresentation of women in other areas such as local public administration and senior managerial positions in the private sector.<sup>100</sup> This indicates that, despite its successful use of quotas in one area, gender equality has yet to be reached at all levels of society. This may indicate the need for quotas in employment as well as governmental bodies.

### *B. Primary Education for Girls and Gaps in Post-Primary Education*

Ethiopia introduced temporary special measures in the civil service and education sectors.<sup>101</sup> These included setting up a specific quota of 30% of the total number of university seats for women,<sup>102</sup> the reservation of 50% of seats at the Teachers Training Institute for women,<sup>103</sup> introducing a scholarship program for girls covering 28 different schools in 7 regions,<sup>104</sup> as well as gender mainstreaming through the inclusion of gender as a main

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95. CEDAW: CO: Burkina Faso, *supra* note 78.

96. *Id.* ¶ 29.

97. *Id.*

98. *Id.* ¶ 17.

99. *See id.*

100. CEDAW: CO: Rwanda, *supra* note 77, ¶ 29.

101. CEDAW: CO: Ethiopia, *supra* note 76.

102. *Id.* ¶ 240.

103. *Id.* ¶ 232.

104. *Id.* ¶ 240.

component of civic education in the schools' curriculum starting in primary school.<sup>105</sup> Other notable measures include "higher budget allocations for regional schools that increase the enrollment of girls and decrease the drop-out and repetition rates,"<sup>106</sup> encouraging equal access of girls to education and incentivizing schools to promote primary education to more girls.

Chad also took positive measures to address gaps in education between boys and girls. With respect to primary and secondary education, one of the measures taken was to reduce school fees for girls compared to those for boys in order to encourage higher education enrollment and retention by girls.<sup>107</sup> Rwanda also merits notable mention in the promotion of education for girls. By instituting a free and compulsory nine-year public school education, Rwanda was able to reduce female illiteracy and achieve parity in primary education.<sup>108</sup>

Further steps can be taken to ensure that all women in rural and urban areas have equal access to all levels of education and vocational training. More incentives can be provided to families, especially since gender role stereotypes can be perpetuated at the family level, discouraging girls to pursue education and enter the work force.<sup>109</sup> More attention should also be given to continuing education to the secondary and post-secondary level to further career opportunities and decrease the drop-out rates of young girls.<sup>110</sup> Other problems continue to persist as constant obstacles for girls to reach their full potential through education, including sexual harassment, violence against girls, teenage pregnancies, and involvement in income generating activities for their families.<sup>111</sup>

### *C. Equal rights in Marriage, Women's Access to Family Planning, and Reproductive Health Clinics*

Consistent with other positive steps in advancing gender equality, Ethiopia has made significant changes both in law and in practice for female rights in marriage and their access to family planning and reproductive health clinics.<sup>112</sup> The State revised the family code regulating

105. *Id.* ¶¶ 232, 240.

106. *Id.* ¶ 232.

107. CEDAW: CO: Chad, *supra* note 80, ¶ 30.

108. CEDAW: CO: Rwanda, *supra* note 77, ¶ 31.

109. CEDAW: CO: Ethiopia, *supra* note 76, ¶ 250.

110. CEDAW: CO: Rwanda, *supra* note 77, ¶ 31.

111. CEDAW: CO: Chad, *supra* note 80, ¶ 30.

112. CEDAW: CO: Ethiopia, *supra* note 76.

marriage and family relations to be in line with the standards set by the CEDAW, although more action is required in order to implement those new provisions within all regional governments and to raise awareness of the new laws amongst the population.<sup>113</sup> For example, the age of marriage has been set at 18 years for both men and women; however, there is still a persistent practice of early marriage, especially for girls.<sup>114</sup>

In regards to women's access to family planning and health services, Ethiopia improved its practices by expanding the delivery of health services to women through a referral system that targeted women.<sup>115</sup> Maternity leave was instituted, and women in civil service are now entitled to paid leave both before and after their delivery.<sup>116</sup> The Government initiated another notable project that targeted the reduction of women's vulnerability in society by providing free anti-retroviral drugs to pregnant women living with HIV/AIDS.<sup>117</sup>

