

Effectiveness of legal and institutional frameworks for the implementation of UNSCR 1325 in preventing post-election violence in East Africa. The case of Kenya.

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Abstract: The purpose of the study was to establish the gaps in the legal and institutional frameworks for the implementation of UNSCR 1325 in preventing post-election violence in Kenya. The study was underpinned by the liberal feminist theory. The study adopted mixed reach methodologies including qualitative and quantitative approaches. The target population comprised women living in Kibra Sub County, women groups involved in peacebuilding, area ward administrators, local chiefs and individual women who were victims or had first-hand experience of PEV of 2007/08. The study adopted stratified random sampling to select individual women living in Kibra Sub County to participate in the study. The study also adopted purposive sampling to select women groups involved in peacebuilding, area ward administrators, and local administrative chiefs. Snowball sampling was adopted to identify women who were victims or had first-hand experience of PEV in 2007/08. The study used questionnaires, Key Informants Interview and Case narratives to collect needed information. In analyzing qualitative and quantitative data, content analysis and simple descriptive analysis were done respectively. The established a number of legal and institutional frameworks that have aided the implementation of UNSCR 1325 in Kenya including Kenya National Action Plan, National Steering Committee (NSC) on peace building and conflict management, the National Gender and Equality Act (2011), the Constitution of Kenya (CoK) of 2010, the National Cohesion and Integration Act (2008) and Vision 2030.

Keywords: UNSCR 1325, Post Election Violence, Liberal feminist theory,

1. Introduction

Conflict has plagued humanity for as long as the existence of man. Conflict is a contest between people with opposing needs, ideas, beliefs, values, or goals. Conflict denotes the incompatibility of subject positions (Diez, Stetter, & Albert, 2006, p. 574). The root cause of most conflicts often includes poverty, struggle for scarce resources and violations of human rights. Conflict throughout history has had a disproportionately high impact on women and other vulnerable groups as compared to the general population (Bangalie, 2011, pp. 15-16). Even though women experience the same trauma as the rest of the population during a conflict such as bombings, famine, epidemics, cleansing, threats and intimidation, they are also exposed to targeted forms of violence and abuse such as rape, forced pregnancies, sexual slavery, assault and exploitation (Birgen, 2015, p. 15). Women have participated in different roles in conflicts at various levels including household, community, national level and international level. Such roles include being victims of conflict, agents of destruction as well as agents of peacebuilding and post-conflict recovery (Kimokoti, Matanga, & Odada, 2014, p. 71). Violent conflict has plagued several African countries. In the past three decades, several parts of Uganda have experienced violent civil and armed conflicts. The most devastating conflict was in Northern Uganda which resulted in hundreds of thousand deaths, over 60,000 children abducted and close to two million people internally displaced. The armed conflict between the Lord's Resistance Army (LRA) and the government of Uganda turned northern Uganda into mayhem of human suffering. The LRA terrorized the local population with women and

girls being sexually violated (Ekiyor & Wanyeki, 2008, pp. 15-17). During the Rwandan genocide, women and young girls were sexually violated and a large number of them were left widowed. Women had to contend with negative traditional customs in the aftermath of the genocide in addition to having little or no means to earn income (Omondi, 2015,p.41). South Sudan's struggle for self-determination and self-government which began in 1955 and ended in 2011 led to the death of over two million people (Martin & Pelekemoyo, 2012, pp. 22-27) As in many conflict zones, South Sudanese women were not spared from the adverse effects of war. Beyond the death and displacement suffered by the general population, women experienced several gender-based violence with sexual violation being predominant (Martin & Pelekemoyo, 2012,p.31). Kenya has also experienced its share of violence against the general population and women in particular. As presented in the report by the Commission of Enquiry into the Post-Election Violence, the post-election of 2007/08 was the most violent conflict in Kenya's history. The violence resulted in 1,133 deaths and the displacement of over 300,000 people (Government of Kenya, 2008). The 2007/08 post-election violence saw violence meted out to men, women and children. Sexual violence against women increased with the intensity of the violence culminating in camps set up for internally displaced persons (IDPs). The women and girls who fled their homes and sought sanctuary in the IDP camps were exposed to and experienced gender-based violence ranging from all forms of sexual abuse and exploitation to physical and domestic violence. Women and girls were coerced into giving sexual favours for basic resources such as food, sanitary supplies and transport (Meredith & Njoki, 2011, pp. 1-9).

UNSCR 1325 in an instrument that was coined to aid in eliminating all forms of exclusion of women from formal peace building initiatives especially in post-conflict society. In October 2000, the UN Security Council through its Resolution 1325 (UNSCR 1325) formally recognized the relationship between women, peace and security, and the critical importance of women 's participation as reflected in leadership, empowerment and decision-making. Despite the existence of UNSCR 1325 in 2007, Kenya still experienced unimaginable levels of violence against women during the PEV of 2007/08. These could be blamed on the fact that even though the resolution was in place, its implementation mechanism through National Action plan was still lacking. Kenyan government only formulated its first National Action Plan 2016-2018 sixteen years after the UN resolution was in place. Even after the last dominant post-election violence of 2007/08, Kenya did not immediately develop the NAP. That could have contributed to other pockets of violence against women in 2013 general election. However, even with NAP lacking, Kenya undertook a number of measures in implementing UNSCR 1325 between 2008 and 2016 when the first NAP was launched. These efforts included the formation passing of Constitution of Kenya (CoK) that expanded the bill of rights including those protecting women from violence. The country also formed the National Steering Committee (NSC) on peace building and conflict management that operates from the national level to the grassroots level. The efforts could have led to reduced level of violence against women in subsequent election of 2013 and 2017 and the improved level of involvement of women in various peace security and peace processes in Kenya. However, pockets of violence were experienced in the said elections especially those that targeted the women. The mere existence of violence suffered by women in the elections of 2017 even after the adoption of UNSCR 1325 and the launch of the first NAP 2016-2018 can only mean protection of women has not been up to the threshold suggested in the UNSCR 1325. The study therefore sought to establish the gaps in the legal and institutional frameworks for the implementation of UNSCR 1325 in preventing post-election violence in Kenya.

