



SADC

GENDER MONITOR

2009





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Tracking
Implementation of the
SADC Protocol on
Gender and Development



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FOREWORD

The Southern African Development Community (SADC) Heads of State and Government signed the Protocol on Gender and Development at their 28th Summit on 17 August 2008 in Johannesburg, South Africa. The Protocol provides concrete, time-bound targets to achieve gender equality in the SADC region. This milestone marks the end of an era of commitments to an era of implementation in the SADC region.

We therefore have to capitalise on this investment to move the agenda forward, with full understanding that “the time is now!”

The year 2009 is crucial for the region to strategise concretely for the implementation of the Protocol. This is also the year for preparatory activities for the Beijing +15 review. The Beijing +15 Review (Africa) meeting will be held in Banjul, Gambia on 16-20 November, 2009 to inform the global report.

While the momentum is still high due to the signing of the SADC Protocol on Gender and Development, it is important to advocate strongly for the ratification and accession of the Protocol. For the Protocol to enter into force for implementation, there is need for ratification by signatories. According to Article 40 of the Protocol, “This Protocol shall be ratified by the signatory states in accordance with their constitutional procedures.”

I am happy to announce that the Republic of Namibia ratified the SADC Protocol on Gender and Development on 7 October 2009. SADC is looking forward to more ratifications from other Member States.

There is need to be more organised in our agenda than ever before. Almost 15 Years since Beijing, the SADC region cannot afford to do business as usual. It is our expectation that with the SADC Protocol in place, a regional legally binding instrument, more action shall be taken as the commitment is much closer to home. The SADC Secretariat continues to invest in prudent strategies in order to facilitate Member States to implement their gender commitments on the ground.

The Secretariat has developed tools, frameworks and plans of action among others to catalyse action at national level. Support through various initiatives is also in place to instigate more action towards implementation and recent examples are in Gender Mainstreaming, Women in Politics and Decision-Making, Gender Based Violence, including Trafficking in Persons as well as Monitoring and Evaluation.

Regarding Gender Mainstreaming, the Secretariat undertook the development of a SADC Gender Mainstreaming Resource Kit which serves as day-to-day reference material for sectoral staff at the Secretariat and in Member States. The SADC Gender Mainstreaming Resource Kit aims to make gender mainstreaming the centrepiece of organisational practice in the SADC Secretariat and the entire regional integration agenda. These efforts are instrumental in ensuring that all the regional integration activities have a gender face.

Regarding Women in Politics and Decision-Making positions in the region, SADC convened a regional meeting of SADC Member States and partners to formulate a strategy for achieving the 50/50 target of women in politics and decision making in SADC by 2015. The main purpose of the strategy is to serve as a planning guide for SADC Member States towards the implementation of activities geared to the achievement of gender parity. All SADC Member States are expected to develop action plans on the basis of this strategy. As clearly demonstrated in this issue of the *SADC Gender Monitor*, a lot still needs to be done to realise this target.

As a region we can draw lessons from Rwanda after realising a legislature in which women outnumber men for the first time in history in the whole wide world. The results of the 2008 parliamentary elections in Rwanda gave women 45 out of the 80 seats in the chamber of deputies translating to more than 50 percent, which is the highest proportion in the entire world. It is the hope of Secretariat that all Member States shall put in place deliberate efforts to fast-track the implementation of this critical area of concern.

The Secretariat hosted a conference for SADC Member States in Maputo, Mozambique from 26–28 May 2009 on Trafficking in Persons, especially Women and Children. The conference deliberated on the challenges of combating trafficking, and reviewed and adopted



Magdeline Mathiba-Madibela
Head of SADC Gender Unit

the Ten Year Strategic Plan of Action on Combating Trafficking in Persons, especially Women and Children, in the SADC Region.

The Regional Strategic Plan of Action was adopted by SADC Ministers responsible for combating trafficking in persons and was submitted to SADC Council of Ministers for approval in August 2009. SADC Member States now have a basis for action on this issue at national and regional levels. The critical need to deal with this issue now is the potential increase in trafficking of women and girls for the 2010 World Cup to be hosted within our region.

Gender-based violence is one of the key intervention areas that the SADC region needs to address urgently as stipulated in the SADC Protocol on Gender and Development. The need to train service providers, such as law enforcement personnel, on how to effectively respond to cases of violence against women and children has been identified. In line with this provision, the Secretariat signed an agreement with the United Nations Office on Drugs and Crime (UNODC) and the Southern African Regional Police Chief's Cooperation Organisation (SARPCCO) on a pilot project that is targeting in its first phase Botswana, Lesotho, Namibia, Mozambique, South Africa and Zimbabwe. The project is assisting the beneficiary Member States to develop training modules using the UNODC Handbook and the Regional SARPCCO training manual to contextualise the training modules to country specificity and also develop public awareness materials on gender-based violence.

Regional efforts on the critical area of concern on Women's Economic Empowerment are in line with one of SADC's main objectives, "to achieve development and economic growth, alleviate poverty, enhance the standard and quality of life of the people of Southern Africa and support the socially disadvantaged through regional integration."

In view of the current SADC economic integration agenda, more concrete effort to strengthen the capacity of women to participate more effectively in the economic activities of our countries is crucial. The Secretariat has mobilised support from Inwent: Capacity Building International, Germany, to embark upon a regional programme for women's economic empowerment. The project is entitled, "Chamber and Advisory Network and Cooperation for Women Entrepreneurs (CHANCE); Dialogue and Networking Business Intermediaries in the Southern African Development Community and the South Asia Association for Regional Cooperation (SAARC). The specific activities of the project will include Fellowship Programmes, Summer School in SADC/SAARC, study tours, inter-regional skills and information exchange and trade fairs.

In line with the SADC Protocol on Gender and Development, efforts must be made to enable women in business to scale up their business and upgrade from informal to formal trade.

Regarding Monitoring and Evaluation, the Secretariat is developing a Regional Gender Monitoring Tool (RGM) to monitor progress in the implementation of the SADC Protocol on Gender and Development. This will provide a framework for assessing progress in implementation of the Protocol. It is envisaged that usage of RGM will enable more precise reporting that may appropriately guide further planning, implementation and effective monitoring and evaluation of SADC gender commitments.

With the support of United Nations Economic Commission for Africa (UNECA), Member States will gather for a regional meeting to review the initial draft in preparation for its finalisation and submission to Ministers Responsible for Gender and Women Affairs for approval in October 2009.

More strategic and focused planning is necessary to achieve gender equality. The challenges that we face in the fight for gender equality needs more organising than ever before. Efforts at regional level have a great bearing on Member States, but specific national level activities are essential to make an impact in the lives of women and girls in our communities.

The Struggle Continues!

Magdeline Mathiba-Madibela
Head of SADC Gender Unit

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ACRONYMS

ACP	Africa Caribbean and Pacific
ACRWC	African Charter on the Rights and Welfare of Children
AIDS	Acquired Immune Deficiency Syndrome
BEAM	Basic Education Assistance Module
BESSIP	Basic Education Sub-sector Investment Programme
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
CHANCE	Chance and Advisory Network and Cooperation for Women's Entrepreneurs
CRC	Convention on the Rights of the Child
DRC	Democratic Republic of Congo
EEO	Equal Employment Opportunity
EFA	Education for All
FemAct	Feminist Activism Coalition
FPTP	First Past The Post
GBV	Gender Based Violence
HAM	High Authority of Media
HIV	Human Immunodeficiency Virus
ICT	Information Communication Technology
ILO	International Labour Organisation
MDGs	Millennium Development Goals
MECOZ	Media Council of Zambia
NICI	National ICT Infrastructure
PEDP	Primary Education Development Programme
PR	Proportional Representation
PRSPs	Poverty Reduction Strategy Programmes
RGMT	Regional Gender Monitoring Tool
RISDP	Regional Indicative Strategic Development Plan
SADC	Southern African Development Community
SADC PF	SADC Parliamentary Forum
SARDC	Southern African Research and Documentation Centre
SARPCCO	Southern African Regional Police Chief's Cooperation Organisation
STI	Sexually Transmitted Infection
TGNP	Tanzania Gender Networking Programme
UNAIDS	United Nations Programme on HIV and AIDS
UNESCO	United Nations Education, Scientific and Cultural Organisation
UNICEF	United Nations Children's Fund
UNIFEM	United Nations Development Fund for Women
UNODC	United Nations Office on Drugs and Crime
WIDSAA	Women In Development Southern Africa Awareness
WLSA	Women and Law in Southern Africa
ZWRCN	Zimbabwe Women's Resource Centre and Network

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Every effort has been made to check and verify data, and to use data originating in the SADC region insofar as possible. If errors or omissions are discovered, we would greatly appreciate your assistance in pointing them out and providing more information to strengthen the next issue of the *SADC Gender Monitor*.

