

REVIEW OF GENDER MAINSTREAMING VIS –A-VIS THE LEGAL RIGHTS OF WOMEN¹

Abstract

Gender mainstreaming, as a global strategy for promoting gender equality, aims at integrating gender considerations into policy-making, legislation, and societal practices. From a legal perspective, gender mainstreaming is crucial in ensuring the protection and advancement of women's rights. This paper examines the intersection of gender mainstreaming and women's rights within the legal framework, emphasizing how laws and policies can be structured to address gender inequalities effectively. The legal perspective of gender mainstreaming involves the adoption of gender-sensitive laws, the elimination of discriminatory legal provisions, and the incorporation of international legal standards such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). National constitutions, legislative acts, and judicial interpretations play vital roles in embedding gender equality within legal systems. However, despite legal advancements, implementation gaps persist due to cultural norms, inadequate policy enforcement, and limited awareness. Legal reforms must be complemented by gender-responsive budgeting, affirmative action policies, and institutional reforms to ensure substantive equality. The judiciary's role in interpreting laws through a gender-sensitive lens also remains critical in bridging policy and practice. The paper adopted doctrinal research approach through the utilization of primary and secondary sources of materials. This paper concludes that while gender mainstreaming has facilitated progress in recognizing women's rights, legal systems must evolve continuously to address emerging gender-related challenges. A multi-sectorial approach involving legal reforms, policy implementation, and societal change is essential for achieving comprehensive gender equality. Effective legal strategies can transform gender mainstreaming from a policy aspiration into a lived reality for women worldwide.

Keywords: Gender, Mainstreaming, Legal Rights, Women.

1. Introduction

Gender mainstreaming has emerged as a comprehensive strategy to ensure the integration of gender equality considerations into all policy, legislation, and institutional frameworks. Gender mainstreaming is rooted in the global commitment to achieving substantive equality. The approach acknowledges that women's rights are central to the advancement of human rights. The legal perspective on gender mainstreaming involves evaluating how laws and policies are designed and implemented to address systemic inequalities and promote women's empowerment.²

The concept of gender mainstreaming gained prominence following the Fourth World Conference on Women in Beijing in 1995, where governments and international bodies committed to integrating gender perspectives in all levels of decision-making processes.³ This framework emphasizes proactive measures to address gender disparities rather than reactive interventions. In this context, the legal system plays a pivotal role in creating enabling environments for gender equality through legislation,

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²CP Iloka, "Gender Mainstreaming in Digital Legal Education" (2023) (4) *International Journal of Law and Clinical Legal Education*, *IJOLACLE*, 21; also available at *Google Scholar* <<https://scholar.google.com/scholar?oi=bibs&cluster=10130888051588080947&btnI=1&hl=en>> accessed 20 December 2024.

³United Nations, *Beijing Declaration and Platform for Action*, adopted at the Fourth World Conference on Women, Beijing, 15 September 1995, para. 79.

judicial interpretation, and institutional reform. Women's rights are protected under various international instruments, such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which mandates state parties to eliminate gender-based discrimination in law, policy, and practice.⁴ Gender mainstreaming complements these obligations by requiring an intersectional understanding of how gender intersects with other forms of disadvantage, such as race, socioeconomic status, and disability.⁵

From a national perspective, many countries have incorporated gender mainstreaming principles into constitutional frameworks and legislative reforms. However, challenges persist, including resistance to change, insufficient resources, and a lack of political will. Legal mechanisms such as gender-sensitive budgeting, affirmative action policies and gender impact assessments have been instrumental in advancing the rights of women but require robust enforcement to achieve their objectives.⁶ The effectiveness of gender mainstreaming in legal framework is contingent upon strong accountability measures, adequate representation of women in decision making processes and active participation of civil society organizations. By embedding gender equality into legal systems, societies can foster transformative change that not only benefits women, but also contributes to broader social and economic development.

2. International Legal Framework for Gender Mainstreaming

Gender mainstreaming, as a strategy to achieve gender equality, is well-supported by various international legal instruments and policy frameworks. These legal norms establish binding and non-binding obligations on states to promote women's rights and ensure gender equality across all societal dimensions. This framework comprises United Nations treaties, declarations, and regional agreements that collectively guide states' legal and policy reforms.⁷

2.1. Core International Human Rights Treaties

The cornerstone of the international legal framework for gender mainstreaming is the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted in 1979 by the United Nations General Assembly.⁸ CEDAW defines discrimination against women, mandates state parties to integrate gender equality into their national legal systems, abolish discriminatory laws, and ensure women's full participation in public life.⁹ Article 3 of CEDAW specifically obligates states to adopt measures for the development and advancement of women to ensure equal rights and freedoms.¹⁰ The CEDAW Committee's General Recommendation No. 25 further emphasizes gender mainstreaming as essential to eliminating gender-based discrimination.¹¹ Similarly, the International Covenant on Civil and Political Rights (ICCPR)¹² and the International Covenant on Economic, Social

⁴Convention on the Elimination of All Forms of Discrimination against Women, adopted 18 December 1979, UNGA Res 34/180, Article 2.

⁵Crenshaw, Kimberlé, "Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics" (1989) University of Chicago Legal Forum 139.