In 2006, Kenya enacted the Sexual Offences Act, which is an act "to make provision about sexual offences, their definition, prevention and the protection of all persons from harm from unlawful sexual acts. . . ."<sup>118</sup> Although commendable, the act has a few inconsistencies from the CEDAW guidelines, including exposing victims to prosecution in certain circumstances,<sup>119</sup> as well as lacking recognition of marital rape as a criminal offense.<sup>120</sup> There is still a very high prevalence of violence against women and girls, including sexual violence, accompanied by a culture of silence and underreporting, which requires that additional steps be taken to address these violations.<sup>121</sup>

#### *D. Access to Legal Aid, Equal Pay and Employment Opportunities*

Kenya established a pilot program called National Legal Aid and Awareness Programme<sup>122</sup> in 2008 in six regions, which focuses on specific

113. CEDAW: CO: Ethiopia, *supra* note 76, ¶¶ 243, 244.

114. *Id.* ¶ 253.

115. *Id.* ¶ 233.

116. *Id.* ¶ 232.

117. *Id.* ¶ 233.

118. The Sexual Offences Act, No. 3 (2006), KENYA GAZETTE SUPPLEMENT No. 52 Preamble, available at <http://www.refworld.org/docid/467942932.html> (last visited May 31, 2015).

119. *Id.* § 21.

120. CEDAW: CO: Kenya, *supra* note 79, ¶ 21.

121. *Id.*

122. Access to Justice and Legal Aid in East Africa: A comparison of the legal aid schemes used in the region and the level of cooperation and coordination between the various actors, THE DANISH INSTITUTE FOR HUMAN RIGHTS, December 2011, Government of Kenya: Department of Justice, *National Legal Awareness Program (NALEAP)*, at 30, available at: <http://www.humanrights.dk/files/>



and critical issues that limit women's access to justice. Another commendable step for Kenya was the implementation of the Employment Act of 2007, which criminalizes discrimination on the basis of sex and pregnancy, instituting regulations of equal pay for equal work for all genders.<sup>123</sup> This is an important step as there is a low rate of women engagement in paid work, and a higher concentration of women in the informal sector.

Chad, in cooperation with some U.N. agencies, promoted women's access to legal aid and access to justice by providing training on sexual and gender-based violence prevention and response to its national police, and to officials of the *Détachement Intégré de Sécurité* (DIS), a U.N. supported security force in eastern Chad responsible for securing internally displaced persons.<sup>124</sup> Chad also made advances in this area by "recruiting female police officers and by opening gender-unit posts in the refugee camps."<sup>125</sup>

South Africa instituted the Employment Equity Act (1998),<sup>126</sup> and established the Employment Conditions Commission in order to eliminate discrimination against women in employment.<sup>127</sup> In addition to the Employment Equity Act, South Africa passed the Equality Act of 2000.<sup>128</sup> Both acts prohibit discrimination on the grounds of pregnancy, while the Basic Conditions of Employment Act of 1997 protects maternity leave.<sup>129</sup>

#### *E. Female Genital Mutilation (FGM), Health Access and HIV/AIDS Prevention*

Unfortunately, healthcare is an area in which some African states seem to be having difficulty enforcing applicable laws, creating a big discrepancy between *de jure* and *de facto* protection. For example, Chad adopted a law in April 2002 that addressed reproductive health by outlawing domestic and sexual violence, as well as female genital

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media/billeder/udgivelser/legal\_aid\_east\_africa\_dec\_2011\_dihr\_study\_final.pdf (last visited May 24, 2015).

123. CEDAW: *CO Kenya*, *supra* note 79, ¶ 33.

124. CEDAW: *CO: Chad*, *supra* note 80, ¶ 6.

125. *Id.* (This is an example of the difficulties of obtaining information in some countries. While it would be helpful to know the date when this legislation was passed, it is not readily available.)

126. CEDAW: *CO South Africa*, *supra* note 81, ¶ 33, citing to Employment Equity Amendment Act 47 of 2013 (S.Afr.), available at <http://www.labour.gov.za/DOL/legislation/acts/employment-equity/employment-equity-act>.