SADC PROTOCOL ON GENDER AND DEVELOPMENT

1

Background

The SADC Protocol on Gender and Development was signed by SADC Heads of State and Government at their 28th Summit, held in Johannesburg, South Africa, on 17 August 2008. The objectives of the Protocol are to:

- ◆ Provide for the empowerment of women, to eliminate discrimination and to achieve gender equality and equity through the development and implementation of gender responsive legislation, policies, programmes and projects;
- ◆ Harmonise the implementation of the various instruments to which SADC Member States have subscribed to at regional, continental and international levels on gender equality and equity;
- ◆ Address emerging gender issues and concerns;
- ◆ Set realistic, measurable targets, time frames and indicators for achieving gender equality and equity;
- ◆ Strengthen, monitor and evaluate the progress made by Member States towards reaching the targets and goals set in this Protocol; and
- ◆ Deepen regional integration, sustainable development and community building.

The Protocol addresses the following critical issues that affect women in the region:

- ◆ Constitutional and legal rights
- ◆ Governance
- ◆ Education and training
- ◆ Productive resources and employment
- ◆ Gender-based violence
- ◆ Health and HIV and AIDS
- ◆ Peace-building and conflict resolution

- ◆ Media, information and communication.

The Protocol provides concrete, time-bound commitments to achieve key strategic objectives and marks the end of an era of commitments to an era of implementation of gender targets within the SADC region. For the purpose of the SADC Protocol on Gender and Development, the following principles shall apply for all State Parties:

- ◆ Harmonisation of national legislation, policies, strategies and programmes with relevant regional and international instruments related to the empowerment of women and girls for the purpose of ensuring gender equality and equity.
- ◆ Decisions on all matters relating to the implementation of this Protocol by consensus.
- ◆ Cooperation in facilitating the development of human and technical capacity for the implementation of this Protocol.
- ◆ Putting in place the necessary policies, strategies and programmes to facilitate the implementation of this Protocol.

The SADC Protocol on Gender and Development provides a mechanism to:

- ◆ monitor and evaluate the progress made by Member States towards the agreed goals and targets;
- ◆ create a forum for involving stakeholders and sharing experiences in the implementation of the Protocol; and,
- ◆ deepen regional integration, sustainable development, and community building.



The Road Towards the Protocol

SADC Ministers responsible for Gender and Women Affairs initiated the process of upgrading the SADC Declaration on Gender and Development (1997) to a Protocol when they met in Maputo, Mozambique in 2001. The motivation arose from the reality that in legal terms, a declaration is a statement of intent and commitment, which has more of a moral than a binding effect.

Ministers affirmed that a Protocol would strengthen the commitments already expressed in the Declaration, providing an opportunity for Member States to incorporate existing commitments into national legislation, consolidate them, and use the lessons from their implementation to design new strategies and accelerate progress towards gender equality.

An audit of gender commitments in SADC was commissioned by the SADC Gender Unit and SADC Parliamentary Forum in 2005. This audit revealed that, while progress was recorded with achievements in some key areas, a lot more still needs to be done to ensure gender equality in the region. One of the recommendations from the audit process was that a Protocol should be developed to accelerate gender equality in SADC through elevating the Declaration on Gender and Development into a Protocol as proposed in Article 26 of the Addendum to the Declaration on the Prevention and Eradication of Violence against Women and Children, which makes provision to adopt legally binding instruments on gender.

A Regional Consultative Conference organised by the SADC Gender Unit in December 2005 in

Gaborone, Botswana made clear recommendations pertaining to the facilitation of drafting and process towards the adoption of the SADC Protocol on Gender and Development.

In August 2005, Council of Ministers approved the drafting of the SADC Protocol on Gender and Development, and Summit 2005 endorsed the process, further emphasising the need to ensure thorough consultations with the Member States.

In response to the Summit decision, the SADC Secretariat embarked upon a consultation process to initiate the drafting. A Regional Taskforce was constituted to spearhead the process. The Taskforce comprised the SADC current Chair, outgoing Chair and incoming Chair, and representatives from the civil society and development partners.

The first meeting of the Taskforce was held in Gaborone, Botswana on 28–29 March, 2006. The objectives of the meeting were to finalise the terms of reference for the Taskforce, develop a road map for drafting the Protocol, and develop drafting instructions for the Protocol. Following that meeting, the Secretariat engaged a legal expert to develop a zero draft of the SADC Protocol on Gender and Development guided by the drafting instructions.

In August 2006, Council of Ministers met in Maseru, Lesotho to note progress made in the drafting process. Council of Ministers mandated the SADC Ministers responsible for Gender and Women Affairs to meet before end of 2006 to discuss the draft Protocol as well as other issues within the SADC gender agenda.

On completion of the zero draft, a technical roundtable of experts (legal and gender) was convened on 14–15 September 2006 in Johannesburg, South Africa to review and interrogate the draft in preparation for the Ministers meeting. SADC Ministers Responsible for Gender and Women Affairs met in Maseru, Lesotho in November 2006 to review the zero draft Protocol on Gender and Development, and approved it for national consultations. SADC Member States engaged in national consultations and solicited for inputs for the draft Protocol.

On 16–18 April 2007, SADC Secretariat convened a SADC Gender and Development Stakeholders Consultative Meeting with delegates from the then 14 SADC Member States representing Ministries Responsible for Gender and Women Affairs, as well as representatives of

civil society and development partners to finalise the draft Protocol on Gender and Development.

The meeting synergised inputs from national consultations with a view to enriching the final draft of the SADC Protocol on Gender and Development. This meeting further strengthened stakeholder investment in both the Protocol and the policy documents. The Ministers responsible for Gender and Women Affairs met on 19–20 July 2007 in Maputo, Mozambique to review the draft and approve it for Council and Summit 2007.

In August 2007, in Lusaka, Zambia, the draft Protocol was submitted to Senior Officials and then to Council of Ministers. Council noted that some amendments were required on a number of sections and those amendments were effected accordingly. After consideration of the draft Protocol,

Roadmap Towards the 2008 Signing of the SADC Protocol on Gender and Development

Table 1

ACTION	INSTITUTION	TIMEFRAME
Regional Strategy Meeting for Senior Officials Responsible for Gender and Women Affairs	Secretariat	Dec 2007
National Consultations with all Stakeholders on the draft Protocol on Gender and Development	Member States (Ministries responsible for Gender and Women Affairs) National Stakeholders	Jan – March 2008
Ministers Responsible for Gender and Women Affairs Meeting	Secretariat, Member States	April 2008
Ministers of Justice Meeting	Secretariat, Member States	May 2008
Submit final draft to Senior Officials for Council of Ministers	Secretariat	Aug 2008
Submit final draft Protocol to Summit	Secretariat	Aug 2008
Adopted & Signed Protocol	Summit	Aug 2008
Source: SADC Secretariat Gender Unit		

Council recommended the draft Protocol to Summit for approval and signing. However, Summit 2007 deferred adoption of the Protocol to 2008 to allow further consultations with national stakeholders.

The Secretariat convened a meeting of Senior Officials Responsible for Gender and Women Affairs in Livingstone, Zambia in December 2007. The purpose of the meeting was to strategise on the drafting, advocacy and lobbying process for the next policy meetings taking into consideration the decision of Summit 2007. The Senior Officials mandated the Secretariat to develop a clear roadmap towards Summit 2008 and guidelines for Member States to facilitate national consultations.

In addition to the Roadmap shown in Table 1, guidelines were

crafted by the Secretariat to assist Member States in fast-tracking consultations at national level. See Box 1.

Ministers Responsible for Gender and Women Affairs met on 30 April 2008 in Windhoek, Namibia to consolidate inputs from national consultations. The Ministers unanimously adopted and recommended the draft SADC Protocol on Gender and Development for consideration by the Committee of Ministers of Justice and Attorneys-General at their meeting on 27 June 2008 in Lusaka, Zambia.

The Committee of Ministers of Justice and Attorneys-General considered the draft Protocol on Gender and Development and recommended it to Council for consideration and approval prior to forwarding for signature by the SADC Heads of State and Government. The final draft of the SADC Protocol on Gender and Development was approved by the SADC Council of Ministers in August 2008 for presentation to Summit.

On 17 August 2008, SADC Heads of State and Government meeting in Sandton, South Africa approved and signed the SADC Protocol on Gender and Development.

Approval of the Protocol at the 2008 Summit brings with it the need for action by all stakeholders so as to accelerate the empowerment of women in the region through speedy implementation.

Planned initiatives towards implementation of the agreement include development of a regional monitoring tool that will track implementation, and another to develop guidelines for the implementation of the 50 percent target representation of women in politics and decision-making.

