# SECURING OUR LIVES: WOMEN AT THE FOREFRONT OF THE PEACE AND SECURITY DISCOURSE IN KENYA

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## ABOUT THE PROGRAM

*Launched in March 2012, the African Peacebuilding Network (APN) supports independent African research on conflict-affected countries and neighboring regions of the continent, as well as the integration of high-quality African research-based knowledge into global policy communities. In order to advance African debates on peacebuilding and promote African perspectives, the APN offers competitive research grants and fellowships, and it funds other forms of targeted support, including strategy meetings, seminars, grantee workshops, commissioned studies, and the publication and dissemination of research findings. In doing so, the APN also promotes the visibility of African peacebuilding knowledge among global and regional centers of scholarly analysis and practical action and makes it accessible to key policymakers at the United Nations and other multilateral, regional, and national policymaking institutions.*

## ABOUT THE SERIES

*"African solutions to African problems" is a favorite mantra of the African Union, but since the 2002 establishment of the African Peace and Security Architecture, the continent has continued to face political, material, and knowledge-related challenges to building sustainable peace. Peacebuilding in Africa has sometimes been characterized by interventions by international actors who lack the local knowledge and lived experience needed to fully address complex conflict-related issues on the continent. And researchers living and working in Africa need additional resources and platforms to shape global debates on peacebuilding as well as influence regional and international policy and practitioner audiences. The APN Working Papers series seeks to address these knowledge gaps and needs by publishing independent research that provides critical overviews and reflections on the state of the field, stimulates new thinking on overlooked or emerging areas of African peacebuilding, and engages scholarly and policy communities with a vested interest in building peace on the continent.*

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## INTRODUCTION

The great changes we are undergoing must be understood in the context of the needs and concerns of women in specific situations of conflict. The "local" must clearly be the most important factor in our analyses...The normalization of violence at the local, national and international levels must cease. Networks of women peace builders and peacemakers must be expanded and supported to come to the fore.

—UN *Global Study on the Implementation of UNSCR 1325*, 2015

The research presented in the 2015 United Nations *Global Study on the Implementation of Security Council Resolution 1325* comprehensively demonstrates the key role played at all levels by women in the operational effectiveness, success, and sustainability of peace processes and peacebuilding efforts. It recommends that mediators, facilitators, and leaders in peace operations be proactive in including women in all aspects of peacemaking, peacekeeping, and peacebuilding. More importantly, the study found a need for the normative framework to be localized and for greater attention to be given to mapping what local communities and women actually need.[1]

Since 2000, the United Nations has passed several resolutions that constitute the Women, Peace, and Security (WPS) agenda. These are particularly significant because they were adopted by the UN Security Council. UN Security Council Resolution (UNSCR) 1325 prioritizes the inclusion and participation of women in all stages of decision-making in peace processes.[2] Subsequent resolutions UNSCR 1820 (2008), UNSCR 1888 (2009), UNSCR 1889 (2009), UNSCR 1960 (2010), UNSCR 2106 (2013), UNSCR 2122 (2013), and UNSCR 2242 (2015) focus on various aspects of the WPS agenda, such as sexual and gender-based violence, peacekeeping, rule of law, impunity, and the role of women in countering violent extremism.[3] Together, these resolutions provide a robust normative framework for the substantive participation of women in the discourse on peace and security.

## UNITED NATIONS SECURITY COUNCIL RESOLUTION 1325

UNSCR 1325 is the overarching legal framework for the WPS agenda. Adopted in 2000, it was the first resolution to recognize the centrality of gender in approaches to international peace and security and to address the disproportionate and unique impact of armed conflict on women. The resolution focuses on the importance of women's contributions to and leadership in conflict prevention, peacekeeping, conflict resolution, and peacebuilding and broadly calls for their increased participation in decision-making related to the prevention, management, and resolution of conflict.[4] Its four main pillars (detailed in Table 1) are participation and promotion; prevention; protection; and relief and recovery.

**Table 1: UNSCR 1325 Pillars**

| Pillar | Purpose |
|---|---|
| Participation and Promotion | The substantive inclusion, active engagement, and participation of women in governance, politics, the economy, judiciary, and peace and security decision-making processes at all levels. |
| Prevention | The prevention of violations against women and girls, in particular, the prevention of sexual and gender-based violence, discriminatory practices, abuse, and exploitation during all phases of conflict, and the incorporation of gender-sensitive approaches to conflict prevention strategies in all processes of conflict prevention, conflict resolution, and peacebuilding. |

| Protection | Protection of the rights of women and girls, with special consideration for protecting women and girls from sexual and gender-based violence; protection should emphasize the safety, personal dignity, and empowerment of women and girls in fragile and insecure environments. |
|---|---|
| Relief and Recovery | The effective, substantive, and timely participation of women in all stages of the design and implementation of relief and recovery programs, including, where relevant, in disarmament and demobilization programs. |

Source: *Kenya National Action Plan on UNSCR 1325 and Related Resolutions*, 2016[5]

## RELATED UNITED NATIONS SECURITY COUNCIL RESOLUTIONS

The following are the resolutions passed by the Security Council after UNSCR 1325 that focus on various vital aspects of the WPS agenda.

**UNSCR 1820 (2008)** calls for an end to widespread conflict-related sexual violence and for accountability to end impunity.

**UNSCR 1888 (2009)** focuses on strengthening leadership, expertise, and other institutional capacities within the United Nations and in member states to help bring an end to conflict-related sexual violence.

**UNSCR 1889 (2009)** focuses on measures to improve women's participation during all stages of peace processes. These include enhancing women's engagement in political and economic decision-making at early stages of recovery processes by promoting their leadership and capacity to engage in aid management and planning; supporting women's organizations; and countering negative societal attitudes about women's capacity to participate equally.

**UNSCR 1960 (2010)** addresses responsibility for sexual violence in situations on the Security Council's agenda and calls for the establishment of monitoring, analysis, and reporting arrangements specific to conflict-related sexual violence.