⁶Hafner-Burton, Emilie M., and Mark A. Pollack, "Mainstreaming Gender in Global Governance" (2002) 7(3) *European Journal of International Relations* 339.

⁷CP Iloka, "Gender Mainstreaming in Digital Legal Education" (2023) (4) *International Journal of Law and Clinical Legal Education, IJOLACLE*, 21; also available at *Google Scholar* <<https://scholar.google.com/scholar?oi=bibs&cluster=10130888051588080947&btnI=1&hl=en>> accessed 20 December 2024.

⁸CP Iloka, "Precision Attack and Reparation of the Vulnerable under International Humanitarian Law: An Appraisal" (2022) (7) *African Journal of Criminal Law and Jurisprudence, AFJCLJ*, 131; also available at *Google Scholar* <<https://scholar.google.com/scholar?oi=bibs&cluster=44546273869034706&btnI=1&hl=en>> accessed 20 December 2024.

⁹Convention on the Elimination of All Forms of Discrimination Against Women, adopted 18 December 1979, UNGA Res 34/180, Article 2.

¹⁰ *Ibid*, Article 3

¹¹CEDAW Committee, General Recommendation No. 25 on Article 4, paragraph 1, of the Convention on temporary special measures (2004).

¹²International Covenant on Civil and Political Rights, adopted 16 December 1966, UNGA Res 2200A (XXI), Art 3.

and Cultural Rights (ICESCR)¹³ both promote gender equality. Article 3 of both treaties requires states to guarantee equal rights for men and women in civil, political, economic, social, and cultural spheres.

2.2 Global Policy Frameworks

The Beijing Declaration and Platform for Action (1995) is a landmark policy document that calls for integrating gender perspectives in all policies and programs at national and international levels.¹⁴ Its twelve critical areas of concern include women's rights in education, health, political participation, and economic development. Paragraph 79 specifically urges states to ensure that legal reforms reflect gender equality principles in all legislative and policy decisions.¹⁵

In 2015, the Sustainable Development Goals (SDGs) reinforced gender mainstreaming through Goal 5, which calls for achieving gender equality and empowering all women and girls.¹⁶ This goal underscores eliminating discrimination, violence, and harmful practices while ensuring women's participation in leadership and access to economic resources. Goal 16 further supports gender-sensitive governance and institutional accountability for gender equality.¹⁷ The UN Security Council Resolution 1325 (2000), Resolutions on Women, Peace, and Security, particularly integrate gender perspectives into peace building and conflict resolution efforts.¹⁸ These resolutions urge states to adopt gender-sensitive laws and ensure women's participation in peace processes.

2.3 Regional Legal Frameworks

Regional human rights systems also contribute to gender mainstreaming through legally binding treaties. The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol)¹⁹ is one of the most comprehensive instruments addressing women's rights. Article 9 of the Protocol obligates state parties to adopt legislative and policy measures promoting women's equal participation in political and decision-making processes.²⁰ In Europe, the Council of Europe's Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention)²¹ promotes gender equality by addressing violence against women as a violation of human rights. Its preamble recognizes that achieving gender equality is essential for preventing violence against women.²² The Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belém do Pará)²³ strengthens gender mainstreaming by obligating state parties to adopt laws, policies, and practices to protect women from violence.

¹³International Covenant on Economic, Social and Cultural Rights, adopted 16 December 1966, UNGA Res 2200A (XXI), Article 3

¹⁴United Nations, *Beijing Declaration and Platform for Action*, adopted at the Fourth World Conference on Women, Beijing, 15 September 1995.

¹⁵*Ibid*, para 79

¹⁶United Nations General Assembly, *Transforming our world: the 2030 Agenda for Sustainable Development*, UNGA Res 70/1 (25 September 2015), Goal 5.

¹⁷*Ibid*, Goal 16.

¹⁸United Nations Security Council, Resolution 1325 (2000), S/RES/1325, 31 October 2000.

¹⁹Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), adopted 11 July 2003.

²⁰*Ibid*, Article 9

²¹Council of Europe, *Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention)*, adopted 11 May 2011.

²²CP Iloka, "The Jurisprudence behind International Legal Framework on the Rights of Women and Children: An Appraisal" (2022) (3) *International Journal of Law and Clinical Legal Education, IJOLACLE*, 89; also available at *Google Scholar* <<https://scholar.google.com/scholar?oi=bibs&cluster=14908986982353941386&btnI=1&hl=en>> accessed 20 December 2024.

²³Organization of American States, *Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belém do Pará)*, adopted 9 June 1994.