2. Literature Review

2.1 Theoretical Framework

The study was underpinned by liberal feminist theory. Feminism is a diverse, competing and often opposing collection of social theories, political movements and moral philosophies largely motivated by or concerning the experience of women especially in terms of their social, political and economic inequalities (Adawo et al., 2011,p.25). Feminist theories attempt to describe women's oppression, explain its causes and consequences, and prescribe strategies for women's liberation (Tong, 2009,p.33). Based on the root causes of women's oppression and subordination, different feminist groups have emerged in different times. Although their assumptions and interests vary, the main goal is to identify the causes of women's oppression and suggest solutions to achieve gender equality. Among the varieties of feminism, liberal feminism is the most dominant and the groundwork for other feminist groups. The other variants of feminist theories include socialist feminism, Marxist feminism and radical feminism. Giddens and Sutton, (2017,p.23) define liberal theory as a "feminist theory that believes gender inequality is created by lowering access for women and girls to civil rights and allocation of social resources such as education and employment. This situation is mainly centred on the socially constructed ideology of patriarchy that perpetuates inequality between men and women. Liberal feminism is derived from the liberal political philosophy of the Enlightenment period, and centres on the core ideas of autonomy, universal rights, equal citizenship, and democracy (Tong, 2009, p.56). The theory focuses on individual rights and on the concepts of equality, justice and equal opportunities, where legal and social policy changes are seen as tools for engineering women's equality with men (Maynard, 1995,p.11). In its central assumption, liberal

feminism maintains that differences between women and men are not based on biology, which represents reproduction differences. Hence, women should have the same rights as men, including the same educational as well as employment opportunities. Unfortunately, liberal feminism cannot overcome the prevailing belief that women and men are intrinsically different; but to a degree, it succeeds in showing that, although women are different from men, they are not inferior (Nienaber & Moraka, 2016,p.13). According to liberal feminists, female subordination is rooted in a set of customary and legal constraints that block women's entrance to success in the public sphere such as peacebuilding. As stated in the work of Tong (2009,p.24), liberal feminism has two competing major ideologies. These are classical liberals and welfare liberals. The former liberals assert that the state's role should be protecting civil rights, providing everyone equal opportunity and freedom to enter into the free market; while the latter welfare liberals assert that the state should interfere to make adjustments to make the playing field equal for every gender through affirmative actions. The theory believes gender inequality in issues of involvement of women in peace processes is created by lowering access for women and girls to civil rights and allocation of social resources such as education and employment. The unequal involvement in peace processes is centred mainly on the socially constructed ideology of patriarchy that perpetuates inequality between two women and men.

2.2 *The UNSCR 1325*

In October 2000, the UN Security Council through its Resolution 1325 (UNSCR 1325) formally recognized the relationship between women, peace and security, and the critical importance of women 's participation as reflected in leadership, empowerment and decision-making. UNSCR 1325 provided the first international legal and political framework recognizing the disproportionate impact of armed conflict on women as well as the pivotal role of women in peace building. The resolution provides both a broad blueprint and concrete suggestions to help the international community incorporate gender perspectives into the women, peace and security agenda. (Stamnes & Osland, 2016, pp. 25-28). UNSCR 1325 is a landmark international legal framework that addresses not only the inordinate impact of war on women, but also acknowledges the pivotal role of women in conflict management, conflict resolution and sustainable peace. It is an internationally recognized legal framework for promoting gender equality. UNSCR 1325 is an eighteen-point resolution with an agenda for women, peace and security. It was passed unanimously under Article 25 of the UN Charter which states: Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with its present Charter (Stamnes & Osland, 2016, p. 13).

The UNSCR 1325 contains stipulations by the Security Council on the following key points: Involvement of women in peace and security decision-making processes (Articles 1-4 S/RES/1325). Incorporation of a gender perspective into peacekeeping operations and field missions together with gender-sensitive training for mission personnel (Articles 5-7 S/RES/1325). Incorporation of a gender perspective when negotiating and implementing peace agreements (Article 8 S/RES/1325). Protection of women and their rights during and after armed conflicts (Articles 9-15 S/RES/1325). Incorporation of a gender perspective in United Nations measures, reports and processes (Articles 16-17 S/RES/1325). Without doubt this represents a milestone in the fight for women' human rights and is an important instrument for advocating and protecting women 's rights in conflict and post-conflict situations. However, although UNSCR 1325 is part of international law, Chapter VII of the UN Charter does not cover it; consequently, its implementation cannot be enforced or non-compliance penalized on member states (Björkdahl & Mannergren Selimovic, 2015, p. 23). The member states are thus required to voluntarily implement its content raising the questions on who should ensure compliance hence the need for the current study.

The member states of the United Nations are urged in UNSCR 1325 to ensure increased representation of women at all decision-making levels in national, regional and international institutions and mechanisms for the prevention, management and resolution of conflict. The UN also requires member states to increase their voluntary financial, technical and logistical support for gender sensitive training efforts, including those undertaken by relevant funds and programs for instance United Nations Development Fund for Women (UNIFEM), United Nations Children's Fund (UNICEF) and United Nations High Commissioner for Refugees (UNHCR). The UNSCR 1325 also calls upon all parties of armed conflict to fully respect international law applicable to the rights and protection of women and girls, especially as civilians. It also calls all parties to take measures to protect women and girls from gender-based violence, particularly rape and other forms of violence in situations of armed conflict. It emphasizes the responsibility of all States to put an end to impunity and to prosecute those responsible for war crimes including those relating to sexual violence against women and girls and even stresses the need to exclude these crimes from amnesty provisions (Wamai, 2013, p. 25).