Guidelines for National Consultations Box 1

- ◆ National Workshop to brief the stakeholders on progress and next processes (The list of stakeholders must include officer level from the gender stakeholders, and all the other Ministries and officers mentioned below. This will be in preparation for Ministerial level briefings and consultations);
- ◆ Briefing of Minister(s) responsible for Gender and Women Affairs;
- ◆ Consultations and consensus building with the SADC National Contact Point (Ministry of Finance and Development Planning or Ministry of Foreign Affairs);
- ◆ Consultations and briefing of the Women's Parliamentary Caucuses;
- ◆ Consultations and briefing of Parliament;
- ◆ Consultations and thorough briefing of the Cabinet;
- ◆ Consultations and thorough briefing of the Office of the President including the President and/or Prime Minister.

Source: SADC Secretariat Gender Unit

Former South African President, Thabo Mbeki, who hosted the 2008 Summit at which he became SADC Chairperson, said the signing of the Protocol on Gender and Development was one of the most important decisions that the regional organisation took in 2008.

“This Protocol is important because it consolidates all the important SADC policies and programmes dealing with gender equity. The Protocol will help our region to advance the process of women’s emancipation through policies, laws, programmes and projects which all member states have to implement,” Mbeki said.

Source: *Southern African News Features*, 09 no 4, January 2009, sardc.net

The Process Towards Ratification and Implementation

With the signing of the Protocol comes the challenge of ensuring ratification and domestication of the instrument into national laws. Speedy ratification of the Protocol shows readiness by Member States to begin implementation, followed by domestication of the regional policy into national legislation and policy.

Article 40 says, “The protocol shall be ratified by the signatory states in accordance with their constitutional procedures.”

To formalise the ratification, a Member State is required to deposit legal papers known as Instruments of Ratification with the SADC

Secretariat. The ratification process can be lengthy before the Protocol receives approval of the requisite two-thirds of Member States for it to have legal force.

Domestication Procedure

There are two main approaches to domestication:

- 1 The monist approach – this enables the direct application of a treaty in the domestic legal system once it has been ratified. A State party which uses this approach does not have to enact legislation to give effect to the treaty in the national law, rather the mere act of ratification makes the treaty applicable in domestic law.
- 2 The dualist approach – Ratification under this approach must be followed by the enactment of legislation, which incorporates the provisions of the treaty into national law for the treaty to have effect.¹

Ratification is the act by which a state confirms the signature of a treaty by its representatives. By ratification, the state expresses its final and definite accord to be bound by the agreement. As a general rule, ratification is the responsibility of the Head of State, following approval by Parliament.

Domestication is the integration of the decisions contained in the Protocol into domestic law.

Source: *The SADC MPs Companion on Gender and Development in Southern Africa*, SADC PF and SARDC WIDSAA, 2002

Ratification and Domestication		Table 2
Country	Ratification procedure	Domestication approach
Angola	Article 88 of the Constitution <ul style="list-style-type: none"> ♦ The President shall have the power to ratify international treaties when duly approved, and sign the instruments of approval of other treaties in simplified form ♦ The National Assembly approves national treaties on matters within its absolute legislative powers as well as treaties on peace 	Dualist
Botswana	The ratification of international treaties does not require parliamentary approval. A decision by Cabinet is enough to allow for prompt ratification	Dualist Treaties and conventions do not confer enforceable rights on individuals within the State until Parliament has legislated its provisions into law
DRC	*	Monist International treaties and conventions become “domestic” law, after publication in the national Gazette
Lesotho	*	*
Madagascar	Article 56 (3) of the Constitution <ul style="list-style-type: none"> ♦ The President of the Republic shall negotiate and ratify international treaties ♦ Article 82(2)(VIII) Ratification of treaties which commit state finances, which deal with the status of Persons, peace treaties, treaties that involve the ceding, exchange or acquisition of territory must be authorised by law ♦ Prior to ratification, treaties must be submitted by the President to the Constitutional Court. In case of non-conformity, ratification may only take place under Constitutional revision 	*
Malawi	Chapter VIII(89)(1f) of the constitution <ul style="list-style-type: none"> ♦ President has powers to negotiate and sign international agreements 	Dualist Chapter XXII(211) Any international agreement ratified by an Act of Parliament shall form part of the law of the Republic if so provided in the Act of Parliament ratifying the agreement
Mauritius	*	*

Ratification and Domestication

continued...

Mozambique	*	Monist Article 18 of the Constitution of Mozambique - International agreements, once approved and ratified, are part of Mozambique's national legal system and have the same weight as legal norms established by Congress or the Executive, but do not take precedence over the Constitution
Namibia	Article 32 (3)(e) ♦ The President shall negotiate and sign international agreements Article 63 (2)(e) ♦ The National Assembly shall agree to the ratification of international agreements which would have been negotiated and signed	Monist Article 144 of the Constitution Unless otherwise provided by this Constitution or Act of Parliament, the general rules of public international law and international agreements binding upon Namibia under this Constitution shall form part of the Law of Namibia
Seychelles	*	*
South Africa	Chapter 14 of the Constitution ♦ Negotiation and signing of international agreements is the responsibility of the national executive ♦ An international agreement binds the Republic only after it has been approved by resolution in both the National Assembly and the National Council of Provinces	Dualist Any international agreement becomes law when it is enacted into law by national legislation; but a self-executing provision of an agreement that has been approved by Parliament is law in the Republic unless it is inconsistent with the Constitution or an Act of Parliament When interpreting any legislation, every court must prefer any reasonable interpretation of the legislation that is consistent with legislated law over any alternative interpretation that is inconsistent with international law
Swaziland	Section 258 of the Constitution An international agreement executed by or under the authority of the government shall be subject to ratification and become binding on the government by either an Act of Parliament or a resolution of at least two-thirds of the members of a joint sitting of the 2 chambers of Parliament	Dualist Unless it is self-executing, an international agreement becomes law in Swaziland only when it is domesticated by an Act of Parliament

Ratification and Domestication <i>continued...</i>		
United Republic of Tanzania	Chapter 3(63)(3)(e) of the Constitution National Assembly may deliberate upon and ratify all treaties and agreements to which the United Republic is party and the provisions of which require ratification	*
Zambia	Article 44 (2)(d) of the Constitution The President shall negotiate and sign international agreements and to delegate the powers to do so	Dualist An enabling statute has to be passed by Parliament for the purposes of domestication
Zimbabwe	Section 111B of the Constitution Parliament approval needed for ratification to occur Section 111B(1)(b) State is under obligation to take measures to domesticate the human rights treaties that they have ratified or acceded to, so that those treaties will have effect in national law	Dualist
* No data available Source: Compiled by SARDC WIDSAA from various SADC Constitutions		



SADC Member States have set targets in their Protocol on Gender and Development to enshrine gender equality into national constitutions where this is not already the case. Member States have anti-discrimination clauses in their constitutions, or specific provisions for gender equality, but plan to strengthen and align these provisions, and have given priority to instituting new policies and laws safeguarding women's legal and human rights.

All SADC countries are party to the UN Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), which came into force 30 years ago, in 1979. CEDAW is an agreement by governments to incorporate the principle of equality of men and women into their legal systems, abolish all discriminatory laws, and adopt appropriate legislation prohibiting discrimination against women.

Constitutional Rights

All countries in the region have some constitutional provisions toward gender equality. Where there have been constitutional reform processes; debates have tackled the subject of clear protection of women and children's rights as well as more representative electoral systems, including affirmative action for entry of more women into political positions.

In the gender protocol, SADC Member States have set targets to ensure women's constitutional rights:

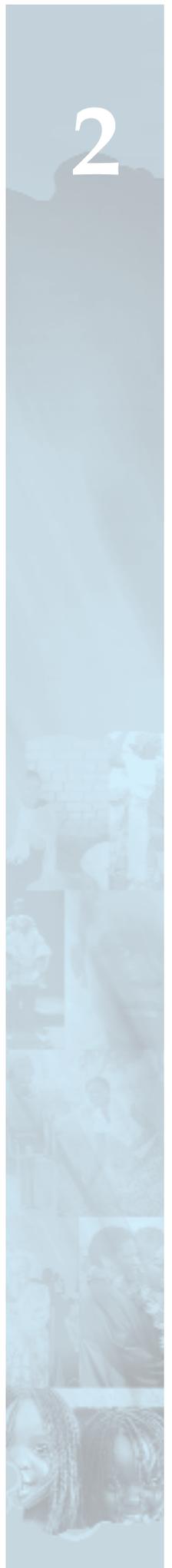
- ◆ Enshrine gender equality into national Constitutions by 2015;
- ◆ Ensure that these rights are not compromised by any other provisions, laws or practices;
- ◆ Implement legislative and other measures to eliminate all practices that negatively affect fundamental human rights of women.