**UNSCR 2106 (2013)** reiterates the importance of addressing sexual violence in armed conflict whenever relevant, in mediation efforts, and in ceasefires and peace agreements, including those related to security arrangements and transitional justice mechanisms. It stresses the need to exclude crimes of sexual violence from amnesty provisions in conflict resolution processes.

**UNSCR 2122 (2013)** concerns itself with inviting women to participate in discussions pertinent to the prevention and resolution of conflict, the maintenance of peace and security, and post-conflict peacebuilding. The invitation is to come through consultations with civil society, including women's organizations.

**UNSCR 2242 (2015)** urges the application of gender analysis and technical gender expertise throughout all stages of peacebuilding. It seeks to initiate a revised strategy using existing resources to double the number of women in peacekeeping operations and urges member states and the UN to ensure the participation and leadership of women's organizations in devising strategies to counter terrorism and violent extremism. It also calls on donor countries to provide financial and technical assistance to women involved in peace processes.

## PROGRESS ACHIEVED IN THE IMPLEMENTATION OF THE WPS AGENDA

In 2015, the UN released the findings of the most extensive study conducted on the implementation of UNSCR 1325 to date. The global study found that progress had been made, but significant gaps and challenges remained. It especially noted progress in the prioritization of the fight against sexual and gender-based violence (SGBV), and in women's participation in political leadership. The gaps were in the areas of funding, representation in mediation, and prosecution of perpetrators of gender crimes, as well as women's involvement in countering violent extremism. Progress in achieving the ideals enshrined in the framework was mixed. An examination of thirty-one major peace processes, for example, showed that between 1992 and 2011, only nine percent of negotiators were women. Women also constituted only three percent of the military personnel in UN missions, mostly support staff. The study concluded that the areas of peacemaking and peacebuilding had been particularly challenging.[6]

In addition, civil society organizations contributed to the global study, a report based on 317 organizational surveys from 71 countries.[7] The findings showed a global disconnect between policy, as articulated by the framework, and practice. International and regional bodies were found not to have engaged or included women fully in peace and security processes. The resources allocated were scarce and threats to activists and women's

organizations engaged in this work were persistent.

Another study, the *Report of the Advisory Group of Experts on the 2015 Review of the United Nations Peacebuilding Architecture*, noted that

> Since the adoption of UNSCR 1325 in 2000, there [had] been a paradigm shift in the way that women are viewed in peacebuilding. Previously considered solely as victims, there is now wider acknowledgment that they are agents of change and play a vital role.[8]

However, while the report recognized the efforts of several countries to develop implementing mechanisms, such as national action plans, it observed that sufficient material change in women's lives or the UN's peacemaking and peacebuilding processes had yet to be achieved. This position was also reflected in the 2015 report of the UN's High-Level Independent Panel on Peace Operations, which was operating concurrently to review the state of UN peace operations.[9]

The reviews highlighted above illustrate the existing opportunity for broader interpretation and application of the WPS agenda to encompass the lived realities of women. As a start, adopting a human security perspective provides a platform to acknowledge the full scope of human rights violations against women and to implement the agenda through collaboration across various sectors, including the political, security, development, human rights, the rule of law, and justice sectors.[10] This expanded group of actors, with women at the fore, may be able to develop strategies that will better realize the intention of UNSCR 1325 and related resolutions.

## ACTUALIZING AN INTERNATIONAL FRAMEWORK AT THE NATIONAL LEVEL

As an internationally agreed-upon framework and set of actions to be implemented locally, the WPS agenda presents a dilemma: the need to move away from the rigidity of a framework approach to accommodate local realities. There is an inherent danger of duplication in the implementation process at the national level, whereby countries adopt similar approaches and processes while disregarding contextual nuances. Indeed, addressing this dilemma could be the single most important factor that will determine whether the implementation of this landmark resolution will be successful at the country level. This is especially true in the design and implementation

of national action plans (NAPs) and other implementing mechanisms.

## THE EFFECT OF THE WOMEN, PEACE AND SECURITY AGENDA ON AFRICA

In Africa, the robust WPS Agenda has primarily focused on enhancing women's participation in political decision-making and addressing sexual and gender-based violence (SGBV). This focus can mainly be attributed to the urgency of including gender perspectives in political and legislative processes and the challenge SGBV poses in both conflict and peacetime. In *The Aftermath: Women in Post-Conflict Transformation*, a case is made that for women there is no aftermath, as violence against them persists before, during, and after the conflict.[11] Addressing violence is, therefore, almost always a key area of intervention for women's rights and peace and security actors.

At the level of the African Union (AU), progress has been made on women's rights, particularly in the form of protocols, laws, and implementing frameworks, including the NAPs of some member-states, which reflect the core principles of the African Union Solemn Declaration on Gender Equality in Africa. Most notably, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, commonly referred to as the Maputo Protocol, contains provisions closely aligned with the WPS resolutions. The AU Commission has also launched the five-year Gender, Peace, and Security Programme (2015–20), intended to be a framework for enabling the implementation of effective strategies to enhance the protection of women in conflict and post-conflict countries in Africa. Regional instruments, such as the Southern African Development Community (SADC) Protocol on Gender and Development, call for the implementation of UNSCR 1325. The inclusion of gender perspectives has also been increased in the African Peace and Security Architecture (APSA)—the AU declaring 2016 the African Year of Human Rights, with particular focus on the rights of women.

While these are commendable strides, various challenges emerge in implementation processes. These include inadequate resourcing for gender-responsive training, analysis, and programs, lack of proper monitoring structures, lack of political will, and insufficient collaboration with civil society, as well as inadequate evidence-based research and analysis. Another key challenge is that UNSCR 1325 was initially designed and largely interpreted as applying to women in post-conflict settings. This

has complicated attempts to actualize the provisions of the resolution in non-conflict countries. For example, while Kenya has mainly experienced sporadic and election-related conflict, other countries in the Great Lakes and the Horn of Africa, such as Somalia and Sudan, have experienced long-term civil war, leading to a total breakdown of law and order.