In spite of these positive views of UNSCR 1325 (2000), much of the existing academic literature, while not denying the necessity of the existence of the Resolution, is critical of its content and of the Resolution's potential to have a positive impact (Basu, 2009). Two negative aspects of the UN Resolution stand out in light of the literature; one concerns the implementation of UNSCR 1325 (2000) and the other the Resolution's discourse on the representation of women. Criticism tends to views it more as a cosmetic project presented by the members of the Security Council in an effort to appease women activists' (Tryggstad 2009, p.541). Rehn and Sirleaf Johnson (2002), while recognizing positive aspects of UNSCR 1325, they identified shortcomings that could affect its potential. They recognize that despite the peace building efforts of women, they are rarely present at the peace building table (Rehn & Sirleaf Johnson 2002, p. 76). So, while UNSCR 1325 'may appear to be an aberration', in reality 'it has been used as a means of co-opting gender dynamics in order to preserve the existing gender

status quo' and 'relations of inequality and the imbalance of power between women and men within the UN system (Puechguirbal 2010, p.184). National governments are a central actor as far as the implementation and supervision of practices and policies related to UNSCR 1325 are concerned. Consequently, national level of the implementation process is critical to successfully address women and peace and security issues as framed within the UNSCR 1325. Among the different ways in which countries operationalizes the resolution 1325, there are two distinct approaches that can be highlighted. The integrative approach, which can have three different expressions, to include provisions of the Resolution on National legislation, mainstream gender perspective into different aspects of a countries' peace and conflict policies and combining the implementation of multiple resolutions on the topic in a joint plan. The other approach is National Action Plans (NAP) that has been the most frequent option so far and the one strongly emphasized by the UN (Martin & Pelekemoyo, 2012, p. 21). A NAP is a specific plan developed by a UN member state to nationally implementation of the UNSCR 1325 and related resolutions 1820, 1888 and 1889 that promote women 's protection, participation, and leadership in the full spectrum of peace building processes. An official government document includes plans to mainstream gender into peace and security operations within a country. A NAP provides the opportunity for governments to initiate strategic actions, identify priorities and resources, and determine responsibilities among different actors. It includes periods for implementation and, ideally, benchmarks and accountability mechanisms (Björkdahl & Mannergren Selimovic, 2015, p. 321). At the end of 2013, the number of UNSCR 1325 NAPs had doubled, to 42. While that number is encouraging, it nonetheless indicates that fewer than 25 percent of the U.N. member countries have adopted a UNSCR 1325 NAP. Yet, the pace is quickening, and several 1325 NAPs are under discussion and in progress including in Jordan, Iraq, Japan, Argentina, South Sudan and Nigeria. In 2016, Kenya became one of the most recent countries to adopt a UNSCR 1325 NAP. Civil society organizations or women 's groups have also collaborated with their counter-parts across borders to encourage or pressure their individual governments to develop NAPs, or to push them to formulate regional action plans (Björkdahl & Mannergren Selimovic, 2015, p. 323)."

Slovenia prepared an Action Plan for the Implementation of UN Security Council Resolution 1325 with cooperation of all competent ministries as well as experts, non-governmental organizations and civil society, which was further adopted by the Government of the Republic of Slovenia in 2011. The Ministry of Defense and the Slovenian Armed Forces have already implemented provisions and requirements of UNSCR 1325 and introduced into regular activities, education and training programs for the defense forces. The Ministry of Defence strived to achieve equal gender representation in peace support operations and missions, notably in terms of participation of the Slovenian Armed Forces' female members in the decision-making processes and also in terms of their number. A comprehensive Strategy of the Republic of Slovenia on cooperation in international operations and missions adopted in 2009 also included objectives and proposals of the mentioned Resolution. The requirement to protect civilians and, therefore, women are also considered early in the mission planning (Jelušič, 2018, p. 59). In Bosnia and Herzegovina, Gender Equality Centre of Bosnia and Herzegovina coordinated the drafting the Action plan. Adopted by the Council of Ministers of Bosnia and Herzegovina in July 2010, the Plan was drawn up by the working group which consisted of the representatives of the Ministry of Defense, Ministry of Foreign Affairs, Ministry of Finance, Gender Centre of the Federation, Federal Ministry of Interior, Ministry of Interior and non-governmental organizations represented by the organization "Women to Women". The Action plan contains eight objectives: increase in the participation of women in decision-making positions, increase in the number of women in military and police forces, participation of women in peace-keeping missions, mine clearance actions, trafficking in people, assistance to women and girls who were victims during war conflicts, conducting of state officers' trainings and cooperation of governmental, non-governmental and international organizations. The Action Plan will accelerate the implementation of the UNSCR 1325 at the national level, either in vertical or in horizontal levels (Björkdahl & Mannergren Selimovic, 2015, p. 331)."

In Uganda, UNSCR 1325, UNSCR 1820 and the Goma Declaration on Eradicating Sexual Violence and Ending Impunity in the Great Lakes Region of 2008 jointly served as the basis for the Ugandan NAP. The Ministry of Gender Labor and Social Development of Uganda act as the national machinery responsible for initiating, implementing and coordinating policies and program that support women' empowerment and advancement. Uganda developed it developed the National Action Plan and Reporting Framework with the support from the United Nations Fund for Population Activities (UNFPA). The NAP acts a guide for the implementation of the UN Security Council Resolution (UNSCR) 1325 & 1820 and the Goma Declaration. The overall goal of the Uganda Action Plan is to ensure the protection of women and girls from gender-based violence, particularly rape and other forms of sexual abuse and guarantee increased representation and participation of women at all levels of decision-making in conflict resolution and peace processes. The Action Plan is focusing on the mandate of the different instruments, actions to address the existing gaps and challenges in accessing justice for victims of GBV, possible Actions for Implementation, monitoring, Systems of Collecting Information and Reporting Mechanisms and agency or Department or individual responsible for implementation (Ekiyor & Wanyeki, 2008, p. 57). In 2012, the Government of Kenya committed itself to addressing and responding to the immediate and long-term needs of women in peace and security by developing and adopting a National Action Plan on UNSCR 1325 and related resolutions. KNAP I was launched in 2016, designed around the four pillars of Participation and Promotion, Prevention, Protection, and Relief and Recovery, and implemented over a period of three years (2016–2018). KNAP I adopted a human security framework, emphasizing equal protection of individual citizens. It endeavored to better understand and address the root causes of socio-economic and political inequalities around peace and