2.4. Monitoring and Accountability Mechanisms

The implementation of gender mainstreaming is supported by monitoring bodies and accountability mechanisms. The UN Human Rights Council's Universal Periodic Review (UPR) assesses states' compliance with international human rights obligations, including those related to gender equality.²⁴

2.5. The CEDAW Committee conducts periodic reviews of states' implementation of CEDAW obligations through state reports and shadow reports from civil society organizations.²⁵ The Committee can issue legally binding decisions through its Optional Protocol, enabling individual complaints against states for violations of women's rights.²⁶

2.6. Challenges and Future Directions

Despite the robust international legal framework, challenges remain in achieving effective gender mainstreaming. These include inconsistent domestic implementation, limited resources, and cultural resistance. The lack of gender-disaggregated data and weak enforcement mechanisms also hinder progress. Strengthening international cooperation, enhancing capacity-building programs, and promoting civil society engagement are critical steps for advancing gender equality globally.²⁷ In conclusion, the international legal framework for gender mainstreaming reflects a comprehensive commitment to promoting women's rights and ensuring gender equality. By integrating gender-sensitive laws and policies at national and international levels, states can work toward eliminating discrimination and achieving sustainable development. Ensuring accountability, fostering political will, and promoting women's participation remain essential for the framework's success.

3. National Frameworks for Gender Mainstreaming vis-à-vis the Rights of Women: The Legal Perspective

Gender mainstreaming refers to the systematic incorporation of gender perspectives into all levels of policy development, legal frameworks, and societal practices to promote gender equality and empower women. National frameworks for gender mainstreaming serve as essential tools in ensuring the rights of women are protected and advanced. This paper explores the legal perspective on national frameworks for gender mainstreaming, emphasizing legislative measures, policy guidelines, and institutional mechanisms.

3.1. Conceptual Understanding of Gender Mainstreaming

The term "gender mainstreaming" emerged from the global discourse on gender equality. It was formally recognized in the Beijing Platform for Action (1995), which urged governments to integrate gender perspectives into all aspects of policy and legislation.²⁸ Gender mainstreaming seeks to transform societal norms, promote equal opportunities, and eliminate gender-based discrimination.²⁹

²⁴United Nations Human Rights Council, *Universal Periodic Review*, established by UNGA Res 60/251 (2006).

²⁵CEDAW Committee, *Reporting Guidelines on the Convention on the Elimination of All Forms of Discrimination against Women*, 2008.

²⁶Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women, adopted 6 October 1999.

²⁷CP Iloka, "The Jurisprudence behind International Legal Framework on the Rights of Women and Children: An Appraisal" (2022) (3) *International Journal of Law and Clinical Legal Education, IJOLACLE*, 89; also available at *Google Scholar* <<https://scholar.google.com/scholar?oi=bibs&cluster=14908986982353941386&btnI=1&hl=en>> accessed 20 December 2024.

²⁸United Nations, 'Beijing Declaration and Platform for Action' (1995).

²⁹Sylvia Walby, *Gender Mainstreaming: Productive Tensions in Theory and Practice* (2005).

3.2. Overview of National Laws and Policies Related to Gender Mainstreaming and Women's Rights

National laws and policies concerning gender mainstreaming and women's rights are fundamental to promoting gender equality and ensuring women's full participation in social, economic, and political spheres. Gender mainstreaming, as defined by the United Nations, involves assessing the implications for women and men of any planned action, including legislation, policies, and programs, to ensure gender equality is central to all societal frameworks.³⁰ This paper provides an overview of key national laws and policies supporting gender mainstreaming and women's rights.

3.2.1. Constitutional Provisions Many nations enshrine gender equality within their constitutions. These provisions often form the legal foundation for gender equality policies:

1. South Africa: The Constitution explicitly guarantees equality and prohibits discrimination based on gender.³¹

2. India: The Indian Constitution includes Articles 14, 15, and 16, ensuring equality before the law and prohibiting gender-based discrimination.³²

3. Brazil: The Brazilian Constitution mandates equality between men and women, emphasizing gender parity in all societal domains.³³

3.2.2. National Gender Equality Laws Countries implement specific laws to address gender equality and eliminate discrimination:

1. Equal Pay Acts: Countries like the UK have enacted Equal Pay Acts to ensure wage parity between men and women.³⁴

2. Anti-Discrimination Legislation: Laws such as the US Civil Rights Act prohibit gender-based discrimination in employment and education.³⁵

3. Violence Against Women Acts: Countries including Mexico and the Philippines have comprehensive laws against domestic violence and gender-based violence.³⁶

3.2.3. Gender Mainstreaming Policies National policies often provide a framework for gender mainstreaming in various sectors:

1. National Action Plans (NAPs): Many countries adopt NAPs on gender equality, setting goals, strategies, and monitoring mechanisms. For example, Canada's Gender Results Framework ensures gender equality in economic participation and leadership.³⁷

2. Gender Budgeting Initiatives: Several countries incorporate gender-sensitive budgeting, ensuring public expenditures promote equality. India's Gender Budget Statement is an example of this approach.³⁸

3. Sector-Specific Policies: Countries may mainstream gender within key sectors like education, health, and political participation. Rwanda's policies ensuring women's representation in parliament exemplify such efforts.³⁹

³⁰United Nations, 'Beijing Declaration and Platform for Action' (1995).

³¹ Constitution of the Republic of South Africa, 1996, s 9.

³²Constitution of India, Arts 14-16.

³³Constitution of Brazil, 1988, Art 5.

³⁴ Equal Pay Act 1970 (UK).

³⁵ Civil Rights Act 1964 (US), Title VII.

³⁶ General Law on Women's Access to a Life Free of Violence, Mexico (2007).