127. CEDAW: *CO South Africa*, *supra* note 81, ¶ 33.

128. *Id.*

129. *Id.*

mutilation (FGM);<sup>130</sup> however, there is still a very high rate of gender based violence. The tradition of silence surrounding these issues prevents the punishment of perpetrators, in addition to undermining existing enforcement mechanisms.<sup>131</sup> Estimates indicate that at least 45% of Chadian women have been subjected to FGM,<sup>132</sup> and 80% of Ethiopian girls and women.<sup>133</sup>

In 2009, Burkina Faso adopted the National Action Plan for 2009-2013, “Zero Tolerance for Female Genital Mutilation.”<sup>134</sup> Burkina Faso’s continued commitment to eradicate FGM, whether through tough laws and enforcement or through campaigns to raise awareness, seems to have resulted in decreases of instances of FGM.<sup>135</sup> It has not been completely eradicated, as FGM is a practice entrenched within the culture and tradition of the Burkinabe;<sup>136</sup> however, because of initiatives such as those instituted by the National Committee to Combat the Practice of Excision, Burkina Faso has reduced the incidence of the practice,<sup>137</sup> and only 9% of Burkinabe women are now in favor of this practice.<sup>138</sup>

#### *F. Conclusion*

Although there is no one African country that has fully achieved protection of equal rights of men and women in all respects, there are many countries that are relentlessly working towards this goal. Some specific ways States can achieve gender equality include special measures, such as quotas set aside for women to enter government sectors and education. This is especially important because it counteracts the discouraging practices and immense burdens that already exist for women and girls seeking education and professional careers. While some countries have made progress by making use of quotas with respect to some rights such as education and government employment, they have not done so in relation to equal rights in marriage, women’s access to family planning,

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130. CEDAW: CO: Chad, *supra* note 80, ¶ 5.

131. *Id.* ¶ 22.

132. *Id.*

133. CEDAW: CO: Ethiopia, *supra* note 76, ¶ 251.

134. CEDAW: CO: Burkina Faso, *supra* note 78, ¶ 4.

135. Jessica Colombo, *Burkina Faso as a leader in the elimination of female genital mutilation*, CONSULTANCY AFRICA INTELLIGENCE (Mar. 4, 2013), [http://www.consultancyafrica.com/index.php?option=com\\_content&view=article&id=1243:burkina-faso-as-a-leader-in-the-elimination-of-female-genital-mutilation-&catid=91:rights-in-focus&Itemid=296](http://www.consultancyafrica.com/index.php?option=com_content&view=article&id=1243:burkina-faso-as-a-leader-in-the-elimination-of-female-genital-mutilation-&catid=91:rights-in-focus&Itemid=296).

136. *Id.*

137. CEDAW: CO: Burkina Faso, *supra* note 78, ¶ 25.

138. UNICEF, *Female Genital Mutilation/Cutting: A statistical overview and exploration of the dynamics of change* (July 2013), [http://www.unicef.org/media/files/FGCM\\_Lo\\_res.pdf](http://www.unicef.org/media/files/FGCM_Lo_res.pdf).

access to health, access to legal aid, equality in salary, and employment opportunities. Another discrepancy is also found between the laws that are in accordance with the CEDAW and exist to promote equality and the entrenched beliefs of people on gender roles. This consequently leads to a weak enforcement of the laws, and a continuing discrimination of women in various areas.

#### IV. CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION (CERD)

The Convention on the Elimination of all Forms of Racial Discrimination (CERD) is an international treaty adopted by the United Nations General Assembly in 1966 and has 177 parties.<sup>139</sup> This treaty defines racial discrimination as:

[A]ny distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.<sup>140</sup>

Accordingly, each party to the Convention has the responsibility to ensure that its people enjoy a life that is free of discrimination, whether by prohibiting discrimination or by taking special measures to guarantee full and equal enjoyment of human rights and fundamental freedoms.<sup>141</sup> Although racial discrimination is an issue that affects the entire world, some countries may have a history of acute racial and ethnic discrimination and exclusion that significantly affects the relations of its people, which poses a threat to safety and/or the exercise of fundamental human rights.

The following part will analyze how six countries in Africa have complied with the standards set by the CERD with regard to the measures that have been taken to ensure a life free of discrimination, in addition to considering areas for improvement. The countries addressed are Senegal, Morocco, Togo, Zambia, Tanzania and Nigeria, based on Concluding

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139. United Nations Treaty Collections, Chapter IV Human Rights, 2. *International Convention on the Elimination of All Forms of Racial Discrimination* (Mar. 7, 1966), [https://treaties.un.org/Pages/ViewDetails.aspx?src=treaty&mtdsg\\_no=iv-2&chapter=4&lang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=treaty&mtdsg_no=iv-2&chapter=4&lang=en).