security issues faced by women. It further expanded the meaning of human security to include securing livelihoods, environmental protection, and access to resources. It recognized that women's vulnerability to the effects of conflict and post-conflict contexts is exacerbated by unequal access to resources, opportunities, and services (GOK, 2020, pp. 2-3). Wamai (2013) in a working paper traced the impetus behind the adoption and implementation of the SCR 1325 in Kenya. It also explored the various challenges that have impeded the implementation of SCR 1325, more than 10 years after it was adopted and other women, peace and security resolutions such as liberal peace objectives without corresponding attention to contexts. The working paper also reviewed the general dilemmas faced in action plan development elsewhere and within Kenya specifically. The study concluded that there is need to work with women activists at the local level instead of relabelling their work as UNSCR 1325 led activities. This will need effective documentation, monitoring and reporting by coordinating unit of the SCR 1325. There is also need to build capacity of civil society organizations to monitor and implement the SCR 1325 through the KNAP. Wamai (2013) held that there is a need to ensure that Kenya's SCR 1325 is given the political and financial support needed for it to become a truly transformative action plan.

3. Methodology

3.1 Research Design, Population and Sampling

This study adopted a mixed methodology comprising qualitative and quantitative approaches. This study employed mixed paradigms research that according to Ivankova et al. (2006, p.46) makes use of both qualitative and quantitative research paradigms in a single study. The adoption of a mixed research design helped the researcher to gain a better understanding of the current study on impact of post-election violence of 2007/08 on Women in Kenya. This study population focused on the role of women at the grassroots level in the Kibra area of Nairobi. Kibra constituency is considered one of the hot spots of 2007/8 post-election violence (PEV) in Kenya. The target population comprised all individual women who are living in Kibra, leaders of local women groups who are actively engaged in peace activities, Sub County ward administrators, local area chiefs and individual women who were victims or had first-hand experience with PEV of 2007/08 or had been involved in post-conflict peacebuilding. Kibra area of Nairobi has five wards including Laini Saba, Lindi, Makina, Woodley/Kenyatta Golf Course and Sarang'ombe with a combined population of 185,777 (KNBS, Kenya National Bureau of Statistics, 2019). In collecting data from the individual women residing in Kibra Sub County, the study used stratified random sampling where the population of women in Kibra Sub County was divided into five administrative wards including Lindi, Makina, Laini Saba, Woodley and Sarang'ombe. The study then applied a simple random sampling technique to pick the women to participate in the study from each of the five administrative wards in Kibera Sub-County. Regarding the key informants, the study adopted purposive sampling. Purposive sampling was used to select leaders of local women groups who are actively engaged in peace activities, Sub County ward administrators and local area chiefs in Kibra Sub County. Concerning individual women who were victims or had first-hand experience with PEV of 2007/08, snowball sampling was adopted. The snowballing involved identifying the first case of women who were victims or had first-hand experience with PEV of 2007/08. The first cases identified then lead the researcher to other cases until 10 cases are identified. The ten cases provided narrative information on their experiences during the post-election violence of 2007/08 and peace-building initiatives thereafter. Since the population of women from the Kibra sub-county is large, the study adopted the formulae by Kothari (2012, p.77) to arrive at the sample size for the women residing in Kibra sub-county to be involved in the study as respondents. The formulae generated a population of 118. Regarding Key informants, the study purposefully selected the group of interest for the study. The key informants constituted leaders of ten (10) local women groups who were and are still actively engaged in peace activities within Kibra, five (5) sub-county ward administrators, five (5) area chiefs and ten (10) women who either were victims or had first-hand experience of PEV of 2007/08. This is to say one hundred and forty-eight (148) is the total number of people who participated in this study.

3.2 Data Collection

This study used semi-structured questionnaires to collect data from individual women residing in Kibra Sub County. The semi-structured questionnaires were administered to individual women who were randomly selected from the total population of women in Kibra sub- County. The questionnaires had both structured and unstructured questions. The respondents were required to fill out the questionnaires after which they were collected back immediately for further analysis. The study also used Key informant interviews to collect data from representatives picked from women's organizations and NGOs. The study specifically administered KII to leaders of women groups who are actively engaged in peace activities, sub-county ward administrators and area chiefs in Kibra Sub County. The KII was semi-structured and was carried out orally where the researcher took notes as the interview progressed. The interview schedule was prepared in advance before conducting the KII. Case Narratives (CNs) were conducted with ten women who had experienced the PEV of 2007/08 as well as participated in the PEV peace-building initiatives organised in the aftermath of the PEV. The case narratives focused on the experiences of the women during and after the PEV, the nature and scope of their participation in peace-building efforts, both formal and

informal, as well as their experiences in these processes. The narratives also focused on any emerging issues affecting women in the peace and security sector including opportunities for their increased and strategic participation. Secondary data was also used in this study. The secondary data were retrieved from government reports and websites, government policy papers, previous research done by civil society organizations, Kenya National Action Plan among other sources. The secondary data was used to fill information gaps in the primary data sources.