³⁷ Government of Canada, 'Canada's Gender Results Framework' (2018).

³⁸ Ministry of Finance, India, 'Gender Budget Statement' (2023).

³⁹ Rwanda Constitution, 2003 (as amended), Art 9.

3.2.4. Institutional Mechanisms Effective Implementation requires Robust Institutional Frameworks:

- 1. Gender Equality Commissions:** Independent bodies like the Commission on Gender Equality in South Africa monitor government compliance with gender equality mandates.⁴⁰
- 2. National Ministries of Gender:** Countries such as Kenya have Ministries of Gender responsible for policy implementation and advocacy.⁴¹
- 3. Ombudsman Offices and Human Rights Bodies:** National human rights commissions often address gender-based rights violations, providing legal redress and policy recommendations.⁴²

3.2.5. Legal Reforms in Key Areas Several areas have seen targeted legal reforms:

- 1. Family and Inheritance Laws:** Countries like Tunisia have reformed family codes to ensure women's inheritance and divorce rights.⁴³
- 2. Reproductive Rights Legislation:** Laws guaranteeing access to reproductive healthcare and safe abortions have been enacted in various countries, including Argentina.⁴⁴
- 3. Labor and Employment Laws:** Labor codes ensuring paid maternity leave and workplace protections are common across Europe and Latin America.⁴⁵

3.2.6. International Commitments and National Integration International treaties and conventions guide domestic legal frameworks:

- 1. CEDAW Compliance:** Countries integrating the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) into national law have seen significant progress in legal protections.⁴⁶
- 2. SDG Implementation:** National policies are often aligned with Sustainable Development Goal 5 on gender equality.⁴⁷
- 3. Regional Agreements:** Regional agreements like the Maputo Protocol in Africa provide additional layers of legal protection for women.⁴⁸

Despite legislative progress, challenges persist on gaps in enforcement, resulting from weak enforcement mechanisms which hinder legal implementation. Again, **cultural resistance as a result of** social norms and patriarchal traditions may delay policy effectiveness. Finally, inadequate funding also limits policy execution.⁴⁹ Recommendations for strengthening gender mainstreaming include legal reforms, greater budgetary allocations, public awareness campaigns, and the inclusion of civil society in policy formulation.⁵⁰ National laws and policies promoting gender mainstreaming and women's rights form the bedrock of efforts toward gender equality. While significant advancements have been made globally, sustained political commitment and comprehensive legal frameworks remain essential for achieving lasting equality.

⁴⁰ Commission on Gender Equality Act, South Africa (1996).

⁴¹ Ministry of Public Service, Youth and Gender Affairs, Kenya.

⁴² National Human Rights Commission Act, India (1993).

⁴³ Tunisian Personal Status Code, 1956.

⁴⁴ Voluntary Interruption of Pregnancy Law, Argentina (2020).

⁴⁵ European Commission, 'EU Directive on Work-Life Balance' (2019).

⁴⁶ Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1979.

⁴⁷ United Nations, 'Transforming Our World: The 2030 Agenda for Sustainable Development' (2015).

⁴⁸ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), 2003.

⁴⁹ CP Iloka, "The Decadence of Rape: War Tool, Media Emasculation and Law Reform" (2023) (8) *African Journal of Criminal Law and Jurisprudence*, AFJCLJ, 57; also available at *Google Scholar* <<https://scholar.google.com/scholar?oi=bibs&cluster=3701503688400985810&btnI=1&hl=en>> accessed 20 December 2024.

⁵⁰ Ibid.

3.3. The Role of National Institutions in Promoting Gender Mainstreaming

National institutions such as courts and legislatures play a critical role in promoting gender mainstreaming by ensuring that laws, policies, and judicial decisions reflect and advance gender equality. This paper examines the legislative and judicial functions in fostering gender-sensitive frameworks, shaping policy reforms, and addressing gender-based discrimination.

3.3.1. Role of Legislatures. Legislatures are responsible for enacting gender-responsive laws, overseeing policy implementation, and ensuring government accountability.⁵¹

1. Enacting Gender-Sensitive Legislation. Legislatures create legal frameworks that promote gender equality by passing specific laws targeting discrimination and gender-based violence:

2. Equal Opportunity Laws: For example, the UK Parliament passed the Equality Act 2010, consolidating anti-discrimination laws and ensuring equal treatment across various sectors.⁵²

3. Reproductive Rights Legislation: The Argentine National Congress approved the Voluntary Interruption of Pregnancy Law, legalizing abortion and expanding reproductive rights.⁵³

3.3.2. Policy Oversight and Budget Allocation Parliaments ensure policy implementation through oversight mechanisms and financial appropriations:

1. Gender Budgeting: India's Parliament has institutionalized gender budgeting, ensuring public funds address women's socio-economic needs.⁵⁴

2. Legislative Committees: Committees on gender equality review proposed laws and monitor the government's adherence to gender policies⁵⁵.

3.3.3. Representation and Advocacy Legislatures contribute to gender mainstreaming by ensuring women's representation and leadership in decision-making bodies:

1. Quota Systems: Rwanda's Parliament implemented a constitutional gender quota ensuring at least 30% of parliamentary seats are held by women, resulting in over 60% female representation.⁵⁶

2. Advocacy for Reform: Legislators often advocate for policy changes addressing workplace protections, maternity leave, and domestic violence.