140. *CERD*, *supra* note 3 art. 1(1).

141. *Id.* art. 2(2).

Observations from the CERD written in 2012 for Senegal,<sup>142</sup> 2010 for Morocco,<sup>143</sup> 2008 for Togo,<sup>144</sup> and 2007 for Tanzania,<sup>145</sup> Zambia<sup>146</sup> and Nigeria.<sup>147</sup> After giving a brief overview of the history of these countries, this part will address the level of awareness people have of their human rights, as well as efforts taken by the states to promote their language, culture, peaceful environment, and treatment of refugees and asylum-seekers.

### A. History of the Countries

In order to understand the impact that different types of discrimination can have on the stability of a country and the safety of the people living there, it is helpful to recognize the level of diversity that is involved in each state. Although a deeper study of the history and the relations between the various groups is necessary for a complete understanding of the challenges involved, this part will provide an overview of the ethnic and religious diversity present in the countries that are analyzed.

The majority of Senegalese are Muslim (94%), while 5% identify as Christian, mostly Roman Catholic,, and 1% of the population hold

142. U.N. Committee on the Elimination of Racial Discrimination (CERD), *Reports submitted by States parties under article 9 of the Convention : International Convention on the Elimination of All Forms of Racial Discrimination: 16th to 18th periodic reports of States parties due in 2007: Senegal*, U.N. Doc. CERD/C/SEN/16-18 (Oct. 31, 2011), available at <http://www.refworld.org/docid/506403802.html> [hereinafter *CERD: CO: Senegal*].

143. U.N. Committee on the Elimination of Racial Discrimination (CERD), *Consideration of reports submitted by States Parties under article 9 of the Convention: concluding observations of the Committee on the Elimination of Racial Discrimination: Morocco*, U.N. Doc. CERD/C/MAR/CO/17-18 (Sept. 13, 2010), available at <http://www.refworld.org/docid/4d2c5f112.html> [hereinafter *CERD: CO: Morocco*].

144. U.N. Committee on the Elimination of Racial Discrimination (CERD), *Reports submitted by States parties under article 9 of the Convention: information provided by the Government of Togo on the implementation of the concluding observations of the Committee on the Elimination of Racial Discrimination*, U.N. Doc. CERD/C/TGO/CO/17 (Oct. 13, 2009), available at <http://www.refworld.org/docid/4b7957460.html> [hereinafter *CERD: CO: Togo*].

145. U.N. Committee on the Elimination of Racial Discrimination (CERD), *UN Committee on the Elimination of Racial Discrimination: Concluding Observations, United Republic of Tanzania*, U.N. Doc. CERD/C/TZA/CO/16 (Mar. 27, 2007), available at <http://www.refworld.org/docid/461ba62e2.html> [hereinafter *CERD: CO: Tanzania*].

146. U.N. Committee on the Elimination of Racial Discrimination (CERD), *UN Committee on the Elimination of Racial Discrimination: Concluding Observations, Zambia*, U.N. Doc. CERD/C/ZMB/CO/16 (Mar. 27, 2007), available at <http://www.refworld.org/docid/461ba76d2.html> [hereinafter *CERD: CO: Zambia*].

147. U.N. Committee on the Elimination of Racial Discrimination (CERD), *UN Committee on the Elimination of Racial Discrimination: Concluding Observations, Nigeria*, U.N. Doc. CERD/C/NGA/CO/18 (Mar. 27, 2007), available at <http://www.refworld.org/docid/462f5dea2.html> [hereinafter *CERD: CO: Nigeria*].

indigenous beliefs.<sup>148</sup> Although French is the official language of Senegal, Wolof, Pulaar, Jola, and Madinka are also spoken as their combined ethnic groups comprise over 73% of the Senegalese population.<sup>149</sup>

Morocco has a mix of ethnic Arab and Berber people comprising 99% of the population, with Arabic and Tamazight (one of the Berber languages) as the official languages;<sup>150</sup> however, there are a few other languages spoken in the country. Morocco is home to a population that is 99% Muslim, and the remaining 1% includes Christians, Bahai, and a very small Jewish minority.<sup>151</sup>