Contextualization is, therefore, critical. To achieve it, more data is needed on the application of UN resolutions in non-postwar countries such as Kenya. Some analysts have cited "a lack of empirical evidence of the impact of peacekeeping missions and UNSCR 1325 in advancing gender equality at the various national, regional and international levels."[12] This can also be said of most judicial, police, and military institutions, as well as decision-making processes that relate to peace and security mechanisms in Africa. This gap is evident at the regional level, where gender issues remain absent from security policy formulation and reforms. The contextually specific security and justice needs of African men, women, girls, and boys remain largely unmet, and women continue to be systematically underrepresented and underserved at the continental, regional, national, and community levels.[13]

## PEACE AND SECURITY CHALLENGES IN THE GREAT LAKES AND HORN OF AFRICA REGION

Kenya's location within the conflict-prone Great Lakes and Horn of Africa region has long exposed it to conflicts in neighboring countries, such as longstanding unrest in Somalia and the Democratic Republic of Congo (DRC), and more recent violence in South Sudan and Burundi.[14] The consequences of proximity include the proliferation of small arms and light weapons in the country, high refugee influx, and the rise of local and regional extremist groups. In addition, the regional nature of other existing long-term, resource-based conflicts, porous borders, migration, and displacement, as well as youth exclusion and vulnerability, all contribute to a precarious security environment in which women and children are the most vulnerable.

In this fluid terrain, new security challenges emerge. Currently, these mainly revolve around the threat of terrorism and the rise of violent extremism that Kenya is facing. The country is involved in the African Union Mission in Somalia (AMISOM), a regional military intervention to help build sustainable peace in Somalia. Kenya's contribution of troops has led to retaliatory terrorist activity within its borders and against its military personnel in Somalia. UNSCR 2178 (2014) on enhancing international and

regional cooperation to counter violent extremism, and UNSCR 2422 (2016), deal primarily with this issue. In June 2015, a regional conference on CVE held in Nairobi drew representation from twenty-two African governments and fifteen other governments that are important partners of Africa in combating violent extremism.[15] The outcome document from this meeting noted that violent extremism is a defining challenge for Africa and the world today that is growing exponentially, wreaking havoc on economies, and causing widespread social upheaval, including rising inter- and intra-faith intolerance. It is also threatening the rule of law and pluralism and causing political instability, particularly in fledgling democracies.[16] Accommodating these changing trends in the peace and security discourse in Kenya is imperative.

The government of Kenya has stepped up its efforts to address this challenge. While responding to the threat is important, care should be taken that counterinsurgency efforts do not exacerbate the disadvantages faced by women and girls. The CVE conference outcome document acknowledged that violent extremism requires a transnational response, which makes international solidarity, cooperation, and vigilance crucial to countering it. The conference further proposed the development of national plans to counter violent extremism that adopt a multi-agency approach within governments, involve collaboration with effective civil society actors, and are aligned to broader peace and security agendas at national, regional, and international levels.

The development of such plans presents an opportunity to situate women within these efforts and ensure that gender perspectives are not lost. Noting that extremism is birthed and nurtured within communities, the role of women cannot be overlooked. Women's roles, both as victims and actors, need to be specifically addressed. As in other countries, a need is also emerging in Kenya to explore the role of young women as actors. Here, the increased recruitment of young women and girls into extremist groups is a worrying development.[17] Research and data collection are also required in this area to improve the design of appropriate responses.

It is also important to recognize that, in a place where the security priority is the defense of the state against terrorism and violent extremism, the inclusion of gender perspectives may not be considered a priority, particularly when national security is narrowly conceived. Invariably, allocation of resources is skewed in favor of this narrow conception, which in turn has a direct

influence on the implementation of initiatives at all levels. An expanded human security approach may be of more benefit to the country, as it is inclusive of all citizens.

In addressing the role of women in all aspects of peacebuilding, it is essential to acknowledge that women do not constitute a homogeneous group and that they have other identities that increase their vulnerability. The UN Security Council recently adopted resolution 2250 (2015) on Youth, Peace, and Security, which recognizes that "young people play an important and positive role in the maintenance and promotion of international peace and security."[18] This acknowledgment of the vital role of young people in supporting durable peace can bolster the work of young women and young men engaged in efforts to prevent violence, reconcile communities, and resolve conflict, and positively affect their involvement in peacebuilding.

## WOMEN, PEACE AND SECURITY IN KENYA

Bridging the gap between policy and practice and implementing the necessary frameworks require reflection on the history of women's involvement in peacebuilding, as well as their potential to enhance their own role as central actors in the peace and security discourse. Women's involvement in peacebuilding in Kenya occurs against a backdrop of a constitutional dispensation that guarantees equality and equity, a devolved government structure, a national peacebuilding structure, and ongoing security sector reform. Throughout the country's history, women have acted as peacebuilders in addition to participating in early warning and dispute resolution. This has mostly been done at the local level and within community-led processes. In most Kenyan communities, women have historically been the first to have information of impending conflict, and they are always the most affected, left to pick up the pieces and reconstruct the social fabric during the post-conflict period. Women have played many roles; they have at times been fighters themselves or sustainers of those involved in the fighting. At other times, they have acted as peacemakers, especially by encouraging warring youth to make peace.

In this diversified engagement with peace and conflict, women have been creative in developing innovative and effective strategies suited to their respective situations. Significantly, the existing national peace structure in Kenya is based on a model that came from a women-led initiative in Mandera.[19] Examples of outstanding women-led initiatives at the local level

abound, as well. These include the activities of women's organizations in Pokot, Marakwet, Marsabit, and other areas. The work of organizations and networks such as Rural Women Peace Link, the Tegla Loroupe Peace Foundation, the Horn of Africa Development Initiative (HODI), and the Coalition for Peace in Africa (COPA), among others, is commendable and well recognized. Linking this "informal" role of women as peacebuilders with the "formal" global WPS agenda is one of the most vital steps in promoting women's participation in the peace and security discourse in Kenya.