2. Role of Courts: Courts uphold legal protections against gender discrimination through judicial interpretation and the enforcement of gender-sensitive laws.

3.3.4. Judicial Interpretation and Precedent Setting Courts interpret constitutional and statutory provisions to expand gender equality rights:

1. Landmark Cases: The US Supreme Court decision in *United States v. Virginia* struck down gender-based exclusion from military academies as unconstitutional.⁵⁷

2. Equality Jurisprudence: In South Africa, the Constitutional Court ruled in *Bhe v. Magistrate, Khayelitsha* that customary inheritance laws discriminating against women were invalid.⁵⁸

3.3.5. Enforcing Legal Protections Courts enforce laws protecting women's rights through judicial remedies and injunctions:

⁵¹CP Iloka, "Women Perspectives in the Administration of Justice" (2021) (3) (1) *Chukwuemeka Odumegwu Ojukwu University Journal of Private and Public Law*, 62; also available at *Google Scholar* <<https://scholar.google.com/scholar?oi=bibs&cluster=174224816782948544&btnI=1&hl=en>> accessed 10 December 2024.

⁵² Equality Act 2010 (UK).

⁵³ Voluntary Interruption of Pregnancy Law, Argentina (2020).

⁵⁴ Ministry of Finance, India, 'Gender Budget Statement' (2023).

⁵⁵ Committee on Women and Gender Equality, Philippines Congress.

⁵⁶ Rwanda Constitution, 2003 (as amended), Art 9.

⁵⁷ *United States v. Virginia* 518 U.S. 515 (1996).

⁵⁸ *Bhe v. Magistrate, Khayelitsha* 2005 (1) SA 580 (CC).

1. Human Rights Litigation: The European Court of Human Rights ruled in *Opuz v. Turkey* that the government failed to protect a domestic violence survivor, violating human rights obligations.⁵⁹

2. Protective Orders: Domestic courts regularly issue restraining orders to safeguard women from gender-based violence.

3.3.6. Judicial Review and Policy Accountability Judicial review allows courts to assess whether governmental policies comply with constitutional gender equality guarantees:

1. Judicial Activism: In India, the Supreme Court in *Vishaka v. State of Rajasthan* established workplace harassment guidelines due to legislative inaction.⁶⁰

2. Administrative Oversight: Courts in Germany have reviewed government childcare policies to ensure equal parental leave rights.⁶¹

3.3.7. Complementary Roles and Institutional Collaboration

The effectiveness of gender mainstreaming depends on collaboration between legislatures and courts:

1. Legislative Response to Court Rulings: Legislatures may enact laws following court rulings, such as domestic violence legislation enacted after judicial pronouncements.⁶²

2. Judicial Scrutiny of Legislation: Courts review gender-related legislation for constitutional compliance, ensuring gender-sensitive legal standards.⁶³

Challenges to Institutional Roles Despite significant progress, the following challenges persist:

1. Limited Representation: Women's underrepresentation in legislatures and the judiciary affects gender-sensitive policymaking.

2. Cultural and Social Barriers: Traditional norms may hinder legislative reforms and judicial acceptance of progressive rulings.

3. Resource Constraints: Insufficient funding and capacity-building resources weaken institutional effectiveness.

3.3.8. Recommendations for Strengthening Institutional Roles

1. Enhance Legislative Frameworks: Parliaments should enact comprehensive gender equality laws covering employment, healthcare, and political representation.

2. Promote Judicial Training: Continuous training for judges on gender-sensitive legal interpretation is essential.

3. Increase Representation: Expanding women's representation in legislatures and judicial appointments fosters inclusive decision-making.

4. Strengthen Institutional Collaboration: Legislatures and courts should establish regular consultation mechanisms on gender-sensitive policy development. National institutions, particularly legislatures and courts, play a central role in promoting gender mainstreaming through legal, policy, and judicial frameworks. Despite existing challenges, collaborative efforts between these institutions are crucial for advancing women's rights and achieving gender equality.

4. Challenges and Limitations of Implementing Gender Mainstreaming

Gender mainstreaming is a strategic approach aimed at integrating gender perspectives into policies, programs, and institutional frameworks to promote gender equality. Despite its potential, various

⁵⁹*Opuz v. Turkey* (2009) ECHR 33401/02.

⁶⁰*Vishaka v. State of Rajasthan* AIR 1997 SC 3011.

⁶¹ German Federal Constitutional Court, Parental Leave Judgment (2012).

⁶² Domestic Violence Act, India (2005).

⁶³ Constitutional Court of South Africa, Equality Act Review (2010).

challenges and limitations hinder its effective implementation. This paper examines these barriers, focusing on resistance to change, lack of resources, institutional weaknesses, cultural norms, and accountability deficits.

4.1. Resistance to Change Resistance to gender mainstreaming is a significant challenge rooted in cultural, political, and institutional conservatism.