With over 7 million people, Togo is home to 37 tribes of African descent as well as other non-African communities.<sup>152</sup> The biggest tribes are Ewe, Mina, and Kabre, with their respective languages being the most popularly spoken in the country, along with Dagomba; however, French is the official language of commerce.<sup>153</sup> Similarly, the majority of people (51%) practice religion aligned with their indigenous beliefs, while almost 29% are Christians and 20% are Muslim.<sup>154</sup>

Tanzania is another African country with immense diversity within its borders. It is home to over 130 different tribes of the Bantu people, as well as communities of European, Asian, and Arab descent.<sup>155</sup> Both Swahili and English are the official languages of the country.<sup>156</sup> While mainland Tanzania is around 30% Christian, 35% Muslim, and another 35% with indigenous beliefs, the nation's Zanzibar island has a population that is 99% Muslim with a mix of ethnic Arab and African people.<sup>157</sup>

The majority of Zambians are Christian, while the remainder is a combination of Muslim and Hindu; only a very small minority hold indigenous beliefs.<sup>158</sup> An extremely diverse country, Zambia has over 10 different ethnic tribes, as well as a minority of Americans, Europeans, and

148. *The World Factbook: Senegal*, CENTRAL INTELLIGENCE AGENCY, <https://www.cia.gov/library/publications/the-world-factbook/geos/sg.html> (last visited May 31, 2015).

149. *Id.*

150. *The World Factbook: Morocco*, CENTRAL INTELLIGENCE AGENCY, <https://www.cia.gov/library/publications/the-world-factbook/geos/mo.html> (last visited May 31, 2015).

151. *Id.*

152. *The World Factbook: Togo*, CENTRAL INTELLIGENCE AGENCY, <https://www.cia.gov/library/publications/the-world-factbook/geos/to.html> (last visited May 31, 2015).

153. *Id.*

154. *Id.*

155. *The World Factbook: Tanzania*, CENTRAL INTELLIGENCE AGENCY, <https://www.cia.gov/library/publications/the-world-factbook/geos/tz.html> (last visited May 31, 2015).

156. *Id.*

157. *Id.*

158. *The World Factbook: Zambia*, CENTRAL INTELLIGENCE AGENCY, <https://www.cia.gov/library/publications/the-world-factbook/geos/za.html> (last visited May 31, 2015).

Asians.<sup>159</sup> The languages of Zambia are as diverse as the people and include English, Bemba, Nyanja, Tonga, Lozi, Lunda, Kaonde, Lala and Luvale.<sup>160</sup>

The most populous country in Africa, Nigeria, is composed of over 250 ethnic groups, half of which are Muslim, 40% are Christian, and the remaining 10% hold indigenous beliefs.<sup>161</sup> With over 500 languages spoken, the country is home to more languages than ethnic groups; some of the most popular languages are Hausa, Yoruba, Igbo, and Fulani, though the official language is English.<sup>162</sup>

### *B. Awareness of Human Rights*

Signatories to the CERD have an obligation to promote and raise awareness about human rights, as well to ensure that everyone in the state has the knowledge and ability to exercise their rights.<sup>163</sup> Morocco is an example of a party that has taken positive steps to promote human rights, including the adoption of various plans and programs. The Committee recognized Morocco, in particular, for its efforts relating to democracy and human rights in 2009.<sup>164</sup> An initiative worth noting is Morocco's national plan of action to promote a culture of human rights, which was launched in 2006;<sup>165</sup> however, even if these laws exist *de jure*, the *de facto* application of them is not yet complete, as there are still concerns about racist behaviors towards specific ethnic groups, especially the Amazigh, Sahraouis, and Blacks, as well as refugees and non-nationals.<sup>166</sup>

Zambia has also made positive steps in the area of human rights. By establishing the Human Rights Commission of Zambia in 1997 in cooperation with the U.N., the country began to make progress towards securing justice for everyone.<sup>167</sup> This Commission has the ability to conduct investigations of complaints relating to human rights violations, as well as spread awareness and information about human rights.<sup>168</sup> The

159. *Id.*

160. *Id.*

161. *The World Factbook: Nigeria*, CENTRAL INTELLIGENCE AGENCY, <https://www.cia.gov/library/publications/the-world-factbook/geos/ni.html> (last visited May 31, 2015).

162. *Id.*

163. *CERD*, *supra* note 3, art. 7.

164. *CERD: CO: Morocco*, *supra* note 143, ¶ 5.

165. *Id.* ¶ 20.