As these examples make clear, civil society organizations in Kenya have been working for decades on various aspects of the WPS agenda without directly situating their work within the global framework or using the language associated with it. Human rights and women's organizations, for example, have been working on ending violence against women and enhancing access to justice, an objective that falls under the protection pillar of UNSCR 1325. Similarly, organizations that work with refugees, internally displaced persons (IDPs), and unaccompanied women and girls have been addressing the relief and recovery pillar. Their indigenous expertise is essential, and their local base remains the most viable site for implementation of the WPS agenda.

According to the 2015 *Civil Society Organization (CSO) Survey for the Global Study on Women, Peace and Security*, "The expertise and practical experience related to the WPS agenda still resonate strongly in civil society, as do the most innovative strategies and effective solutions to meeting the WPS standards."[20] In the implementation of UNSCR 1325 and related resolutions, regular consultation and collaboration with Kenyan CSOs, local women's groups, and activists is imperative. Their previous work makes them the best placed to identify the needs of the communities and to propose the best approaches to addressing these needs, particularly at the county level.

## ADDRESSING UNDERLYING STRUCTURAL GENDER INEQUALITY

The Global Study on UNSCR 1325 observes that while women may be included in peacebuilding processes, their delegated roles can be more symbolic than substantive and cultural norms limit their influence. Cheryl Hendricks notes that "gender inequality and insecurity are deep-rooted and multilayered, and thus they negate mechanistic responses that do not deal with cultural and structural issues."[21] Any efforts to enhance the inclusion and participation of women in peacebuilding and decision-making

in Kenya will be inconsequential if concrete measures are not put into place to address the greater underlying problem of structural gender inequality and the historical marginalization of women. For the inclusion sought by women's rights activists and organizations to be transformative and go beyond numbers, it must be analyzed against this backdrop of structural gender inequality.

In the security sector specifically, the inclusion of women should result in their effectively influencing policy changes and implementation. Hendricks and Kristin Valasek argue:

> …gender roles are at the core of the social discourse on peace and security…when faced with the call to reform in the name of gender equality, the most common response from African armed forces and police services has been to step up the recruitment of female personnel.[22]

This narrow approach of recruitment reform falls short of effecting the desired institutional transformation. Valasek and Hendricks further note that such isolated gender initiatives will have little or no impact without a comprehensive approach. The extent to which gender perspectives have been integrated can be a useful indicator of whether reforms have been crosscutting and coherent.[23]

In short, significant milestones have been reached in vital areas in Kenya, particularly in terms of enhancing the normative framework. Opportunity for growth remains, however, including through the effective implementation of existing legislation, as well as support for necessary facilitating mechanisms at the county and national levels.

## THE EFFECT OF THE CONSTITUTION OF KENYA (2010) ON WOMEN'S RIGHTS

As is often the case, official reforms present an unparalleled opportunity to advance gender equality. In Kenya, the momentum in the women's movement was boosted by the equality provisions enshrined in its 2010 constitution, as well as the creation of a new devolved government structure. Over the past six years, the implementation of the constitution has increased women's participation in various sectors, including the national government, parastatal organizations, the police, the military, county governments and legislatures, the judiciary, the civil service, and statutory and constitutional

commissions.

Women have also benefited economically from the implementation of government procurement policies and funds. Some, such as the Women's Fund, were specifically designed to support women's empowerment. Similarly, the youth and *Uwezo* funds promote women's entrepreneurship.[24] In this regard, women's access to credit and involvement in leadership positions in the private sector have been enhanced.

The current constitutional dispensation provides a platform for advancing women's rights in specific ways. First, it provides that any international or regional instrument to which the country is party automatically becomes national law. This applies to international instruments, such as the Universal Declaration of Human Rights (1948); the Convention on the Elimination of All Forms of Discrimination against Women (1979); the Convention on the Rights of the Child (1990); the International Covenant on Civil and Political Rights (1966); the International Covenant on Economic, Social, and Cultural Rights (1966); the Beijing Platform for Action (1995); the Rome Statute (2002); the United Nations Charter (1945); the United Nations Millennium Declaration (2000); the United Nations Convention on the Rights of Persons with Disabilities; and the United Nations Programme of Action to Prevent, Combat, and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (2001).

These international laws promote the inclusion of women in peacebuilding and decision-making. Their domestication is in line with the protection pillar of UNSCR 1325 and provides the opportunity to accelerate gains that would otherwise take decades to achieve. This can be done through the filing of test cases in the legal system that can set precedents for women's rights nationally, an approach that requires capacity-building of judicial staff, advocates, magistrates, and judges through continuous international human rights education. Here, it has been observed that the most groundbreaking gender justice decisions have been made where judges have had gender training and expertise.[25]

The UN global study on the implementation of UNSCR 1325 (2015) recommends that linkages be made between human rights mechanisms and the resolutions on women, peace, and security to broaden opportunities to enhance accountability for implementation. In this regard, Kenya is party to several international human rights frameworks, including the Convention

on the Elimination of All Forms of Discrimination against Women (CEDAW), on which the government regularly reports. The country is also party to the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (known as the Maputo Protocol), by far the most comprehensive women's rights instrument in the region, which reiterates the provisions of UNSCR 1325. Incorporating these existing frameworks into the implementation of the WPS Agenda in Kenya can enhance it.

Second, the existing constitutional dispensation has specific affirmative action measures for women's participation in decision-making. In this regard, Kenya has a comprehensive legal and normative framework.