All countries in SADC except Seychelles have a dual legal system with formal/general law operating in conjunction with customary and religious law. The plurality of the legal system has meant that some social issues, such as crime or commerce fall exclusively under formal or general law, whereas family issues fall under both general and customary law. This means that some legal rights for women are available but some are not. For instance, a right under the general law may not exist under the customary law, and failure to comply with the necessary conditions for accessing the general law may preclude one from claiming or knowing this right.²

Generally, customary law in the different countries regards women as:

- ◆ minors under the control and guardianship of men;
- ◆ having little or no rights to property, particularly land;
- ◆ having no direct rights to inheritance; and
- ◆ having no right to custody and guardianship of their children, even those born out of wedlock.³

Due to this view of customary law, the legal system is skewed in most countries and problems may arise as a result of interpretation of customary law by courts to the disadvantage of women. For example, in Zimbabwe, in the case of *Magaya vs Magaya*, the Supreme Court held that notwithstanding the Legal Age of Majority Act granting women legal capacity, this did not mean that they now acquired rights they had traditionally been denied under customary law.⁴ Table 3 shows that all countries in the region have some provisions toward full constitutional rights for women.



Gender Provisions in Constitutions			Table 3
Country	Gender equality provision in the constitution	Civil/customary law	Women's legal status
Angola	Article 18 (1,2) provides for equality irrespective of sex and sexual discrimination is prohibited Article 29 provides for equality between men and women in the family, with the same rights and duties	Dual system – Does not provide for non-discrimination in matters of personal law	Legal age of majority is 18, as guaranteed by the constitution – all citizens have a right and duty to participate in public life
Botswana	Section 15 protects against discrimination, but excludes protection from discrimination on the basis of sex	Dual system – Does not provide for non-discrimination in matters of personal and customary law	Legal Age of Majority Act sets age of majority at 21 but still subject to male guardianship all their lives under customary law
Democratic Republic of Congo	Article 14 promotes women's equal rights and their participation in the development of the nation. It guarantees women's rights to a significant representation in local and national institutions. Sexual violence is labelled a crime against humanity	Dual system – (Belgian and Customary) Customary law regulates matters to do with personal law	Minor
Lesotho	Section 18 protects from discrimination based on sex	Dual system – Does not provide for non-discrimination in matters of personal and customary law, for example issues to do with marriage, divorce, custody and inheritance	Major
Malawi	Section 20 protects against discrimination on the basis of sex Section 22 provides for full and equal respect of individuals within the family Section 24 provides for the rights of women to equal protection of the law, non-discrimination in marriage, capacity to enter into legally binding agreements, individual property, custody and guardianship of children, to acquire and retain citizenship and nationality, equal rights on divorce, protection from violence, discrimination at work, and deprivation of property, elimination of harmful/discriminatory customs and practices	Dual system – Some of Malawi's traditional laws, procedures and practices may infringe on women's rights	Major

Gender Provisions in Constitutions <i>continued...</i>			
Madagascar	Article 8 (2) of the constitution prohibits discrimination based on sex	Dual law – Customary law in matters of personal law can be discriminatory to women	Major
Mauritius	Section 16 excludes protection from discrimination on the basis of sex	Islamic Sharia law operates for Muslims and it can discriminate against women in issues of personal law, including issues of marriage, divorce and inheritance	Major
Mozambique	Article 66/67 provides for equality of rights between men and women in all spheres of political, economic, social and cultural affairs	Dual system – There is an emphasis on the protection of tradition and culture	Major
Namibia	Article 10 provides for protection from discrimination on the basis of sex Article 14 provides for equal rights between men and women, in, during and at the dissolution of marriage	Dual system – Does not provide equal rights in all areas pertaining to personal and customary law	Legal age of majority is 21 – Age of Majority act 52/1972
Seychelles	Has no specific provision on freedom from discrimination on the basis of sex or gender. Section 30 protects the rights of working mothers	Does not use the dual system	Major
Swaziland	Chapter 3 Section 28 (1-3) provides for equal treatment of men and women, including equal opportunities in political, economic and social activities ♦ Government to provide facilities and opportunities necessary to enhance the welfare of women to enable them to realise their full potential ♦ Women shall not be compelled to undergo or uphold any custom to which she is in conscience opposed	Dual system – Common law and Swazi customary law	Major
South Africa	Section 1 provides for democratic values of non-sexism Section 9 prohibits discrimination on the grounds of sex, gender, pregnancy, marital status and sexual orientation Section 12 (2) provides for the right to bodily and psychological integrity, including decisions on reproduction, security in and control of one's body	Dual system – Makes no specific reference to the equal rights of women in matters of personal and customary law	Major

Gender Provisions in Constitutions <i>continued...</i>			
United Republic of Tanzania	Article 12 and 13 provide for equality of persons and equality before the law Article 13 (5) prohibits discrimination based on sex	Dual system – Does not provide for non discrimination or equal rights under customary law	Major
Zambia	Article 23 protects individuals from discrimination irrespective of sex or marital status.	Dual system – Discrimination does not extend to matters of personal and customary law	Major
Zimbabwe	Section 23 (2) rules out discrimination on grounds of gender and marital status	Dual system - Section 23 (3) allows discrimination on application of African customary law	Legal age of majority act of 1982 equalised the status of the sexes
Source: Adapted from SARDC WIDSAA, "A Guide to Gender Dimensions in SADC Constitutions," Harare, 1996; SADC PF and SARDC WIDSAA, <i>SADC MPs Companion on Gender and Development in Southern Africa</i> , Windhoek and Harare, 2002			

Domestic Legislation

SADC Member States have identified laws that discriminate against women and in most cases, these have been set aside for amendment. Among these laws are those governing marriage, inheritance, child custody and maintenance. The SADC Protocol thus sets the following targets to ensure that domestic legislation works to ensure the rights of women in SADC countries:

- ◆ Review, amend and/or repeal all laws that discriminate on the grounds of sex or gender by 2015;
- ◆ Measures available to ensure access to justice and protection before the law;
- ◆ Abolish the minority status of women by 2015;
- ◆ Eliminate detrimental practices to achievement of the rights of women by prohibiting such practices and attaching deterrents; and
- ◆ Eliminate gender-based violence.

Box 2 on the Mozambique Family Law is an example of a law that has been enacted to ensure the women's rights are protected.

Access to Justice

The SADC Protocol on Gender and Development seeks to ensure that women have access to justice, including:

- ◆ Equality in judicial, quasi-judicial and other proceedings including customary and traditional courts;
- ◆ Equal legal status in civil and customary law including full contractual rights, the rights to acquire and hold rights in property, the right to equal inheritance and the right to secure credit;
- ◆ Access to affordable legal services;
- ◆ All public and private institutions encouraged to enable women to exercise their legal capacity;
- ◆ Positive and practical measures to ensure equality in the criminal justice system.

Women in southern Africa still face various obstacles in accessing legal and judicial services. Even where there are gender sensitive laws, they may be ineffective in practice because they have not been communicated to people.

Three Country Examples of Customary Court Systems and Effect on Women

Table 4

Country	
Angola	Customary courts are weak and fragmented, do not have a binding authority as in the common law system and not considered a source of law. For example, civil law gives women and men equal access to land, but in practice land distribution follows traditional rules, where men are treated favourably.
Botswana	<p>A 15-member House of Chiefs that is male-dominated is part of the National Assembly and provides advice regarding customary law practices and traditions. Only three women have ever been nominated as chiefs. The House of Chiefs has questioned gender initiatives such as the Marital Power Bill, however the House has no legislative powers or veto powers but acts as an advisory body to parliament and government. All bills affecting the following should go through the House of Chiefs before being discussed: tribal organisation or tribal property, the organisation, powers or administration of customary courts. Customary law and the courts are an integral component of the legal system.</p> <p>Women and men have unequal access to customary courts and are treated unequally whether married or unmarried. Although in the past, women could not engage in any legal transaction in customary court, some of these systems have been relaxed and now grant unmarried women legal capacity to varying degrees.</p>
South Africa	The Communal Lands Act 2005 recognises women’s right to land but is contradictory since it also empowers the Traditional Councils to be the land administration committee. Considering the patriarchal nature of this body and the customs and beliefs that they practice, women can be disadvantaged in accessing land. Under the customary system, only men can exercise land ownership rights; women have access to land only through their husbands and single women are excluded because land is reserved for couples.