166. *Id.*

167. *History*, ZAMBIA HUMAN RIGHTS COMMISSION (Sept. 30, 2014), <http://www.hrc.org.zm/index.php/our-history>.

168. *Id.*

Human Rights Commission of Zambia is also involved in rehabilitation of victims of human rights violations, educating communities, and advocating for policy and legal reforms where it is necessary. Tanzania, in particular, is promoting awareness of human rights through ward tribunals, justice at the grassroots level, and providing access to the justice system to a wider range of people.<sup>169</sup> It is hoped that these efforts to raise awareness will help to advance the promotion and protection of human rights.

### *C. Promotion of Language and Culture*

The official acknowledgement of multiple ethnic languages serves many purposes, including the ability for those who only speak a single language to understand governing laws; however, since many states have hundreds of different ethnic groups, and cannot realistically cater to all of them, the same goal can be reached by different means. For example, Morocco has taken some steps to promote the Amazigh language and culture by increasing the resources of the Royal Institute for Amazigh Culture.<sup>170</sup> Nigeria has established mobile schools for children of nomadic communities in an effort to cater to diverse cultural needs.<sup>171</sup> Although Nigeria has legislated the abolition of any work and descent-based discrimination, a discrepancy still exists between the law and its enforcement, as evidenced by the Osu and other communities suffering from discrimination and mistreatment in both social and professional spheres.<sup>172</sup>

In order to promote harmony, Senegal has various options for those who wish to bring a claim of discrimination. The Committee has noted Senegal's efforts to foster an environment of tolerance and social harmony between its various ethnicities and religions.<sup>173</sup> Another laudable example is Tanzania,<sup>174</sup> an extremely diverse State with more than 120 ethnic and minority groups, which has made continuous efforts to maintain an environment where all live in harmony.<sup>175</sup>

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169. *CERD: CO Tanzania*, *supra* note 145, ¶ 8.

170. *CERD: CO: Morocco*, *supra* note 143, ¶ 11.

171. *CERD: CO: Nigeria*, *supra* note 147, ¶ 9.

172. *Id.* ¶ 15.

173. *CERD: CO: Senegal*, *supra* note 142, ¶ 46.

174. *CERD: CO: Tanzania*, *supra* note 145, ¶ 6.

175. *Id.*

#### D. Treatment of Refugees

Tanzania hosts the largest number of refugees in Africa with over 600,000 who have sought refuge<sup>176</sup> from neighboring countries.<sup>177</sup> Tanzania is a preferred destination by many seeking refuge from conflicts within their own countries, namely Burundi, Somalia, and Democratic Republic of Congo.<sup>178</sup> Refugee treatment as of late has been less than ideal, as Tanzania is engaged in re-structuring its refugee and asylum policies, including the suspension of the local integration of over 160,000 refugees, as well as the closing down of one of the refugee camps, forcing the relocation of numerous people to other camps.<sup>179</sup> Unfortunately, there is an increasing tendency in Tanzania to promote a “refugee-free zone,” hindering local and international efforts to aid refugees.<sup>180</sup>

Senegal also hosts a significant number of refugees from neighboring countries, especially Mauritania; however, in contrast to Tanzania’s lack of efforts to aid refugees in recent years, Senegal implemented a program for voluntary repatriation of Mauritanian refugees around 2007, and in the following five years, approximately 24,500 Mauritians took advantage of this program.<sup>181</sup> Those that remained in Senegal were supported by the government with its plan to issue identity cards to all refugees.<sup>182</sup> This policy would allow refugees to enjoy their basic rights of education and employment.

Similarly, Zambia is another country that has hosted and provided protection for over 270,000 refugees from neighboring countries over several years.<sup>183</sup> Zambia has an initiative to address the needs of thousands of their refugees on issues such as education, health care, food, and other matters of concern to refugees;<sup>184</sup> however, Zambia still has an old law from the 1970s called the *Zambian Refugee Control Act*, which does not encourage the local integration of some refugees, and this is hindering the full enjoyment of human rights by Angolan refugees, among others, who cannot repatriate.<sup>185</sup>

176. *CERD: CO: Tanzania*, *supra* note 145, ¶ 5.

177. *2013 UNHCR Country Operations Profile: United Republic of Tanzania*, UNHCR: THE UN REFUGEE AGENCY, <http://www.unhcr.org/pages/49e45c736.html> (last visited May 31, 2015).