**Table 2: Affirmative action clauses**

- Article 27 (3): Women and men have the right to equal treatment including the right to equal opportunities in political, economic, cultural and social spheres.
- Article 27 (4): The State shall not discriminate directly or indirectly against any person on any ground, including race, sex, pregnancy, marital status, health status, ethnic or social origin, color, age, disability, religion, conscience, belief, culture, dress, language or birth.

Women's representation is guaranteed in the proposed constitution as stated in:
- Article 27 (8): The State shall take legislative and other measures to implement the principle that not more than two-thirds of the members of elective or appointive bodies shall be of the same gender.
- Article 81 (b): Provides that electoral systems in Kenya shall ensure that no more than two-thirds of elective positions are occupied by persons of the same gender. (This has yet to be implemented).

Source: Constitution of Kenya (2010)

The enforcement of these provisions and, therefore, the realization of the constitution's ideals, has been hampered by a failure to reach consensus on a practical "formula" by which the equality provisions can become a reality. In 2012, the Kenyan Supreme Court issued an advisory opinion on effecting the two-thirds gender principle (see Table 2).[26] It proposed that the principle be applied progressively until 2017 when the country holds its next general election. As of October 2016, there was still no structured way forward on this issue. While this continues to be a crucial opportunity for women in Kenya to claim the rights enshrined in the constitution, as highlighted earlier, it requires political will, the creation and enforcement of implementing laws,

and adequate resourcing. It is hoped this will be resolved ahead of the 2017 general elections.

In addition to the constitution, other relevant laws and institutions have direct implications for peace and security, and key institutions have the ability to promote women's participation in peacebuilding and leadership.[27] These include the National Steering Committee on Conflict Management and Peacebuilding (NSC), which is present in all counties through committees, and the National Gender and Equality Commission (NGEC), a constitutional commission established pursuant to Article 59 of the Constitution of Kenya, whose objectives are to promote gender equality and freedom from discrimination.

## REVIEWING WOMEN'S PARTICIPATION IN DECISION-MAKING IN KENYA

Participation is the core pillar of UNSCR 1325. Similarly, Goal 5 of the Sustainable Development Goals (SDGs) seeks to ensure women's full and effective participation in and equal opportunities for leadership at all levels of decision-making in political, economic, and public life. Women's substantive and comprehensive participation in peacebuilding and justice initiatives has indeed been seen to be transformative.

> [Peace processes] that included women as witnesses, signatories, mediators, and/ or negotiators demonstrated a 20% increase in the probability of a peace agreement lasting at least two years. This increases over time, with a 35% increase in the probability of a peace agreement lasting 15 years."[28]

An evaluation of Kenya's progress shows a significant increase since independence in the proportion of women (relative to men) representation in elective political decision-making institutions in the country. The percentage of women members of appointed or elective bodies has risen from zero in 1963 to approximately twenty-one percent in 2016. This increase, while commendable, still falls below the minimum thirty percent recommended quota, and it does not meet the country's constitutional requirement, as shown in Table 2, that no gender shall constitute more than two-thirds of any appointed or elected body. Other regional economic bodies, such as the South African Development Commission (SADC), have a fifty percent quota in the region's gender protocol. Indeed, Kenya's neighbor, Rwanda, leads the world in female participation in Parliament, with women constituting 64

percent of members.

A closer analysis also reveals the persistence of gender stereotyping. This is reflected in the higher proportions of women in committees traditionally considered women's domains and the under-representation of women in more important committees. This is concerning, considering that legislative business is conducted mainly through the work of parliamentary committees.

Still, despite these low numbers, women in elected positions have contributed significantly to the creation of an enabling legal regime in Kenya.[29] They have contributed to the passage of key laws addressing children's rights, SGBV, employment, trafficking in persons, and female genital mutilation (FGM). The Kenya Women's Parliamentary Association (KEWOPA) lists the following among its recent achievements:

• Contributing toward the realization of the family bills: 2014 Marriage Act, 2013 Matrimonial Property Act, and the Protection against Domestic Violence Act
• Spearheading the push for the realization of the two-thirds gender principle, as proposed by Constitutional Amendment Bill 2015 (no. 4)
• Developing gender-responsive budgeting guidelines for Parliament
• Developing a Members Handbook on Sexual and Reproductive Health and Rights[30]

In the executive arm of government, women make up at least twenty-five percent of the current cabinet of twenty-one members, and they hold key portfolios, including defense, foreign affairs, environment, and regional development initiatives. In the judiciary, the number of women serving as judges has risen exponentially, as have the numbers of women in the magistrates' courts, the high court, and the court of appeal. This indicates significant progress.

Taking into consideration all of the above, in the area of women's representation in decision-making, and with regard to the participation pillar of UNSCR 1325, there is still room for Kenya to make more progress. This can be achieved by requiring enforcement of the constitution and the Political Parties Act, which will increase the nomination of women for all positions. Ensuring a more conducive environment for women candidates through enhanced campaign resourcing and protection from violence are also important measures.

# WOMEN'S INVOLVEMENT IN MEDIATION IN KENYA

Although progress has been slow, it is now increasingly accepted that there is a significantly higher likelihood that peace talks and mediation forums will be successful when more women are involved. A direct testament to this can be seen in the peace talks and resulting agreements after the 2007–8 contested presidential election results in Kenya. Women were significantly affected by this conflict, constituting the majority of internally displaced persons, as well as bearing the brunt of the resulting sexual and gender-based violence.[31] Afterward, women actively participated in the mediation talks through the Kenya National Dialogue and Reconciliation (KNDR) process which resulted in the peace agreements.