1. Cultural and Social Norms Deeply entrenched patriarchal norms often result in societal resistance:

2. Traditional Gender Roles: Societies with rigid gender roles may resist policies challenging male-dominated power structures.⁶⁴

3. Social Backlash: Activists and policymakers advocating for gender equality often face social backlash and even threats.⁶⁵

4.2. Political Resistance Political institutions may resist gender reforms due to competing interests:

1. Policy Reversals: Successive governments may reverse gender equality policies for political gains.⁶⁶

2. Lobbying by Conservative Groups: Conservative political and religious groups can pressure governments to stall gender equality legislation.⁶⁷

4.3. Institutional Inertia Bureaucratic resistance often slows down the implementation process:

1. Lack of Willingness: Some officials view gender mainstreaming as an additional burden rather than a core mandate.⁶⁸

2. Policy Isolation: Gender policies are sometimes sidelined or treated as stand-alone initiatives without integration into broader policy frameworks.⁶⁹

3. Lack of Resources Insufficient financial, human, and technical resources are major obstacles.

4.4. Financial Constraints Budget allocations for gender equality programs are often inadequate

1. Underfunding: Many gender mainstreaming initiatives are chronically underfunded, limiting their impact.⁷⁰

2. Donor Dependence: Developing countries may rely heavily on foreign aid, resulting in unstable funding.⁷¹

4.5. Human Resource Challenges Skilled personnel are essential for implementing gender-sensitive policies:

1. Limited Expertise: There is often a shortage of gender experts and trained personnel.⁷²

2. High Staff Turnover: Frequent staff changes disrupt program continuity.⁷³

2.3. Technological Gaps Access to technology is crucial for effective monitoring and data collection:

1. Digital Divide: Technological inequalities limit women's access to information and participation in policy development.⁷⁴

⁶⁴ United Nations Development Programme (UNDP), 'Gender Equality Strategy' (2022).

⁶⁵ Amnesty International, 'Human Rights Defenders at Risk' (2021).

⁶⁶ Inter-Parliamentary Union (IPU), 'Global Parliamentary Report' (2020).

⁶⁷ World Bank, 'Policy Reform and Political Resistance' (2019).

⁶⁸ UN Women, 'Challenges in Policy Implementation' (2020).

⁶⁹ OECD, 'Mainstreaming Gender Equality: Policy Gaps and Opportunities' (2021).

⁷⁰ International Labour Organization (ILO), 'Global Wage Report' (2022).

⁷¹ United Nations Economic Commission for Africa (UNECA), 'Financing for Development' (2021).

⁷² UNDP, 'Capacity Development for Gender Equality' (2020).

⁷³ International Public Management Journal, 'Staff Retention Challenges in Public Sector' (2022).

⁷⁴ UNESCO, 'Bridging the Digital Divide' (2021).

2. Data Deficiency: Inadequate gender-disaggregated data hampers effective policy planning and evaluation.⁷⁵

4.6. Institutional Weaknesses Weak institutional frameworks undermine gender mainstreaming efforts.

1. Policy Fragmentation Gender mainstreaming often suffers from fragmented policy approaches:

2. Lack of Integration: Gender policies may not be integrated into national development plans.⁷⁶

3. Sectorial Silos: Ministries may operate in isolation, ignoring cross-sectoral linkages crucial for gender equality.⁷⁷

4.7. Weak Coordination Mechanisms Effective implementation requires robust inter-agency collaboration:

1. Coordination Deficits: Limited coordination between government departments results in overlapping mandates and inefficiencies.⁷⁸

2. Local-Level Gaps: Weak linkages between national and local institutions hinder grassroots-level implementation.⁷⁹

4.8. Cultural and Social Barriers Social and cultural norms pose deep-rooted challenges.⁸⁰

4.8.1. Gender Stereotypes. Stereotypes reinforce discriminatory practices:

1. Media Representation: Media often perpetuates harmful gender stereotypes, undermining equality efforts.⁸¹

2. Educational Curricula: Gender-based school curricula reinforce traditional roles from an early age.⁸²

4.9. Social Expectations and Family Roles Women's dual roles in the home and workplace present persistent obstacles⁸³:

1. Unpaid Care Work: The disproportionate burden of unpaid domestic work limits women's economic participation.⁸⁴

2. Childcare Deficits: Inadequate childcare services reduce women's ability to engage in paid employment.⁸⁵

4.10. Accountability and Monitoring Deficiencies Weak accountability systems hinder transparency and progress monitoring.

4.10.1. Lack of Monitoring Frameworks Effective monitoring and evaluation systems are often absent:

⁷⁵World Economic Forum, 'Gender Data Gaps' (2022).

⁷⁶United Nations, 'National Development Plans Review' (2021).

⁷⁷African Development Bank, 'Policy Integration Challenges' (2020).

⁷⁸UNDP, 'Coordination for Effective Policy Implementation' (2021).

⁷⁹UN Women, 'Localizing Gender Equality' (2022).

⁸⁰CP Iloka and J A Eze, "Breaking the Culture of Silence on Rape: A Cry for Justice" (2022) (9) (4) *Journal of Commercial and Property Law, NAUJCPL*, 43; also available at *Google Scholar* <<https://scholar.google.com/scholar?oi=bibs&cluster=1799067546122464513&btnI=1&hl=en>> accessed 19 December 2024.