Source: SARDC WIDSAA, *Beyond Inequalities 2008: Women in Southern Africa*, SARDC, Harare, 2008

Many women live in the rural areas where in most cases they experience poverty, lack of education and less access to information and materials on the law. Where women are aware of their rights, they may not be able to afford legal costs or access mainstream courts. For these reasons, research by Women and Law in Southern Africa (WLSA) shows that women tend to rely much more on customary justice systems although these can be discriminatory and may not work justly or equitably to women.

Table 4 shows how some customary or traditional courts operate in the region and how they can be discriminatory to women.

Marriage and Family Rights

In most SADC Member States, marriage is governed by parallel legal regimes of statutory, customary and at times religious law. Most marriages in the region continue to be solemnised under customary law. Usually, customary and religious laws are not written, therefore subject to a variety of interpretations and application. There is a mixed picture on equal rights within marriage in the region but in most cases, women married under customary law have fewer rights than those married under civil law.

Positive changes have been made in some countries. For example, the Mozambique Family Law of 2003 contains provisions for the recognition of customary unions so that women mar-

ried under this system can claim property and custody rights. South Africa has also passed the Recognition of Customary Marriages Act 110 of 1998 that removes inequality and discrimination against women in customary marriages. The Act abolishes the minority status of women married under customary law and abolishes the marital power of husbands.

Family Law in Mozambique Box 2

The Family Law was approved in Mozambique in November 2003 and came into force in May 2005. The law makes provisions including:

- ◆ Recognition of customary unions, allowing women married under customary law to claim property and custody rights;
- ◆ Recognition of informal unions, thus women who have lived with their partners for more than a year are entitled to inherit from their partners;
- ◆ The minimum age of marriage has been increased from 14 for girls and 16 for boys to 18 for both girls and boys;
- ◆ The timeframe between one marriage and another (the inter-nuptial period) is six months for both men and women;
- ◆ The principle of male supremacy in relation to women was eliminated and equal status between spouses was introduced, resulting in effective joint administration of property. This includes choosing the residence/home, as well as family representation, and determination of the family surname. Both spouses are therefore on equal footing, enjoying significant household, patrimonial, financial and professional autonomy.

Persons with Disability

The SADC Gender Protocol seeks to ensure that SADC Member States adopt legislation and related measures to protect persons living with disabilities in accordance with the SADC Protocol on Health and other instruments that Member States are party to. The health protocol provides a section on disabilities but none of these provisions are sensitive to gender issues. Article 15 of this Protocol states that State Parties shall:

- ◆ Promote effective measures to prevent and manage disabilities;
- ◆ Increase access to improved technology related to assistive devices, and the creation of a barrier free environment for the equalisation of opportunities for persons with disabilities; and
- ◆ Promote community-based rehabilitation programmes.

Most constitutions in the region provide for the rights of people with disabilities as well as anti-discrimination clauses for people with disabilities. However, none of these constitutions have gender provisions to address issues faced by disabled women. The SADC Protocol on Health makes no reference to gender when discussing disabilities.

Children in SADC

All countries in the SADC region have ratified the Convention on the Rights of the Child (CRC) 1989 or the African Charter on the Rights and Welfare of Children 1990 or both.

The African Charter compliments the CRC and it is especially noted for taking cognisance of “the virtues the (African) cultural heritage, historical background and values of the African civilisation” as well as mentioning the plight of the girl child in particular.

All countries have developed progressive policies for girls that protect vulnerable children, but girls in the region remain particularly vulnerable in various situations. Girls still continue to face unequal access to education and health care, face violence in the form of genital mutilation in some countries, forced and early marriages and sexual exploitation. Girls also have the additional burden placed on them by HIV and AIDS with 58 percent of those living with HIV being women and girls, and women and girls bearing the worst burden of care of those infected with the virus.⁵

WOMEN IN POLITICS AND DECISION-MAKING

SADC Member States have made a commitment in the SADC Protocol on Gender and Development to increase the number of women in decision-making in the public and private sector to 50 percent. This commitment is the culmination of policy decisions made by SADC Heads of State, including the SADC Declaration on Gender and Development (1997), with a target to “ensuring the equal representation of women and men in the decision-making of member states and SADC structures at all levels, and the achievement of at least 30 percent target of women in political and decision-making structures by year 2015.”

SADC Summit of Heads of State and Government upgraded the 30 percent target to 50 percent in 2005 in line with the African Union (AU) position. The Integrated Committee of Ministers mandated the SADC Secretariat in 2006 to develop guidelines to facilitate Member States’ development and adoption of the SADC Gender Policy possessive to Member States.⁶

The Protocol states in Articles 4, 12 and 13 that State parties shall:

- ◆ Endeavour, by 2015, to enshrine gender equality and equity in their constitutions and ensure that these rights are not compromised by any provisions, laws or practices;
- ◆ Endeavour that, by 2015, at least fifty percent of decision-making positions in the public and private sectors are held by women including the use of affirmative action measures;
- ◆ Ensure that all legislative and other measures are accompanied by public awareness campaigns which demonstrate the vital link between the equal representation and participation of women and men in decision-making positions, democ-

racy, good governance and citizen participation;

- ◆ Adopt specific legislative measures and other strategies to enable women to have equal opportunities with men to participate in all electoral processes including the administration of elections and voting; and
- ◆ Ensure the equal participation of women and men in decision-making by putting in place policies, strategies and programmes.

Towards achievement of these goals, the SADC Gender Unit is coordinating the process of developing the “SADC Regional Framework for Accelerating the Achievement of the 50 percent Target of Women Representation in Politics and Decision-Making Positions at all Levels by 2015”.

The first draft of this document was produced at a regional meeting in December 2008 that comprised of government officials, Members of Parliament and civil society from the 15 SADC countries, and co-operating partners.

The strategy includes proposed actions by governments, the private sector, political parties and civil society organisations to achieve set targets within specific timeframes. One of the first actions is for governments to sign, ratify (by June 2009) and domesticate the SADC Protocol on Gender and Development by 2012.

Women in Politics

There has been an increase of women in political decision-making positions in most SADC countries in the last decade since the SADC Declaration on Gender and Development was approved in 1997, with five countries having more than 30 percent women in their parliaments by 2008. (Angola,

Women in Parliament and Cabinet in SADC Member States					Table 5
Country	Women MPs 1997 %	Women MPs 2006 %	Women MPs 2009 %	Women Ministers 2006 %	Women Ministers 2009 %
Angola	9.5	12.3	37.3	7	32.26
Botswana	9	11	11.29 (2004)	28.6	18.75
DRC	*	12	8.4(2006)	2.5	2.5
Lesotho	12	14	25	31	31.57
Madagascar	*	24	7.87	14	
Malawi	5.2	15	26	21	24
Mauritius	7.6	17	17.1	10	9.5
Mozambique	28.4	36	34.8	23	25.9
Namibia	19.4	27	31	27	22.7
Seychelles	*	29.41 (2002)	24	27.2	28
South Africa	27.8	32.7	45	42.8	42
Swaziland	19	19	13.8	18	20
Tanzania	16.3	30.4	30.4	20	23.1
Zambia	18.1	12	14 (2006)	26	13.6
Zimbabwe	14	16	15.2	19	17.5

*No data available
Source: SADC, *National Progress reports from SADC Member States 2006*, with updates for 2009. Draft:
Gender strategy for local government in Namibia, Government of Namibia; SARDC WIDSAA, *Beyond inequalities
2008: Women in Southern Africa*, SARDC, Harare, 2008

Mozambique, Namibia, South Africa and the United Republic of Tanzania). Relative to other regions of the world, SADC has performed well, with a 20 percent average of women in decision-making positions, higher than the world average of 16.6 percent.

However, some countries in the region have seen a decrease in the number of women in senior political positions. Zimbabwe's elections in 2008, for example, saw a decrease in the number of women in parliament. This is despite the campaign of both leading parties, the Zimbabwe African National Union-Patriotic Front (ZANU-PF) and the Movement for Democratic Change (MDC) for the election of women candidates. This is seen as one of the impediments of the constituency-based electoral system known as First Past The Post.

The increase of representation in some other countries resulted largely from alternative electoral systems such as Proportional Representation in which there are party lists of candidates for a specific area (province or country) rather than an individual running in one constituency. Parties can therefore decide that their lists should include a specific proportion of women.

In the majority of countries in southern Africa where more than 30 percent representation has been achieved, women were elected under the Proportional Representation system in conjunction with a party quota system.