This success emerged from peace negotiations facilitated by the African Union and mediated by a panel of eminent Africans led by former UN Secretary-General Kofi Annan. In the KNDR process, each negotiating team had a woman playing an important facilitative role in ensuring that women's voices would be included at the earliest opportunity. The process also allowed women in civil society to present a unified agenda for consideration through the Kenyan Women's Consultation Group. The ability to harness the energies and opinions of diverse groups of women for peace was in itself a demonstration of women's innate abilities to collaborate and influence the peace process through different strategies and roles.[32]

Following the mediation talks, the National Accord and Reconciliation Act (2008) provided the framework for Kenya's recovery from the post-election violence. It formed the basis for the constitutional, legislative, and institutional reforms necessary to attain sustainable peace, prosperity, and stability, and led to the promulgation of the 2010 constitution.

**Table 3: Gender Breakdown of the National Dialogue and Reconciliation Mediation Process in Kenya**

| Formal Peace Panel | Number of Women | Number of Men | Percentage of Women |
|---|---|---|---|
| PNU | 1 | 3 | 25% |
| ODM | 1 | 3 | 25% |

| Panel of Eminent African Personalities | 1 | 2 | 33% |
|---|---|---|---|

Source: Georgetown Institute for Women, Peace and Security, 2015[33]

# WOMEN IN THE SECURITY SECTOR IN KENYA

In Kenya, women's participation in peacekeeping missions, the military, and the police has steadily risen over the past decade.

**Table 4: Kenyan women in missions where peacekeepers are deployed (August 2014)**

| Mission | Number of women | Number of men | Percentage of Women |
|---|---|---|---|
| MINUSMA | 0 | 1 | 0% |
| MONUSCO | 17 | 5 | 22.7% |
| UNAMID | 16 | 102 | 13.6% |
| UNIFIL | 0 | 1 | 0% |
| UNMIL | 5 | 21 | 19.2% |
| UNMISS | 153 | 576 | 21% |

Source: UN Department for Peacekeeping Operations (DPKO), August 2014

**Table 5: Breakdown by role**

| | Number of Women | Number of Men | Percentage of Women |
|---|---|---|---|
| Military experts | 7 | 20 | 26% |
| Troops | 156 | 663 | 19% |
| Individual police | 16 | 35 | 31.4% |
| TOTAL | 179 | 718 | 20% |

Source: UN Department for Peacekeeping Operations (DPKO), August 2014

Notably, the current cabinet secretary for defense is a woman. Progress in the National Police Service (NPS) has also been significant, with the development of a National Police Service Gender Mainstreaming Policy in 2015 which seeks to provide both female and male members of the NPS with equal professional opportunity.

# RECOMMENDATIONS OF THE TRUTH, JUSTICE AND RECONCILIATION COMMISSION (TJRC)

A notable development in Kenya's efforts to address historical injustices was the establishment of the Truth, Justice, and Reconciliation Commission (TJRC) under the Truth, Justice, and Reconciliation Act of 2008. The purpose of the commission was to promote peace, justice, national unity, healing, and reconciliation among the people of Kenya. It investigated gross human rights violations and abuses, including massacres, sexually-based violence, murder, and extrajudicial killings, and determined the parties responsible for committing them, in addition to recommending the prosecution of the perpetrators.

In 2013, the TJRC compiled and submitted a report on the commission's activities and findings, with recommendations on measures to prevent the recurrence of such violations. The report contains a comprehensive chapter dedicated to gender considerations, as the TJRC held special hearings for women to prioritize women's issues. The commission found that, although deliberate constitutional, legislative, and institutional reforms had been aimed at tackling gender discrimination in the country, women continued to be the subject of deeply rooted discriminatory norms and practices.[34]

Highlighted by the report are widow's rights, particularly matrimonial property rights and widow inheritance; sexual violence; the preference for boy children; early marriage and bride price; FGM; and state discrimination against women. It addressed issues relating to the socioeconomic status of women, including the feminization of poverty, women's employment, women and land rights, education, maternal mortality and access to health facilities, and women with HIV/AIDS. Implementation of the recommendations contained in the TJRC report would go a long way toward securing women's substantive participation in the peace and security discourse in Kenya.

## ADDRESSING SEXUAL AND GENDER-BASED VIOLENCE (SGBV)

According to statistics from the Gender Violence Recovery Center of the Nairobi Women's Hospital, one in three Kenyan females experiences an episode of sexual violence before the age of eighteen, and between thirty-nine and forty-seven percent of Kenyan women experience gender-based violence in their lifetimes. Violence against women, including sexual and

gender-based violence (SGBV), represents a major problem within Kenyan society.

UNSCR 1325 addresses violence against women under the protection pillar. In 2006, the Kenyan Parliament passed a Sexual Offences Act that broadened the protection of women and girls from sexual abuse and harassment by stipulating mandatory minimum sentences for rape, sexual assault, and sexual harassment, as well as by defining fourteen new sexual offenses. During the decade that the act has been in place, it has undoubtedly raised awareness of what constitutes SGBV, providing a platform for many actors to work in this area, including the media, the private sector, and service providers. This has resulted in increased reporting of sex-related crimes, especially the defilement of minors.

Successful prosecution remains low, however, and the criminal justice system faces challenges, particularly because it requires effective collaboration between the police, medical and psychosocial services providers, and the judiciary and penal systems. One positive development is the recent granting of prosecution powers to members of FIDA-Kenya, the national women lawyers' association.[35] This will support the prosecution of SGBV cases.

Regionally, Kenya is party to the International Conference on the Great Lakes Region Protocol on the Prevention and Suppression of Sexual Violence against Women and Children (2006).[36] More recently, the Kenyan Parliament passed a Prohibition of Female Genital Mutilation Act, as well as a Prevention of Domestic Violence Act. These, together with the Bill of Rights as enshrined in the constitution and the provisions of the country's penal code, provide a robust legal framework for the protection of women's rights.

Evidently, the normative frameworks for the protection and promotion of women's rights in Kenya currently exist. The challenge lies in implementing them effectively. There is an opportunity to address this issue further under the protection pillar of UNSCR 1325, as well as to bolster the opportunities for conflict prevention by addressing the underlying gender norms that drive conflict and insecurity in the country.