3.3 Data Analysis Methods

In analyzing qualitative data, content analysis was adopted in the examination of the impact of violent conflicts on women. Content analysis was situated within the specific contexts of the research questions. The content analysis was undertaken in three data analysis steps. Step one involved documentation of all the issues as were recorded during the various key informant's interview sessions. Step two involved clustering of all the issues under specific thematic areas. Step three involved the development of meanings and conclusions from the thematic areas about the key study objectives. Issues emerging from the key informant interviews were clustered into thematic areas upon which interpretation and conclusions were drawn. The interpretation used qualitative data to support the quantitative findings (Hsieh and Shannon (2005, p.1277). The quantitative information collected in the structured sections of the questionnaire was analyzed using simple descriptive analysis and the data was presented in the form of tables and associated explanations. Before engaging in the process of data collection, formal approval from the USIU ethics committee was obtained to proceed with the collection of data. The approval from the USIU ethics committee was used to obtain a research permit from the National Commissions of Science, technology and Innovations (NACOSTI). The study sought the voluntary and full consent of respondents and any respondent was at liberty to exit from the study at any stage if they felt threatened or uncomfortable with the questions. While, on the issues of anonymity and confidentiality, participants were assured that their names were not needed, as codes were used to represent the respondents.

4. Results and Discussion

4.1 Introduction and Demographics

Regarding the questionnaire, the researcher issued 118 questionnaires to the respondents of which 97 questionnaires were returned as being adequately filled and usable for data analysis. Fourteen (14) questionnaires were never returned with seven (7) questionnaires being rejected since they were not adequately filled. The response rate for the questionnaire was thus 82.2% which was more than adequate compared to the threshold of 70% suggested by Mugenda and Mugenda (2009). Concerning the key informants, 18 participated out of the targeted 20 respondents giving a response rate of 90%. Finally, regarding the case narratives, all targeted respondents were reached giving a response rate of 100%. The researcher also collected demographic information about the individual women living in Kibera who participated in filling out the questionnaires in the study. Regarding the length of stay in Kibra, the majority of the respondents had stayed in Kibra for 5 years and above with 41(42.2%) having stayed in Kibra for over ten years and 27(27.8%) having stayed in Kibra for between 5-10 years. This was followed by 15(15.5%) who had stayed in Kibra for between 3-5 years. Ten (10.3%) had stayed in Kibra for less than one year and the remaining 4 (4.1%) had stayed in the same area for between 1-3 years. It is evident that the majority of the respondents had stayed for a longer time hence they are aware of the challenges in Kibra including the impacts of 2007/08 PEV as well as peace-building efforts that followed. Regarding educational level, the majority of the respondents held secondary education qualification at 39 (40.2%), this was closely followed by 23(23.7%) with primary level education qualification. Those with postsecondary qualifications were 35(36%) of which 15(15.4%) held artisan qualifications, 11(11.3%) held a diploma and certificate qualifications, 7(7.2%) held bachelors level of education and finally 2 (2.1%) were holding post-graduate qualification. Given that the majority of the respondents were either holding secondary or primary level qualifications, they were the most exposed to post-election violence given that they were more likely living in poverty and not able to live in secured residential areas of Kibra.

4.2 Gaps in the Legal and Institutional Frameworks for the Implementation of UNSCR 1325 in Kenya.

Table 1: Legal and Institutional Frameworks for the Implementation of UNSCR 1325

	Mean	Std. Deviation
National Action Plan 2016-2018	4.4330	.59349
National Steering Committee (NSC) on peace building and conflict management	4.2990	.59800
The National Gender and Equality Act (2011)	4.2474	.55959
The Constitution of Kenya (CoK) of 2010	4.0515	.46483
The National Cohesion and Integration Act (2008)	4.0234	.45653
Vision 2030	3.6036	.56453

The Table 1 presents the findings based on the questionnaires, which is further propped by information collected via KII and

case narratives. The respondents who participated in filling the questionnaires were presented with various statements on legal and institutional framework that have helped to implement UNSCR 1325 in Kenya and they were expected to respond based on a five point Likert scale. In the scale, 1 was not at all, 2 was small extent, 3 was moderate extent, 4 was large extent and 5 was very large extent.

4.2.1 National Action Plan 2016-2018

The respondents who filled the questionnaires were of the majority opinion that National Action Plan 2016-2018 had contributed to a large extent in protecting women against violence during electioneering period and enhanced their participation in peace building process. This was evidenced by mean response and standard deviation of (M= 4.4330) and (SD= .59349). The finding implies that since the implementation of NAP begun in 2016, the level of violence against women reduced significantly in 2017 election compared 2007. The KII also delved into the role of NAP with respondents being asked about key policies that have been put in place by the government that are critical in implementing the UNSCR 1325. Most respondents mentioned that the implementation of NAP I and NAP II have contributed greatly to protecting women against violence during electioneering period and enhanced their participation in peace building process. One of the ward administrators in Kibra stated:

“The implementation of National Action Plan of Kenya was long overdue given that other countries had implemented their NAP long before us as a country. The policy had contributed in a significant way to protecting and or preventing violence against women especially during elections. The NAP that is domiciled in Ministry of Public Service, Youth, and Gender Affairs in coordination with Ministry of Interior and Coordination of National Government had stated clearly ways of protecting and or preventing violence against women. Prevention of violence was achieved through having improved gender-responsive early warning systems, increased capacity of security sector institutions to respond to threats of violence against women and girls and increased awareness of sexual and gender-based offences and prevention of all forms of violence against women...”

In KII with one of the area chief in Kibra, it was clear that the NAP also presented ways by which women are protected from gender-based violence and how they are involved in peace building efforts. The respondent stated:

“NAP has been a valuable document for the implementation of USCR 1325 and has contributed greatly to protecting women against violence and enhancing their participation in peace building process. NAP has led to enacted and strengthening of laws and policies that protect women’s and girls’ rights, enhancing awareness among all duty bearers and rights holders on the constitution and existing laws that protect women and girls and establishing and providing operational administrative units in all counties, staffed by personnel with gender expertise pertaining to sexual and gender-based violence....”

The NAP as a policy document has also enhanced the participation of women in peace building. In an effort to establish how NAP had contributed to involving women in peace building. In a KII with one of the leaders of women group that was actively involved in peace building efforts, the respondent stated:

“The National action plan has also contributed to increased participation of women at all decision-making levels especially at the grassroots level for the prevention, management, and resolution of conflict. This has been achieved through providing human, financial, technical, and logistical resources to facilitate women’s effective participation in leadership at the county level. Advocating for the appointment of women in leadership positions in institutions and mechanisms for the prevention, management, and resolution of conflict...Encouraging and supporting women’s active involvement in alternative forms of dispute resolution, including reconciliation, mediation, arbitration, and traditional dispute settlement....”