This has been the case in Angola where the 2008 elections saw the representation of women rising to 37.3 percent, up from 16.4 percent in 2005. Angola uses the Proportional Representation system for the National

Electoral Systems and Quotas in SADC

Table 6

Country	Electoral system	Legislated Quotas	Party quotas
Angola	List – PR	None	Voluntary party quota – MPLA adopted 30 percent
Botswana	FPTP	None	BDP has a policy
Democratic Republic of Congo	FPTP	None	None
Lesotho	Mixed	Legislated quota at local government level	
Madagascar		None	
Malawi	FPTP	None	
Mauritius	Block	None	None
Mozambique	List PR	Legislated quota	
Namibia	List – PR	Legislated quota at local government level	SWAPO has a 50 percent quota
United Republic of Tanzania	FPTP	30 percent Constitutional quota additional seats	
Swaziland	FPTP	None	
South Africa	Mixed List-PR	Legislated	ANC and COPE have 50 percent quota
Seychelles	Parallel – PR	None	
Zambia	FPTP	None	None
Zimbabwe	FPTP	None	ZANU-PF has 30 percent quota

Source: *Reporting Elections in Southern Africa: A Media Handbook*, SARDC and University of Namibia Department of Information and Communication Studies, 2000

Assembly. The ruling party, the Popular Movement for the Liberation of Angola (MPLA) adopted a 30 percent quota for the 2008 elections. As a result, there are 40.3 percent MPLA women parliamentarians compared to 25 percent for the second largest party, the National Union for the Total Liberation of Angola (Unita). The three smaller parties that contested the elections have no women representing them in parliament.⁷

Four countries in the region have legislated quotas that are legislated (Lesotho, Mozambique, Tanzania and South Africa), and Tanzania has a constitutional quota for the National Assembly that ensures 30 percent of seats in parliament are held by women through the appointment of additional women to parliament

based on initial party representation following elections.

Table 6 shows the electoral systems operating in SADC Member States and whether or not the countries make use of quotas.

Women in the Public Sector

All SADC Member States have used gender mainstreaming as a strategy to increase the number of women in decision-making positions in the public services sector. Governments have also adopted empowerment policies and provided education and training support to encourage women in the sector. Despite these policies, there is a lower number of women as compared to men in the public service and in the judiciary as Table 7 and 8 reveal.

Women in the Public Services Sector in SADC 2006							Table 7
Country	Permanent /Principal Secretary %		Deputy Permanent/Principal %		Directors/ Heads of Department Secretary %		
	Male	Female	Male	Female	Male	Female	
Angola	*	*	*	*	*	*	
Botswana	69	31	74	26	68.5	31.5	
DRC	*	*	*	*	*	*	
Lesotho	56	44	69	31	52	48	
Madagascar	*	*	*	*	*	*	
Malawi	80	20	88	12	90	10	
Mauritius	65.4	34.6	65.5	36.2	65.4	35.8	
Mozambique	74	26	*	*	80,8	19.2	
Namibia	77	23	76	17	68	32	
Seychelles	65	35	*	*	45	55	
South Africa	70	30	70	30	70	30	
Swaziland	78	22	*	*	77.3	22.7	
Tanzania	73.3	26.7	85.7	14.3	79	21	
Zambia	81.4	18.6	*	*	77	23	
Zimbabwe	80	20	63	37	78	22	

*No data available
Source: SADC, National Progress Reports from Member States, 2006 and 2009 Updated Reports

Women Representation in the Judiciary (%)											Table 8
Country	Supreme Court/Court of Appeal/ High Court								Magistrate's Court		
	Chief Justice		President		Registrar		Judges		Magistrates		
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	
Angola	*	*	100	0	*	*	80	20	83	17	
Botswana	100	0	100	0	100	0	95	5	57	43	
DRC	*	*	*	*	*	*	*	*	*	*	
Lesotho	100	0	100	0	*	*	64	36	58	42	
Madagascar	*	*	*	*	*	*	*	*	*	*	
Malawi	100	0	*	*	100	0	84	16	77	23	
Mauritius	100	0	33	67	100	0	54.5	45.5	50	50	
Mozambique	*	*	*	*	*	*	*	*	*	*	
Namibia	100	0	100	0	100	0	86	14	55	45	
South-Africa	*	*	60	40	*	*	85	15	65	35	
Swaziland	100	0	100	0	0	100	86	14	78	22	
Tanzania	*	*	*	*	77	23	77	23	71	29	
Zambia	87	13	*	*	*	*	70	30	77	23	
Zimbabwe	*	*	53	47	*	*	70	30	73.5	26.5	

*No data available
Source: 2006 SADC, National Progress Reports from Member States, with updates in 2008 and 2009 Reports

Women Representation in Civil Society

There is generally a lack of information including quantitative data and qualitative analysis on the extent to which women are equally represented in high-level positions in public administration bodies, private sector, academia, media and civil society including trade unions and professional organisations.⁸

In civil society, women access leadership positions mostly in organisations that deal with women's and children's rights more than other organisations. In a statement at the World Social Forum (WSF) 2007 giving a gender report, the WSF director, Candido Grzybowski, said of women in civil society, "Women are a 'minority' created by ourselves within civil society. With respect to that, there is no point in blaming capitalism, neo-liberalism, globalisation, exclusionary states, etc. This is a major problem that is engendered, developed, and maintained in the culture of civil society itself."⁹

Women in the Private Sector

Women's representation in the corporate sector remains low in the region. Although statistics are not readily available in most countries, those available indicate that women are under-represented in decision-making positions in the private sector. In South Africa, women occupied 11.3 percent of top management jobs and 17.7 percent of senior management jobs in 2001. Race is still an important factor in accessing senior jobs in South Africa, with white males predominating in managerial positions and African females being vastly under-represented. In the available sample, black women constituted 1.5 percent of the top man-

agement and 2.1 percent of senior management.¹⁰ Zimbabwe has a number of black women executives prominent in leadership roles in the private sector, especially in banking and insurance, but no statistical analysis is available.

The SADC draft Framework for the achievement of the 30 percent representation in decision-making positions highlights the need to involve the private sector in increasing the number of women in positions of power. Among these measures are:

- ◆ Implement Equal Employment Opportunity (EEO) legislation;
- ◆ Review existing policies and programmes in compliance with EEO legislation and national gender policies;
- ◆ Implement equal representation guidelines for boards and committees;
- ◆ Provide resources for implementation of EEO legislation and policy;
- ◆ Provide regular reports to the Office of the President for monitoring progress;
- ◆ Institute internal processes for gender mainstreaming; and
- ◆ Create organisational policies, including against sexual harassment.

Participation of Women in Decision-Making

Participation involves looking at where women are located within decision-making bodies and the institutional barriers to their effective contribution. Participation of women in decision-making in the region remains low. There remain barriers to women's participation, including cultural and patriarchal systems. The political framework in the region is almost always on party lines, based on a hierarchy that is usually male. The majority of women

Why Corporations are Male-dominated

Box 3

One of the key barriers to women's progress in the corporate world is the network system that is largely male-dominated. It may be easier to break through the formal networks but it is more difficult to penetrate the informal networks, which are less visible and harder to identify.

It is much easier for male executives and clients to often meet at informal lunch or after-work drinking sessions but it is very difficult for women executives to penetrate or challenge them because there are no legal restrictions to such informal meetings.

Women executives can copy from the existing script and form stronger networks among themselves. Of course, some women may worry that joining all-female networks may entrench the "feminine image" that is used against them and therefore suffer further discrimination. One way to resolve that potential problem is that the women networks must be conduits through which women can articulate a stronger voice.

It is vital to make it good corporate governance practice to include a minimum number of women on the boards of companies. The lack of women on corporate boards is often a result of the entrenched dominance of men and the influence of the networks that bind them but exclude women. In order to reinforce the idea, it may be necessary to require companies to include in their annual reports, specific reports on the actions that the company has taken to improve the representation of women on the board or at higher levels of management.

Companies that take positive steps may benefit by enhancing their public image while those that do not risk losing confidence of a very significant sector of the market. Civil society or business organisations can play a role through researching, disseminating and highlighting relevant information to the public.

There are a number of strategies that can be adopted to encourage and to some extent compel companies to take positive policies that will see more women in structures of corporate governance.

Of all the barriers to women's participation at higher levels of corporate governance, gender and cultural stereotypes are the most difficult to surmount. They are too entrenched in the psyche of the participants that many unconsciously perpetuate them. Having more women in positions of key organs of the company plays a role in redefining individual perspectives on gender in the long run. Laws can help to give women the ammunition they need when they face problems. However, women cannot solve all the problems on their own. Certain beliefs and perceptions take a great deal more than the law to give way.

Source: Alex Tawanda Magaisa, "Corporations are too male dominated", *The Independent*, Zimbabwe, Friday 9 June 2006

are found in the lower echelons of the party and women's wings are often used to rally support for the male leadership.¹¹

To ensure women are equally involved in the political life of the country, not just as candidates, measures should be implemented to ensure equal access in all stages of the electoral process. Women's participation can be enhanced through ensuring:

"... individual voter registration, access to information by all, representation of women in bodies administering elections, encouraging political parties to involve women fully and equally in all

aspects of their operations... ensure women's access to voter and civic education, provide women candidates with full support including training and financial resources, as well as eliminating discriminatory practices hampering women's participation either as voters or candidates."¹²

Other barriers to women's representation include gender inequalities in the region such as women's lower socio-economic status, generally lower levels of education, limited access to health care, and fewer employment and economic opportunities.