# KENYA NATIONAL ACTION PLAN ON UNSCR 1325 AND RELATED RESOLUTIONS

*(Kuhusisha Wanawake ni Kudumisha Amani - To involve women is to sustain peace)*

On March 8, 2016, Kenya launched a national action plan (NAP) based on UNSCR 1325 and its related resolutions, making it the fifty-fifth country in the world and the nineteenth in Africa to respond to the call of the UN Security Council in this regard. Since March 2016, the number of countries involved in the global effort to design national strategies has risen to sixty-four.

Kenya's plan was developed through a multi-year process that included nationwide consultations with women's rights and peace activists, mapping studies, and the incorporation of lessons learned from other countries that had developed NAPs. It was supported by a learning exchange with the Finland through a process known as "twinning," in which countries learn from each other, as well as a National Steering Committee and Working Group, established in 2010, which worked toward its realization by 2015.

The implementing framework of the Kenya National Action Plan (KNAP) for UNSCR 1325 will be led by the Ministry of Public Service, Youth, and Gender Affairs and the Ministry of Interior and Coordination of National Government, which will provide strategic leadership and oversight. The two ministries' mandates are relevant to gender, women, peace, and security and include the following:

• Policy direction
• Coordination with counties, government ministries, departments, and agencies
• Leadership
• Strengthening of accountability, including the harmonization of communication and information systems
• Ensuring human resources for the delivery of services and programs under the plan[37]

Other ministries key to implementation are the Ministry of Defense and the Ministry of Foreign Affairs and International Trade.[38] The KNAP has a secretariat (led by the Ministry of Public Service, Youth, and Gender Affairs) and a coordination system to ensure effective implementation and reporting.

The framework provides the opportunity to initiate strategic actions, identify priorities and resources, and determine responsibilities and time frames at the national level. Its success will largely depend, however, on its coherence with relevant national laws and frameworks, such as the country's constitution and Vision 2030.[39] Linkage with existing human rights frameworks and regional processes is also key. To be effective, the implementation of the plan must have a positive effect on the lived realities of Kenyan women. The appreciation of and engagement with existing models of peacebuilding at the local and county levels may be the most important determinant of its success. Here, collaboration between civil society and government should be prioritized.

As an option for strengthening women's participation in peacebuilding, this framework, if properly implemented, can garner political will and enhance the extent to which policy is able to address underlying gender inequalities. In this way, the KNAP can be an important aspect of the broader fight for gender equality in Kenya. The National Steering Committee and Working Group has already identified several high-level strategies the government of Kenya will employ to advance the peace and security agenda contained in UNSCR 1325—in particular, to promote women's empowerment, prevent violations, strengthen protection, and increase women's inclusion in decision-making positions and processes.

The KNAP presents an opportunity to move from a narrow, militarized view of security to a more generalized view of human security. This more comprehensive approach will have a more substantial impact on the everyday lives of women in Kenya and present the opportunity to address gender norms that drive conflict and insecurity.

In conclusion, the newly developed Kenya National Action Plan provides a viable entry point for ensuring equal opportunity for women. Its effectiveness will be determined, however, by its proper implementation and adequate resourcing. Additionally, resourcing of NAPs has proved quite difficult in many countries.[40] This is a challenge Kenya will have to overcome. Pamela Machakanja notes that effective funding, monitoring, and implementation of the UNSCR 1325 indicators need to be aligned at the national level with other policy documents and UNSC resolutions.[41] Considering the wide range of indicators and activities under the four pillars of UNSCR 1325—participation and promotion, prevention, protection, and relief and recovery—implementation will require increased funding across various

budget sectors. This calls for enhanced gender budgeting approaches, especially at the county level.

## IMPLEMENTING THE KNAP AT THE COUNTY LEVEL

If the mechanisms intended for the implementation of the KNAP are used effectively, and financial and technical resources are allocated appropriately, the plan has the potential to promote the constructive engagement of women's organizations and activists with the devolved structure of the government. Through specifically designed and localized action plans at the county level, women's needs and priorities can be included in the policy and budget processes. This will ensure that the activities of women's peacebuilding organizations at the community level are linked with national development plans. Localization of the NAP as an implementation strategy is, therefore, necessary, if not an absolute prerequisite for the success of this framework.

## FINDINGS AND RECOMMENDATIONS

This paper presents four key findings:

1. To strengthen women's participation in peacebuilding and decision-making in Kenya, it is vital to address long-term structural gender inequality and the roots of conflict.

2. Engagement with local women's organizations and activists as the core drivers of this agenda is the most viable approach if UNSCR 1325 is going to have a transformative effect on the lived realities of women and girls in Kenya.

3. The adoption of a human security approach in the implementation of peacebuilding initiatives can enable the emergence of comprehensive, integrated solutions from the fields of human rights, development, and security. This coherence and coordination across traditionally separate fields and doctrines allow for knowledge sharing and results-oriented learning.[42]

4. UNSCR 1325 should be implemented in Kenya within existing human rights mechanisms and frameworks, such as the Constitution of Kenya (2010), protocols, treaties, laws, the National Action Plan on UNSCR

1325, and related resolutions. The Global Study on the Implementation of Security Council Resolution 1325 states that UNSCR 1325 is a human rights mandate, conceived and lobbied for as a human rights resolution that would promote the rights of women in conflict situations. Implementing policies and programs should be designed and conducted on this basis.

More specifically, the areas below should be prioritized.

**Enhanced engagement with civil society**

The participation of informal and indigenous women's organizations in larger national peacebuilding mechanisms and multisectoral collaborative efforts is imperative. Constructive engagement between the government of Kenya and civil society organizations will guarantee that international and regional norms can be implemented at the local level.