From the findings, it was very clear that National action had played a significant role in enhancing participation of women in peace building, helped prevent violence against women especially during electioneering period and protecting women against violence when violence does break out. Empirical study by Björkdahl and Mannergren Selimovic, (2015) have expounded the importance of NAP further. A NAP is a specific plan developed by a UN member state to nationally implementation of the UNSCR 1325 that promote women ‘s protection, participation, and leadership in the full spectrum of peace building processes (Björkdahl & Mannergren Selimovic, 2015, p. 321). A NAP provides the opportunity for governments to initiate strategic actions, identify priorities and resources, and determine responsibilities among different actors. It includes periods for implementation and, ideally, benchmarks and accountability mechanisms (Björkdahl & Mannergren Selimovic, 2015, p. 321).

4.2.2 National Steering Committee on peace building and conflict management

The study also presents the findings based on responses following the administration of questionnaires, KII and case narratives. Majority of the respondents who participated in filling the questionnaires were in support of the statement that National Steering Committee (NSC) on peace building and conflict management Contributed to protecting women against

violence during electioneering period and enhanced their participation in peace building as evidenced by mean and standard deviation corresponding to a large extent ($M= 4.2990$ and $SD=.59800$). The KII expounded further on the contribution of NSC in protecting women from violence and enhancing their participation in peace building process. One of the ward administrator explained the structure and objective of NSC as follows:

“The peace infrastructure and institutional framework in Kenya is a top to bottom approach comprising the National Peace Council (NPC), County Peace Secretariat and Local Peace Committees (LPCs). The NSC recognizes the UNSCR 1325 and seeks to increase representation of women at all levels in national, regional, international, and institutional mechanisms for prevention, management, and resolution of conflicts and reaffirms the important role that women play in these realms including peace-building processes. NSC policy ensures the implementation of SCR 1325 in all matters of peace and security in partnership with other national policies and strategies that address human security issues in the nation. NSC is based on six pillars namely: institutional framework, capacity building, conflict prevention, mediation and preventive diplomacy, traditional conflict prevention and mitigation, post conflict recovery and stabilization.”

In another KII with one of the chiefs who participated in the study, the officer explained how operation of NSC at the grassroots level in what is referred to as Local Peace Committees (LPCs). The chief stated: “Since the institution National Steering Committee on peace building and conflict management, the protection of women against violence and their participation in peace building has improved greatly. Here in Kibra, women are now actively involved in our local peace committees. This was not possible in the previous constitution. Wamai (2013, p. 165) noted that the implementation of Resolution 1325 requires linking National Action Plan for Kenya with other already existing local initiatives and frameworks such as National Steering Committee (NSC) on peace building and conflict management.

4.2.3 The National Gender and Equality Act (2011)

The respondents who participated in the filling of questionnaires agreed to a large extent that National Gender and Equality Act (2011) has contributed in enhancing participation of women in peace building and protecting from violence. This was evidenced by mean and standard deviation of ($M= 4.2474$ and $SD= .55959$). The findings implies that the National Gender and Equality Act (2011) have enhanced the involvement of women in political and socioeconomic issues. The findings is magnified further by document analysis of the National Gender and Equality Act (2011). The Constitution of Kenya (CoK) of 2010 in Article 59 of the pursuant to clauses (4) and (5) of that stablishes establishes the National Gender and Equality Commission charged with protecting the rights of women especially regarding their participation in political, social and economic activities. The National Gender and Equality Act (2011) has established the functions of National Gender and Equality Commission as shown in article 8. The article states that:

“The functions of the Commission shall be to— (a) promote gender equality and freedom from discrimination in accordance with Article 27 of the Constitution; (b) monitor, facilitate and advise on the integration of the principles of equality and freedom from discrimination in all national and county policies, laws, and administrative regulations in all public and private institutions; (c) act as the principal organ of the State in ensuring compliance with all treaties and conventions ratified by Kenya relating to issues of equality and freedom from discrimination and relating to special interest groups including minorities and marginalised persons, women, persons with disabilities, and children; (d) co-ordinate and facilitate mainstreaming of issues of gender, persons with disability and other marginalised groups in national development and to advise the Government on all aspects thereof...”

The National Gender and Equality Commission as stated in the act in article 8 has the responsibility of promoting gender equality and freedom especially in leadership positions and by extension into peace committees at all levels of the government. Further, article 8 of the act ensures that Kenya complies with international treaties and conventions ratified by Kenya relating to issues of equality and freedom from discrimination especially those based on gender. The articles ensures that international instruments for protecting the rights of women like UNSCR 1325 are implemented as required. The act is by extension critical in enforcing the UNSCR 1325 among other resolutions and instruments of gender protection. Further, as shown in the KII, the respondents were of the general opinion that National Gender and Equality has contributed into ensuring involvement of women in peace building efforts. One of the leaders of the women peace and conflict management in Kibra stated:

“National Gender and Equality act that establishes the National Gender and Equality commission has contributed in a major way in engraving women into their socio-economic positions in the society in general and Kibra in particular. To the best of my knowledge, the act has been instrumental in the involvement of women in peace building especially as recommended in the CoK and UNSCR 1325. The act recognises affirmative actions that are continuously being put in place in Kenya and here in Kibra in strengthening the participation of our women...”

The study therefore has revealed that National Gender and Equality Act enforced by National Gender and Equality Commission has contributed in a major way in empowering the women to be equal partners with men in socioeconomic development and political activity. The findings further implies that the participation of women in peace building as recommended in the UNSCR 1325 and CoK has been bolstered by the enactment of National Gender and Equality act (2011).