⁸¹Media Monitoring Project, 'Gender and Media Representation' (2021).

⁸²UNICEF, 'Gender Equality in Education' (2022).

⁸³CP Iloka, "Surrogacy, In Vitro Fertilization and Contemporary Family Law Regime" (2023) (4) *International Journal of Law and Clinical Legal Education, IJOLACLE*, 135; also available at *Google Scholar* <<https://scholar.google.com/scholar?oi=bibs&cluster=6821586767394046597&btnI=1&hl=en>> accessed 20 December 2024.

⁸⁴OECD, 'Unpaid Care Work Statistics' (2021).

⁸⁵International Labour Organization, 'Work-Family Balance Policies' (2020).

1. No Clear Indicators: Gender policies frequently lack clear performance indicators and benchmarks.⁸⁶

2. Governments may fail to produce regular gender equality progress reports.⁸⁷

4.11. Limited Civil Society Engagement Civil society plays a critical role in ensuring accountability:

1. Exclusion from Policy Development: Women's organizations are often excluded from policy consultation processes.⁸⁸

2. Weak Advocacy Networks: Limited funding for advocacy networks undermines grassroots mobilization efforts.⁸⁹

4.12 Recommendations To address these challenges, several strategies should be implemented:

1. Policy Integration: Gender equality should be integrated across all government policies and national development plans.

2. Adequate Funding: National budgets should allocate sufficient funds for gender mainstreaming initiatives.

3. Capacity Building: Training programs for policymakers, civil servants, and judicial officials should be enhanced.

4. Strengthened Monitoring Mechanisms: Establishing clear indicators and regular reporting frameworks can ensure policy accountability.

5. Community Engagement: Greater collaboration with civil society organizations can strengthen advocacy and public participation. Despite the barriers outlined, gender mainstreaming remains a vital strategy for achieving gender equality. Addressing resistance to change, resource limitations, and institutional weaknesses requires sustained political will, adequate funding, and strong multi-sectoral collaboration.

5. Analysis of the Challenges on the Realization of Women's Rights

The realization of women's rights is a cornerstone of social justice and gender equality. However, various challenges such as resistance to change, lack of resources, institutional weaknesses, and socio-cultural barriers significantly impede progress. This paper analyzes how these challenges affect the effective realization of women's rights, particularly in legal, economic, social, and political contexts.

5.1. Legal Impacts Challenges in implementing gender mainstreaming directly affect women's legal rights.

1. Inadequate Legal Protections

2. Weak Legal Frameworks: Resistance to legislative reforms often leads to insufficient or outdated legal protections for women.⁹⁰

3. Selective Enforcement: Even where strong legal frameworks exist, selective law enforcement undermines women's access to justice.⁹¹

4. Judicial Bias: Gender biases within judicial institutions can result in unjust rulings against women in cases involving domestic violence, divorce, and inheritance disputes.⁹²

⁸⁶UN Women, 'Monitoring Gender Policy Effectiveness' (2021).

⁸⁷World Bank, 'Transparency and Accountability Reports' (2022).

⁸⁸Amnesty International, 'Advocacy for Inclusive Policy Making' (2021).

⁸⁹CIVICUS, 'Strengthening Civil Society Networks' (2022).

⁹⁰United Nations Development Programme (UNDP), 'Gender Equality Strategy' (2022).

⁹¹Amnesty International, 'Human Rights Defenders at Risk' (2021).

⁹²International Commission of Jurists, 'Women's Access to Justice' (2020).

5.2. Barriers to Legal Access

- 1. Cost of Legal Representation:** Financial constraints limit women's ability to seek legal redress.⁹³
- 2. Limited Awareness:** A lack of awareness about legal rights and available remedies hampers women's ability to claim their entitlements.⁹⁴
- 3. Economic Impacts** Resource-related challenges hinder the economic empowerment of women, reinforcing gender inequality.

5.3. Employment Disparities

- 1. Wage Gaps:** Unequal pay persists due to weak enforcement of labor protections.⁹⁵
- 2. Job Segregation:** Cultural resistance to women in non-traditional roles leads to occupational segregation.⁹⁶

5.4. Access to Economic Resources⁹⁷

- 1. Limited Credit Access:** Gender biases in financial institutions restrict women's access to credit and loans.⁹⁸
- 2. Property Rights Violations:** Discriminatory inheritance laws and property ownership norms prevent women from acquiring wealth⁹⁹
- 3. Social and Cultural Impacts** Deeply embedded social norms and stereotypes adversely affect the social status of women.

5.5. Education and Skills Development¹⁰⁰

- 1. Educational Inequalities:** Resistance to girls' education and early marriage practices limit women's educational attainment.¹⁰¹
- 2. Skills Mismatch:** Women are often confined to lower-paying and less skilled sectors due to gender-based educational systems.¹⁰²

5.6. Health and Well-being

- 1. Limited Healthcare Access:** Cultural norms sometimes restrict women's access to healthcare services, particularly reproductive health.¹⁰³
- 2. Gender-Based Violence:** Social resistance to criminalizing gender-based violence undermines women's safety and well-being.¹⁰⁴
- 4. Political Impacts** Institutional weaknesses and political resistance limit women's participation in governance.