The SADC Protocol on Gender and Development approved in 2008 makes a commitment that:

- ◆ State Parties shall, by 2015, enact laws that promote equal access to and retention in primary, secondary, tertiary, vocational and non-formal education in accordance with the Protocol on Education and Training, and the UN Millennium Development Goals (MDGs).
- ◆ State Parties shall by 2015 adopt and implement gender-sensitive educational policies and programmes addressing gender stereotypes in education and gender-based violence, among others.

The SADC region has made significant advances toward its goal to achieve gender equality in education. Several Member States had achieved gender parity in primary education by the year 2006, according to UNESCO.¹³ These countries were Botswana, Malawi, Mauritius,

Namibia, the United Republic of Tanzania and Zimbabwe.

Literacy rates have improved in most countries in the region but there remain gaps between female and male literacy for the different countries, as shown in Table 9. Generally the literacy rates in the SADC region are higher than elsewhere on the continent and two countries have higher literacy rates for women than men (Botswana, Lesotho). But in other countries such as Mozambique, the gap between male and female literacy remains a chasm.

Policies on Gender Equality in Education

SADC Member States have implemented various policies and programmes that facilitate access to education for women and girls. Table 10 shows some of the policies and programmes introduced in different countries for that purpose. However, in a progress report on implementation of the SADC Declaration on Gender and Development, the reporting countries highlighted the gender insensitivity or “gender blindness” in their national education policies.¹⁴

Access to Education

Countries in the region have made good progress in ensuring access to education by women and girls, through gender-sensitive education policies. As a result, some countries in the region have achieved gender parity in access to education at primary school level. South Africa and Swaziland for example in 2001 recorded 50/50 enrolment rations for girls and boys. However, more needs to be done to ensure that girls finish primary and secondary education, eliminate gender violence in schools and eliminate stereotypes in school curricula.

Millennium Development Goals Box 4

Goal number two of the MDGs is to achieve universal primary education. The indicators for tracking data to reveal whether all boys and girls complete a full course of primary schooling are:

- ◆ Net enrolment ratio in primary education;
- ◆ Proportion of pupils starting grade one who reach the last grade of primary school; and,
- ◆ Literacy rate for 15-24-year-olds, women and men.

Goal 3 of the MDGs is to promote gender equality and empower women. Among the targets is to eliminate gender disparity in primary and secondary education preferably by 2005, and at all levels by 2015. Indicators will look at:

- ◆ The ratio of girls to boys in primary, secondary and tertiary education.



Literacy Rates in SADC 2006			Table 9
	Gender Disaggregated Literacy Rate (%)		National Literacy Rate (%)
	Male	Female	
Angola	82.1	53.8	66.8
Botswana	76.9	82.4	79.8
DRC	76.2	55.1	65.5
Lesotho	74.5	94.5	84.8
Malawi	76.1	49.8	62.7
Mauritius	88.6	82.7	85.6
Madagascar	75.5	62.5	68.9
Mozambique	63.5	32.7	47.8
Namibia	84.4	83.7	84
Seychelles	*	*	*
South Africa	87	85.7	86.4
Swaziland	82.6	80.8	81.6
Tanzania	85.9	70.7	78.2
Zambia	86.8	74.8	80.6
Zimbabwe	94.2	87.2	90.7

* No data available
Source: Adapted from SADC, "Progress report on Implementation of the SADC Declaration on Gender and Development" prepared for the SADC Meeting of Ministers Responsible for Gender and Women's Affairs, Maseru, Lesotho, 2006

Factors Affecting Girls' Access to Education

Despite achievements made, education remains inaccessible in some countries to those who cannot afford to pay for it, and disproportionately, to women and girls. Factors that undermine efforts in some countries include poverty, lack of access to land, employment or micro-finance, increased responsibilities for care-giving caused by the HIV and AIDS pandemic, gender-based violence, high dropout rates due to pregnancy, armed conflict (in eastern DRC), and cultural beliefs and norms that determine the roles women and men play in the society.

Poverty

Poverty is the main barrier to education for women and girls in most SADC Member States. Some coun-

tries have adopted policies for free education, mostly at primary school level. In spite of these positive policies, there are other costs such as school uniforms, books, writing materials and transport that result in many families failing to send their children to school. In acknowledgement of this, Zambia, for example, provides free learning materials to pupils and has made the wearing of school uniforms optional, thus improving the chances of girls attending school.

Teenage Pregnancy

SADC Member States continue to face high dropout rates when female students fall pregnant and are unable to continue with their education. In many countries in the region, adolescent pregnancy results in the girl leaving school. In order to tackle

Laws, Policies and Programmes that Facilitate Education for Girls

Table 10

Country	Policies/Programmes
Angola	<ul style="list-style-type: none"> Article 29 of the Constitution says that the family, with special collaboration by the State, shall promote and ensure the all-round education of children and young people. This is not gender disaggregated. Back to school campaign launched in February 2003 to encourage children to return to school in some provinces most affected by the war.
Botswana	<ul style="list-style-type: none"> Re-admission policy for girls who fall pregnant. The Young Women's Christian Association Teen Mothers and <i>Diphilana</i> Projects (UNICEF), initiated the enrolment of young mothers who had to leave school due to pregnancy.
DRC	*
Lesotho	<ul style="list-style-type: none"> Lesotho Education Sector Strategic Plan 2002, to develop a gender policy in education, sensitisation in the school community on gender sensitivity and ensure gender sensitivity of the school curricula, teaching and learning. materials in basic education.
Madagascar	*
Malawi	<ul style="list-style-type: none"> Policy for girls re-entering the formal school system if they fall pregnant after one academic year.
Mauritius	<ul style="list-style-type: none"> Free education for all from grade 1-7, therefore addressing some economic concerns for female students.
Mozambique	<ul style="list-style-type: none"> Education Sector Strategic Plan II 2005-2009 has among its goals, equity in gender with equal opportunities for girls and boys, women and men. "The Sara Implementation Initiative" aimed at raising community awareness on the importance of girls' education, including gender issues and upgrading teachers' skills.
Namibia	<ul style="list-style-type: none"> Article 20 of the Constitution makes education compulsory and at state schools free at Primary school level.
Seychelles	<ul style="list-style-type: none"> Article 33 of the Constitution makes education compulsory and free at State schools for a minimum of 10 years.
South Africa	<ul style="list-style-type: none"> South African Schools Act of 1996 makes education compulsory for 10 years and states that there should be no discrimination between boys and girls. Girls can attend school during and after pregnancy.
Swaziland	<ul style="list-style-type: none"> Drafting the Education for All (EFA) Plan. Government provides free textbooks and stationery at primary levels. Government pays fees for orphans and vulnerable children. Teacher training manual on gender.
United Republic of Tanzania	<ul style="list-style-type: none"> Primary Education Development Programme (PEDP) 2000. Presidential decree 2001 abolished school fees at primary school level. Complementary Basic Education in Tanzania – caters for girls who have been restricted from entering school by their age or have had to drop out because of pregnancy, early marriage and other socio-economic factors. University of Dar es Salaam has since 1977 admitted female students with lower points into university.
Zambia	<ul style="list-style-type: none"> Basic Education Sub-sector Investment Programme (BESSIP) 1999 –Free basic education from Grade 1-7, encouraging the enrolment of more girls. Programme pays attention to gender and equity concerns

Laws, Policies and Programmes that Facilitate Education for Girls

continued...

Country	Policies/Programmes
	<ul style="list-style-type: none"> ● Government introduced special bursary schemes for girls at primary and secondary levels, lower pass marks for girls to compensate for gender imbalances, and 25% bursaries allocated to female students at universities.
Zimbabwe	<ul style="list-style-type: none"> ● Education Act makes primary education compulsory. ● Ministry of Education Sports and Culture Policy Circular Number 35 of 2001 allows pregnant pupils to go back to school after delivery. ● Basic Education Assistance Module (BEAM) – to provide financial assistance to children from disadvantaged communities, 50% of beneficiaries must be female.

*No data available.

Sources: SARDC WIDSAA, *Beyond Inequalities: Women in Southern Africa 2008*; SADC and SARDC WIDSAA, *SADC Gender Monitor: 2006*. Mascarenhas O, *Gender Profile of Tanzania: Enhancing Gender Equity*, TGNP, Dar es Salaam, 2007.