4.2.4 The constitution of Kenya (CoK) of 2010

The respondents who participated in the filling of questionnaires agreed to a large extent that the constitution of Kenya of 2010 had contributed in enhancing participation of women in peace building and protection from violence. This was evidenced by mean and standard deviation of (M= 4.0515 and SD=.4648). The findings imply that since the passing of the constitution in 2010, the violence meted on women at the election has reduced significantly. Additionally, the involvement of women in peace building processes has also been enhanced. From the document analysis, the study examined the provisions of the constitution of Kenya (CoK) 2010 especially on the bill rights. The Constitution of Kenya mandates the substantive inclusion and active engagement of women in the public sphere and provides quotas for women's inclusion in decision-making positions. "Article 27(3) states that Women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres." The Article 27(3) implies that the women, just like men, should be treated equally when it comes to involvement in peace building processes. There should be equal slots for women in leadership position in peace and conflict committees at all levels of the government.

Article 27(6) further states that: "State shall take legislative and other measures including affirmative action programmes and policies to redress any disadvantage suffered by individuals or groups because of past discrimination." The article 27(6) implies that the state should put in place necessary legislative and policy frameworks that are necessary for the involvement of women in peace building efforts. Some of the regulations that have been enacted by the parliament in line with this provision includes the 'National Gender and Equality Commission Act', 'The Political Parties Act (2011)', 'The Prohibition of Female Genital Mutilation Act (2011)' among other acts of parliament. Article 27(8) further states: "In addition to the measures contemplated in clause (6), 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." The article implies that in the appointments to peace and conflict management committees, the government must ensure that women get at least one-third of the available slots. The article ensures that women are involved in all processes of peace building and conflict management especially those that are aimed at ensuring peaceful elections. In Key Informants interview with one of the ward administrators in Kibera, the administrator stated:

"The constitution that we as Kenyans passed in 2010 has been very instrumental in protecting women from violence and encouraging their participation in peace building processes. The constitution has made it a requirement that at least one third of women must be selected in government leadership positions at all levels including membership of peace committees. For your information, women are part of Sub County and ward peace committees that are charged with conflict management and peace building here in Kibra."

The study findings based on document analysis and KII, it is clear that since the last worse PEV of 2007/08, the country passed a more progressive constitution in 2010 that has offered protection for women and encouraged their involvement in leadership positions. The findings has revealed that the constitution has been very critical in protecting the position of women in leadership positions. Martin and Pelekemoyo (2012, p. 21) noted that national governments are a central actor as far as the implementation and supervision of practices and policies related to UNSCR 1325 are concerned. Among the different ways in which countries operationalizes the resolution 1325 is by including provisions of the resolution on National legislation like the CoK.

4.2.5 The National Cohesion and Integration Act (2008)

The study, based on questionnaires' responses, established that The National Cohesion and Integration Act (2008) has also contributed in a significant way in protecting women from post-election violence. This is evidenced by mean response score and standard deviation (M= 4.0234 and SD= .45653). The findings implies that the National Cohesion and Integration Act (2008) that was enacted by the parliament has been instrumental in encouraging peaceful cointegration among Kenyans. The major beneficiaries of the peaceful coexistence are the women who are mostly affected during violence. A document analysis of the 'National Cohesion and Integration Act (2008)' establishes the role of the act in ensuring peaceful coexistence among Kenyans. The act in 3(1) and (2) has outlawed any form hate speech against any one that might stroke ethnic hatred. The act states that:

"A person who — (a) uses threatening, abusive or insulting words or behaviour, or displays any written material; (b) publishes or distributes written material; (c) presents or directs the performance the public performance of a play; (d) distributes, shows or

plays, a recording of visual images; or (e) provides, produces or directs a programme, which is threatening, abusive or insulting or involves the use of threatening, abusive or insulting words or behavior commits an offence if such person intends thereby to stir up ethnic hatred, or having regard to all the circumstances, ethnic hatred is likely to be stirred up. (2) Any person who commits an offence under this section shall be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding three years or to both.”

The act has outlawed any form of hate speech that is intended thereby to stir up ethnic hatred especially around election time. Any form of hate speech may stir up ethnic hatred that may lead to violence especially around election time. The protection of the citizens against any form of hate speech is intended to prevent violence against the population in general and women in particular. Further, Article 15(1) of the act “establishes the National Cohesion and Integration Commission that is charged with responsibility of enforcing the act. The commission has the main role of facilitating and promoting equality of opportunity, good relations, harmony and peaceful co-existence between persons of the different ethnic and racial communities of Kenya, and to advise the Government on all aspects thereof.” From the KII with one of the area chief in Kibra, the chief was of the opinion that the National Cohesion and Integration Act (2008) has been very critical in protecting the citizens and women in particular against violence that emanate from hate speech that may stroke ethnic violence. The chief Stated:

“The National Cohesion and Integration Act (2008) was passed against the backdrop of the PEV of 2007/08. The act was one of the by-products of the inquiry into the violence that happened in 2007/08. Most of the violence that happened all over the country and Kibera in particular were majorly because of hate speech that was being spewed by various political leaders. Since the act was put in place, the National Cohesion and Integration Commission has prosecuted, various political leaders who have been accused of hate speech with intention to cause ethnic hatred that might further lead to violence with ethnic under tones. This could be one of the reasons why the elections of 2013 and 2017 have been relatively less violence compared to the one of 2007/08...”

Generally, the study through document analysis and KII has established that the National Cohesion and Integration Act (2008) has been critical in protecting women against violence resulting from hate speech and ethnic hatred especially around election time.