⁹³World Bank, 'Access to Justice: Legal Costs and Barriers' (2019).

⁹⁴ UN Women, 'Legal Literacy for Women's Rights' (2021).

⁹⁵ International Labour Organization (ILO), 'Global Wage Report' (2022).

⁹⁶OECD, 'Gender Equality in Employment' (2021).

⁹⁷CP Iloka, "Effects of Climate Change on Medium, Small and Micro Enterprises' Financing in Nigeria: The Consequential Burden of Protecting the Right of the Less Privileged" (2022) (6) *African Journal of Law and Human Rights, AJLHR*, 61; also available at *Google Scholar* <<https://scholar.google.com/scholar?oi=bibs&cluster=787712705791559813&btnI=1&hl=en>> accessed 20 December 2024.

⁹⁸World Economic Forum, 'Access to Financial Services for Women' (2022).

⁹⁹United Nations Development Fund, 'Property and Inheritance Rights' (2021).

¹⁰⁰CP Iloka, "The Jurisprudence behind International Legal Framework on the Rights of Women and Children: An Appraisal" (2022) (3) *International Journal of Law and Clinical Legal Education, IJOLACLE*, 89; also available at *Google Scholar* <<https://scholar.google.com/scholar?oi=bibs&cluster=14908986982353941386&btnI=1&hl=en>> accessed 20 December 2024.

¹⁰¹UNICEF, 'Girls' Education: Global Trends' (2022).

¹⁰²United Nations Educational, Scientific and Cultural Organization (UNESCO), 'Skills for Gender Equality' (2021).

¹⁰³World Health Organization (WHO), 'Gender and Health Equity' (2022).

¹⁰⁴UN Women, 'Gender-Based Violence Report' (2021).

5.7. Underrepresentation in Politics

1. **Limited Political Quotas:** Weak legal mandates on gender quotas lead to low representation of women in political institutions.¹⁰⁵
2. **Election Barriers:** Cultural norms, harassment, and lack of campaign financing discourage women from running for public office.¹⁰⁶

5.8. Policy Exclusion

1. **Marginalized Voices:** Women's exclusion from key policy-making bodies prevents gender-sensitive policy formulation.¹⁰⁷
2. **Token Representation:** In some contexts, women's participation is symbolic, lacking real decision-making power.¹⁰⁸

5.9. Accountability and Monitoring Deficits Weak monitoring and accountability mechanisms impede progress on gender equality.

5.9.1. Limited Policy Evaluation

1. **Data Deficiencies:** The lack of gender-disaggregated data hinders effective policy evaluation.¹⁰⁹
2. **Weak Reporting Frameworks:** Irregular or incomplete gender equality reports reduce accountability.¹¹⁰

5.10. Civil Society Constraints

1. **Restricted Advocacy:** Funding constraints and legal restrictions limit civil society's ability to hold government's accountable.¹¹¹
2. **Suppressed Activism:** Political resistance to feminist activism can result in state-sponsored repression of women's rights defenders.¹¹²

6. Conclusion

Gender mainstreaming is a strategy to improve the quality of public policies, programmes and projects, ensuring a more efficient allocation of resources and better results mean increased wellbeing for both women and men, and the creation of a more socially just and sustainable society.¹¹³ The challenges to implementing gender mainstreaming have profound and far-reaching effects on the realization of women's rights. This analysis has highlighted key barriers, including weak legal protections, economic disparities, socio-cultural constraints, political underrepresentation, and insufficient accountability mechanisms. Addressing these barriers requires a multi-faceted approach, including stronger legal frameworks, increased funding, institutional reforms, and cultural transformation.

Restating the thesis, effective gender mainstreaming is crucial for ensuring that women's rights are protected and advanced across all sectors of society. The active engagement of governments, civil society, and international organizations is essential to overcoming persistent challenges. Achieving genuine gender equality will depend on sustained political commitment, comprehensive policy reforms, and the dismantling of structural inequalities that impede women's full and equal participation in every aspect of life.

¹⁰⁵Inter-Parliamentary Union (IPU), 'Women in Politics' (2022).

¹⁰⁶International Institute for Democracy and Electoral Assistance (IDEA), 'Women's Political Participation' (2020).

¹⁰⁷African Union, 'Policy Inclusion Frameworks' (2021).

¹⁰⁸Global Gender Gap Report (World Economic Forum, 2022).

¹⁰⁹United Nations, 'Data for Gender Equality' (2021).

¹¹⁰OECD, 'Monitoring Gender Equality Progress' (2022).

¹¹¹CIVICUS, 'Advocacy and Activism for Women's Rights' (2021).

¹¹²Human Rights Watch, 'Suppression of Women's Rights Activists' (2022).

¹¹³CP Iloka, "Gender Mainstreaming in Digital Legal Education" (2023) (4) *International Journal of Law and Clinical Legal Education*, *IJOLACLE*, 21; also available at *Google Scholar* <<https://scholar.google.com/scholar?oi=bibs&cluster=10130888051588080947&btnI=1&hl=en>> accessed on 11 January 2025.