178. *Id.*

179. *Id.*

180. *Id.*

181. *CERD: CO: Senegal*, *supra* note 142, ¶ 16.

182. *Id.*

183. *CERD: CO: Zambia*, *supra* note 146, ¶ 7.

184. *Id.* ¶ 14.

185. *Id.*



### E. Conclusion

While extremely diverse populations in some countries have been beneficial for the state and the people, if discrimination is fostered among different groups, it can be detrimental not only to the state but also to the individuals who are the victims of the discrimination. The CERD provides standards for states to ensure that all people can enjoy a life free of discrimination based on their ethnicity, religion, or race. The struggle to achieve this harmony has varied from country to country, depending on its history and treatment of its people; however, some of the positive indicators include efforts taken by states to raise awareness among the people of their human rights, promote harmony by recognizing languages, protect culture and customs, and care for refugees and asylum-seekers.

## V. CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

The Convention on the Rights of Persons with Disabilities (CRPD) is an international treaty adopted by the United Nations General Assembly in December 2006 with 159 signatories and 151 parties.<sup>186</sup> The main purpose of this convention is to “promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.”<sup>187</sup> Because of its relatively recent adoption as an international convention, not many countries have submitted their state reports.<sup>188</sup> Consequently the Committee for the Rights of Persons with Disabilities has issued only twenty-seven Concluding Observations.<sup>189</sup> Tunisia is the only African state for which Concluding Observations have been issued.<sup>190</sup>

The CRPD defines persons with disabilities as “those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.”<sup>191</sup> This part will

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186. *United Nations Treaty Collections, Chapter IV Human Rights, 15. Convention on the Rights of Persons with Disabilities* (Dec. 13, 2006), available at [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=iv-15&chapter=4&lang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=iv-15&chapter=4&lang=en).

187. *CRPD*, *supra* note 4, art. 1.

188. *Id.*

189. *CRPD: Concluding Observations/Comments*, UNITED NATIONS HUMAN RIGHTS: OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/TBSearch.aspx?TreatyID=4&DocTypeID=5](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?TreatyID=4&DocTypeID=5) (last visited at May 18, 2015). There are 27 Concluding Observations, however, 7 of them are advance unedited versions. *Id.*

190. *Id.*

191. *CRPD*, *supra* note 4, art. 1.

address a few examples of best practices in three African States—Ghana, Uganda and Zimbabwe—related to the promotion of the rights of these individuals.<sup>192</sup>

#### A. *Best Practice Programs*

Ghana's best practice in regards to persons with disabilities was a direct child assistance program through an organization called Hope for Life.<sup>193</sup> The beneficiaries of this program were children and young adults with disabilities, and their parents and guardians.<sup>194</sup> Ghana has around 2.4 million people living with various types of disabilities, and less than 5% of this population has direct access to rehabilitation or educational services because of a lack of resources as well as negative traditional beliefs within Ghanaian communities.<sup>195</sup> The purpose of this program was to “ensure the application of a direct and holistic approach by promoting the rehabilitation, human rights and social inclusion of these individuals to enable them to overcome physical, social and economic barriers that confront them in their lives.”<sup>196</sup> Hope for Life was able to successfully raise awareness, as more than 65% of families that were targeted were able to understand and accept their children with disabilities and care for them in the same ways as their non-disabled children.<sup>197</sup> In addition, all young disabled girls of appropriate age in the group are pursuing their education.<sup>198</sup>

Uganda's best practice program targeted people with disabilities living with HIV and AIDS through the Action on Disability and Development (ADD) organization.<sup>199</sup> While working with a very specific group of people, ADD was able to improve the levels of awareness within certain communities. Through ADD's advocacy for disabled people living with HIV/AIDS, these individuals can now actively participate in activities, such as World Aids Day and International Day of Persons with

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192. *Best Practices For Including Persons with Disabilities In All Aspects of Development Efforts*, UNITED NATIONS (Apr. 2011), [http://www.un.org/disabilities/documents/best\\_practices\\_publication\\_2011.pdf](http://www.un.org/disabilities/documents/best_practices_publication_2011.pdf).

193. *Id.* at 18.

194. *Id.*

195. *Id.* at 18–19.

196. *Id.* at 19.

197. *Id.* at 20.

198. *Id.*

199. *Id.* at 28.