4.2.6 Vision 2030

The study revealed that majority of respondents who filled the questionnaires were of the opinion that vision 2030 implementation had contributed to a moderate extent in enhancing participation of women in peace building and protecting from violence ($M= 3.6036$ and $SD = .56453$). The medium development plan (2013-2017) for the implementation of vision 2030 elaborates on the contribution of vision 2030 implementation on gender issues as follows:

“Kenya has ensured its compliance with international and regional obligations on gender equality and women empowerment. Key among the obligation and commitments include, the Millennium Development Goals, United Nation Convention on Elimination of All forms of Discrimination against Women and the Protocol to the African Charter to the Human and Peoples Rights on the Rights of Women in Africa. The country has over the years implemented various gender equality and women’s empowerment intervention programmes and policies to achieve gender parity. Women’s participation in leadership, governance and decision-making has increased from 20.5 percent in 2013 to 38.6 percent in 2017 due to the affirmative action measures. Notably the inclusion of gender mainstreaming in the performance contracting process has strengthened accountability on gender equality in public service. Women are progressively realizing their potential in all sectors especially in agriculture, education and sexual reproductive health rights (GOK, 2018, p.89).”

However, in a KII with one of the leaders of local women group for peace, the respondent was in agreement with information collected in questionnaires that stated that vision 2030 had contributed to protection of women against violence and participation in peace building was moderate. The leader stated:

“Even though vision 2030 implementation has been wonderful in elaborating on matter affecting women and has contributed to strengthening participation of women, the document does not put much stress on participation in peace building. The document also does not elaborate on protection of women from post-election violence. The document tends to focus on other aspects of empowering women in areas of leadership, entrepreneurship. The document alone cannot guarantee the women that they will be involved in peacebuilding efforts and be protected from all forms of violence especially post-election violence...”

From the information collected and analysed based on the questionnaires, KII and document analysis, it is evident that vision 2030 implementation has not been very instrumental in strengthening participation of women in peacebuilding and protection from electoral violence. However, the development plan implementation has enhanced empowerment of women in

other spheres including leadership in public offices, entrepreneurship, agriculture production, education and sexual reproductive health rights.

6. Conclusions and Recommendations

6.1 Conclusion

The objective of the study was to establish the gaps in the legal and institutional frameworks for the implementation of UNSCR 1325 in Kenya. The study employed questionnaires, KII and case narratives to collect relevant data. The study established a number of legal and institutional frameworks that have aided the implementation of UNSCR 1325 in Kenya. Some of the notable ones included: Kenya National Action Plan, National Steering Committee (NSC) on peace building and conflict management, the National Gender and Equality Act (2011), the constitution of Kenya (CoK) of 2010, the National Cohesion and Integration Act (2008) and Vision 2030. The study thus concluded that the implementation of UNSCR 1325 in Kenya has been aided by the above-mentioned instruments. The study further concludes that the implementation of UNSCR 1325 can never be complete without necessary domestic legal and institutional frameworks. The study findings are have a basis in empirical literature. Spasić (2019, p. 117) noted that the implementation of UNSCR 1325 is a shared responsibility between both the Government and nongovernmental actors such as civil organizations. Further, Spasić (2019, p. 117) revealed that, the government has the major role given that it has the primary objective of securing its citizens. The implementation of UNSCR 1325 was to be carried out through the National Action Plan (NAP) for individual UN member countries (Dahlström, 2013, pp. 15-117). The implementation of Resolution 1325 requires linking National Action Plan for Kenya with other already existing local initiatives and frameworks such as National Steering Committee (NSC) on peace building and conflict management and the 2010 Constitution of Kenya. The UNSCR 1325 is binding on the Governments of UN Member States and Kenya is not an exception (Wamai, 2013, p. 165). Kenya National Action Plan (KNAP) is built on four pillars: prevention, participation, relief and recovery (Akter, 2013, p. 17). The study is further based on Galtung's Conflict Theory. The theory identifies that the push by women to be recognized as significant peace builders has resulted in policies and frameworks that provide opportunities for their inclusion into the peacebuilding processes, from grassroots level to a higher level. The UNSCR 1325 seeks to tilt the grounds seeking for equal involvement of women and men in socio political process including peace building especially in post-conflict society. The finding is also based on liberal feminist Theory. Nienaber and Moraka (2016,p.13) noted that according to liberal feminists, female subordination is rooted in a set of customary and legal constraints that block women's entrance to success in the public sphere such as peace building. As stated in the work of Tong (2009,p.24), liberal feminism assert that the state's role should be protecting civil rights, providing everyone equal opportunity and freedom to enter into the free market. Further, the state should interfere to do adjustments to make the playing field equal for every gender through affirmative actions.

6.2 Recommendations

While Kenya has very many legal and institutional frameworks for the protection of women against violence and equal involvement in peace building, their implementation have come into question. For instance, the CoK in article 27 provides that women must be at least a third in any political and other government positions, it is clear that this requirement has not been implemented in political positions especially in the legislature. The parliament has to find a way of ensuring that article on gender equity is implemented fully. The legislations such as National Cohesion and Integration Act (2008) has not been fully implemented with hate speech capable of funning ethical hate is still a problem in Kenya with no serious punishment for offenders. It is important to note that Kenya 's Government as an implementing body has its own interests which do not always correspond with the interest of women. When working on gender justice it is important to use international agreements, such as the SCR 1325, as an umbrella that provides the guidelines for all reform programs at the same time. Local experience and local approach is needed, particularly from the grassroots. The top-down designs might not bring expected results as they tend to face the challenges related to the complex race, ethnicity, class, etc. Kenya 's Government must involve The UN but understand that SCR 1325 is not a UN program but a national program with full national and local ownership at all levels. There is need to have some monitoring activity going on in the country's implementation, follow up actions need to be improved and the funding system should be more consistent and systematic. Alternatively, involvement and participation in leadership should not be perceived as limited to the political and government arena alone, but also in the markets and communities. Therefore, it is important for Kenyan women and the society to be cognizant of this and monopolize the options to participate proactively and effectively in these arenas. More so, encouraging an approach where women participate by their capacity and capability, rather than viewing leadership only in the formal, creates a level of complementarity in the process of advancing women's meaningful participation in leadership and decision-making.

Conflicts of Interest

“The authors declare no conflicts of interest.”

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