**Implementation of existing laws and mechanisms**

The Government of Kenya can promote women's role in peace and security by implementing the provisions of the Constitution of Kenya (2010) and the Political Parties Act (2011) as they pertain to gender equality and women's rights and, especially, women's representation. Fulfillment of the country's obligations under international and regional instruments is essential. The government also has an obligation to ensure that the implementation of the national action plan is incorporated into the national planning and budgeting processes.

**Funding**

A lack of consistent funding sufficient to ensure sustainability but flexible enough to allow for creativity remains one of the most significant challenges faced by women's organizations globally. Kenya is no different in this regard. If the women, peace, and security agenda is to be actualized, the UN, the Government of Kenya, and multilateral and bilateral funders, as well as private foundations, need to commit adequate resources to it. Such funding should be designed to reach local peacebuilding organizations by being user-friendly and by having reporting processes and innovative disbursements, with the objective of filling such apparent gaps as: capacity-building for women and girls in the area of peace and security; data collection and

research; participation in critical forums, campaigns, media engagement, and convenings; and engagement with county and national governments. Core funding, as well as rapid response grants in crisis situations, should be provided by the groups specified above. The government of Kenya should allocate more national resources to women's peace and security. The inclusion of the private sector as a key collaborating partner in the implementation of activities, as well as a provider of resources, is an avenue that can be further explored.

**Monitoring and evaluation**

For the KNAP to be successful, effective monitoring and accountability are essential. In addition to the monitoring mechanism designed within the framework, an opportunity exists in the country's process for reporting on CEDAW. Here, General Recommendation 30 on Women, Conflict Prevention, Conflict, and Post-Conflict Situations requires that state parties, of which Kenya is one, report on their progress on the implementation of UNSCR 1325. In addition, such monitoring should be both quantitative and qualitative. This means that while numbers are important, tracking the shifts in mindsets, norms, behavior, and culture in the peace and security discourse is critical.

**Coordination**

Collaboration among the national and county governments, CSOs, academia, and other relevant institutions should be strengthened to ensure the flow of data, information, and resources. This can take the form of committees at various levels that enhance policy and institutional coherence among stakeholders in their efforts to promote the participation of women in conflict prevention, peacebuilding, conflict resolution, and relief and recovery programs. Encouraging collaboration with regional and international bodies to promote the Women, Peace, and Security agenda through diplomatic, development, and peacekeeping initiatives in conflict and post-conflict environments is also key.

**Comprehensive security sector reform**

Security sector reform should include more comprehensive initiatives and a thorough review of promotion policies and practices. This should apply to the defense forces, national police service, customs, borders, forests, and prison personnel.

**Accountability for perpetrators of gender crimes, including SGBV**

In women's lives, security and justice are closely interlinked. The government of Kenya should take all necessary measures to protect women and girls under the law and guarantee their physical safety. SGBV continues to be a major concern in the everyday lives of women and girls in Kenya, and urgent measures to address it should be put into place. Key among these should be the creation of a specialized court to deal with these cases.

**Awareness-raising and capacity-building**

Awareness should be raised on the WPS agenda as it relates to women and girls in Kenya, as well as the National Action Plan. This should be done among all stakeholders involved, such as civil society, key policymakers, and other government actors. Academic institutions can contribute to specific initiatives aimed at creating a pool of expertise on women, peace, and security.[43] They can also contribute to the development of a training curriculum on gender responsiveness for security forces and peacekeeping personnel.

**Research and documentation**

Increased research and documentation will provide credible data on local efforts of women within communities. Such data are necessary for establishing linkages between local and national processes. Data collection should be periodic and monitored. While past documentation has mainly been qualitative, quantitative data are essential if women's needs and priorities are to be included in national policies and processes, such as budgetary ones.

## CONCLUSION

UNSCR 1325 and related resolutions in the WPS agenda can contribute significantly to enhancing the participation of women in decision-making and peacebuilding in Kenya. A holistic and strategic approach that enables Kenyan women to engage in conversations on peace and security, reduce their exclusion from mainstream peace and security processes, and develop a concrete agenda for sustaining effective engagement in the discourse, is still needed. Efforts should be made to ensure that a focus

on national security does not exclude gender concerns and that women's vulnerabilities are taken into consideration as they relate to inequality in the social, economic, and environmental spheres. Collaboration among academics, policymakers, key security and government actors, and practitioners working in the area of peace and security is key to such a comprehensive approach, as is the development of a training curriculum on gender responsiveness for security forces and peacekeeping personnel. The Women, Peace, and Security agenda, if properly implemented, can lead to positive changes not only for women but for all Kenyans.

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19.    The Mandera peace model was initiated at the community level and is now modeled

within the national peace structures.

20.     Goldberg et al., *Global Report*.

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22.     Valasek and Hendricks, *Gender and Security Sector Transformation*, 2010, 71.

23.     Goldberg et al., *Global Report*, 20.

*24.*     *Uwezo* is a swahili word for ability. The "Uwezo Fund" targets women, youth and persons living with disability to enable them to access funds that promote their business and enterprise activities at the County level thereby contributing to the overall national economic growth.

25.     This has mostly been noted in the international criminal law arena and through decisions of the international courts and tribunals, such as the International Criminal Tribunal for the former Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR), the Special Court for Sierra Leone (SCSL), and the International Criminal Court (ICC).

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38.  This mechanism will work closely with regional and international actors including the Inter-Governmental Authority on Development (IGAD), UNISDR, UNDP, and IOM, AU, UN Women, UNHCR, UNFPA, UNICEF, Office of the Special Envoy for the Secretary General–Great Lakes Region, ICGLR, and other vital agencies and partners.

39.  "Vision 2030" is the national long-term development policy that aims to transform Kenya into a newly industrializing, middle-income country providing a high quality of life to all its citizens by 2030 in a clean and secure environment.

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43.    An example of such an inititiative is the African Leadership Centre based in Nairobi. The center offers a specially designed training program that exposes young professional African women to the complexities of conflict, security, and development, and equips them for substantive engagement in this field.

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