Disabilities, that provide more opportunities to raise awareness and communicate their needs and rights in a broader manner.<sup>200</sup>

Zimbabwe's program, led by the Catholic Agency for Overseas Development (CAFOD), is also notable, as it focuses on disability advocacy and awareness through livelihood programs and promotion of increased accessibility.<sup>201</sup> For example, by offering transportation to already established government rehabilitation services, the CAFOD was able to bring these services to various communities that previously lacked access due to distance or cost to the district centers.<sup>202</sup> By raising awareness, this program was also able to increase the attendance and participation of people with disabilities in different development activities, as well as district and community leadership positions.<sup>203</sup> Another notable success is the promotion of access to water for persons with disabilities, as the CAFOD, in partnership with others, was able to modify latrines and add ramps to various structures.<sup>204</sup>

### B. Conclusion

Article 5(2) of the CRPD states that discrimination must be prohibited “on the basis of disability and [States Parties shall] guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.”<sup>205</sup> In order to accomplish this, States need to take appropriate measures to “ensure that reasonable accommodation is provided.”<sup>206</sup> Thus, States should evaluate some of these examples of best practices, and learn how they can provide similar outcomes within their own communities to ensure that persons with disabilities can benefit from the full enjoyment of all their human rights.

## VI. CONCLUSION

The reporting mechanisms under international human rights treaties can be utilized and referred to when countries are addressing the promotion and protection of the economic, social, and cultural rights of vulnerable groups within their States. Not only are these mechanisms a

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200. *Id.* at 29.

201. *Id.* at 31.

202. *Id.* at 41.

203. *Id.* at 33.

204. *Id.* at 33.

205. *CRPD*, *supra* note 4, art. 5.2.

206. *Id.* art. 5.3.

guiding tool for governments to bring about legislative change where needed, but they also provide specific and practical tools to supplement these legislative changes. African countries provide good examples of how taking steps under the treaty bodies they are party to can help to promote and protect human rights. Their experiences in implementing some of these steps also provide some lessons on how to best accomplish these goals. Through reporting experiences, the system can make lessons useful to other countries as well. This is based on a theory of regulation called “reflexive law” that views requirements for governments to produce and publicize information as a means of regulation.<sup>207</sup> One way of explaining it is that these requirements “change the informal rules (or norms) by which decisions are made.”<sup>208</sup>

Legislative change seems to be one of the most positive developments resulting from the ratification of human rights treaties by African countries. The laws of a state, however, must accompany and reflect the advocacy efforts applied on the ground to be effective. While the promotion of the rights of vulnerable groups often requires that a country change its laws to reflect the standards of the international treaties to which it is a party, the implementation of these laws will not take full effect, especially in environments where the government has little control (such as within families or the informal employment sector), unless accompanied by education and advocacy. Legislation, however, is often needed to support such efforts.

One example where legislation and advocacy can work together to improve the rights of vulnerable groups is in the use of quotas for persons in disadvantaged groups. While legislation can result in actual changes it also gives members of disadvantaged groups the ability to claim their socio-economic and cultural rights; however, as evidenced by the effects of quotas for women in government, while participation in legislatures increased dramatically, gender equality has yet to be realized in other sectors of society, which will need to be improved through other means.

Africa is a continent with immense diversity, and States can foster the strength of this diversity to promote their political and economic development while enhancing and protecting the fundamental socio-economic and cultural rights of vulnerable communities. This diversity has

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207. Tim Iglesias, *Housing Impact Assessments: Opening New Doors for State Housing Assessments: Opening New Doors for State Housing Regulation While Localism Persists*, 82 OREGON L. REV. 433, 468 (2003).

208. *Id.*

assisted in the promotion of vulnerable populations in relation to raising awareness of human rights and promoting language and culture in many countries. There have also been some positive indicators in the treatment of refugees, despite recent negative developments in Tanzania, the country with the largest number of refugees.

Overall, the information reviewed in this Article supports the conclusion that ratification of international human rights treaties by African countries has resulted in positive developments in the promotion and protection of human rights. Hopefully, legislation and other best practices that have resulted from this process can be used to promote further positive change in Africa and the rest of the world. The reporting system of the treaty bodies is a useful tool for accomplishing this goal both by making information regarding laws and practices in countries available and promoting the economic, social, and cultural rights of vulnerable groups; however, this Article is just a beginning for assessing these effects of the treaty system and more reporting, compiling, and comparing are needed.