The SADC Protocol on Education and Training 1997 Box 5

Article 4 of the Protocol on Co-operation in Policy for Education and Training aims to facilitate co-operation through the development and formulation of coherent, comparable, harmonised and eventually standardised policies with regard to:

- ◆ Widening provision and access to education and training as well as addressing gender equality.

dropout rates, countries such as Botswana, Malawi, Namibia, Zambia and Zimbabwe have re-admission policies for girls who fall pregnant while in school. South Africa allows girls to continue in school while they are pregnant and re-admits them after they deliver. In some countries, the re-admission policies still face problems. In Malawi for example, despite the policy, many female students fail to return to school. Some parents fear that if their children return to school, they will fall pregnant again.¹⁵ Further, the policy lacks clear implementation guidelines, a lack of publicity, opposition to timing of re-admission as well as negative attitudes towards teenage mothers.

HIV and AIDS

The impact of HIV and AIDS and the resultant hardship caused by the illness or death of a breadwinner has hindered girls from accessing education. Children affected by AIDS face socio-economic challenges such as the lack of adequate food, money for school-related expenses, poverty, abuse and exploitation. In addition, girls are frequently required to drop out of school to take care of the ailing family members.

Substantial numbers of teachers are caring for ill family members or have become ill themselves, and are therefore unavailable to the school system. There is insufficient information available about living with AIDS, the food to eat and the actions to take to remain in good health, and this information is not easily accessible.

Gender Socialisation Practices

Socialisation practices such as initiation ceremonies and early marriages affect girls' access to education. Socialisation practices may orient girls to traditional female roles and may tend to lead to early pregnancies or marriage. Gender roles continue to

encourage gendered segregation of subject areas. More women than men are enrolled in Education and Humanities, and there are more men in the higher paying Science and Law subjects in most countries. Towards fighting gender role stereotypes, the SADC Gender Protocol seeks to have member states adopt and implement gender-sensitive educational policies and programmes addressing gender stereotypes in education and gender-based violence, among others.

Armed Conflict and Social Unrest

The development of Angola, DRC and Mozambique has been adversely affected by war and unrest that led to the destruction of social infrastructure, including educational infrastructure. South Africa continues to struggle to emerge from the apartheid era and its impact on the educational system that was segregated, with black students forced into what was called “Bantu education”. In the DRC, children’s rights to education were further impeded by the conscription of children as soldiers or prostitutes during the war. Illiteracy rates in these coun-

tries remain high, although in Mozambique it is dropping rapidly due to government’s focus on strengthening the educational sector.

BPFA and education targets

Box 6

The Beijing Platform for Action adopted at the Fourth World Women Conference in China in 1995 sets the following targets towards education and training of women:

- ◆ Ensure equal access to education;
- ◆ Eradicate illiteracy among women;
- ◆ Improve women’s access to vocational training, science and technology and continuing education;
- ◆ Develop non-discriminatory education and training;
- ◆ Allocate sufficient resources for and monitor the implementation of educational reforms; and
- ◆ Promote lifelong education and training for girls and women.

A total of 11 countries in the SADC region adopted education and training as one of their Critical Areas of Concern. These are Angola, Botswana, Lesotho, Mauritius, Mozambique, Namibia, South Africa, Swaziland, United Republic of Tanzania, Zambia and Zimbabwe.

Sources: Beijing Declaration and Platform for Action, United Nations, 1995; *SADC Gender Monitor, Issue 1*, SADC and SARDC, 1999

SADC’s 15-year plan, the Regional Indicative Strategic Development Plan (RISDP), has an overall goal of poverty reduction and human development. The plan identifies gender as a crosscutting issue that needs to be addressed to achieve poverty reduction goals.

Economic Policies and Decision-making

The market-centred approach of most national economic policies, such as the Poverty Reduction Strategy Programmes (PRSPs), is not always sensitive to women’s contribution and role. Since there is a lack of disaggregated data for most countries, the PRSPs fail to articulate issues involving women’s income, livelihoods and resource constraints that may be useful in understanding and reducing poverty.

To facilitate poverty reduction, it is essential to look at the gendered dimensions of poverty, as women and men experience poverty differently.

Economic policies in southern Africa generally lack a “people-centred” approach, especially regarding the participation of a wide spectrum of people in economic policy formulation. A more inclusive approach would value the input of a wide spectrum of women and men who contribute to development in the region.

Toward this end, the SADC gender protocol recognises the need to have equal representation of women and men in economic policy formulation and implementation by 2015.

Gender responsive and sensitive budgets at macro and micro levels are key to ensuring equal participation of women and men in economic policies.

Estimated Earned Income, Disaggregated

Table 11

Country	Women (US\$)	Men (US\$)
Angola	1787	2898
Botswana	5913	19094
DRC	488	944
Lesotho	2340	4480
Madagascar	758	1090
Malawi	565	771
Mauritius	7407	18 098
Mozambique	1115	1378
Namibia	5527	9676
South-Africa	6927	15 446
Swaziland	2187	7659
Tanzania	627	863
Zambia	725	1319
Zimbabwe	1499	2585

Source: Human Development Report 2007, data accessed at <http://hdrstats.undp.org> on 27th February 2008.

The SADC Protocol on Gender and Development has targets for:

- ◆ Equal participation of women and men in policy formulation and implementation by 2015;
- ◆ Gender sensitive and responsive budgeting at the micro and macro levels including tracking, monitoring and evaluation;
- ◆ The conduct of time/use studies by 2015 with adoption of policy measures to ease the burden of multiple roles played by women;
- ◆ Adoption of policies and laws to ensure equal access, benefit and opportunities for women and men in trade and entrepreneurship;
- ◆ Review of trade and entrepreneurship policies to make them gender responsive by 2015;
- ◆ Introduction of measures to ensure that women benefit equally from economic opportunities by 2015;
- ◆ Review of policies and laws that determine access to, control of and benefit from productive resources by women, by 2015.

- ◆ Review and enactment of laws and policies to give women and men equal access to wage employment in all sectors of the economy by 2015;
- ◆ Review and implementation of legislative, administrative and other appropriate measures to ensure equal work for equal pay, eradication of occupational segregation, recognition of the economic value and protection of people involved in domestic and agricultural work;
- ◆ Enactment and enforcement of legislative measures prohibiting the dismissal, or denial of recruitment on the grounds of pregnancy or maternity leave;
- ◆ Protection and benefits for women and men during maternity and paternity leave.

Table 12 shows some initiatives undertaken by SADC Member States on gender budgeting.

Multiple Roles of Women

In order to address the multiple roles of women, the Protocol includes a commitment by SADC Member States to conduct time use studies by 2015, as well as put in place other policies that ease the multiple roles of women. Time use studies in southern Africa have been conducted in the context of home-based care as a response to the AIDS pandemic that has increased the burden for women and girls as the responsibility for this care is largely in the hands of women.

Time use studies are normally conducted to estimate the value of paid and unpaid work as well as the size of the workforce in a country. It is

important to examine time use, especially gender-differentiated time use patterns, and to address policy and operational implications for the following reasons:

- ◆ Time use data shows what people actually do with their lives and therefore provide important information on work and labour allocation within households.
- ◆ In doing this, they make apparent a division of labour, in that different people do different things, but also that differences in how men and women use their time are of considerable importance in understanding poverty in Africa, especially the gender division of labour.
- ◆ Time allocation data reveals not only the substantial market economy contributions of men and women to Africa's development but also the existence of a "household economy" that is largely invisible and uncounted in economic data in the system of national accounts.¹⁶

UNIFEM commissioned a guidebook for the region in 2003, entitled "Why should we care about unpaid care work?" as a basis for research and advocacy. This book is important in discussing the different approaches to assigning economic values to care work as well as putting it into national accounts.

As a result of subsequent research in Botswana, Mozambique and Zimbabwe, Zimbabwean parliamentarians tabled motions advocating for the channelling of AIDS fund towards home-based care and the establishment of monitoring systems on the use of the funds.

Gender Budgeting Initiatives in SADC

Table 12

Country	Responsible organisations	Gender Budget initiatives
Mozambique	<ul style="list-style-type: none"> ● Ministry of Planning and Finance ● Forum Mulher ● With technical support from the Tanzania Gender Networking Programme (TGNP) 	First implemented in 1998 when the Ministry of Finance defined gender indicators within the public budget
Namibia	<ul style="list-style-type: none"> ● Ministry of Finance ● Ministry of Gender Equality and Child Welfare ● Office of the Auditor General 	Government ministries established a Gender Budgeting taskforce to conduct a gender analysis on the ministerial sub-division budgets, national and other stakeholders' budgets, capacity building for gender budgeting for the public, private and NGO sector, awareness-raising, advocacy for institutionalisation of the gender budgeting initiative, development of monitoring mechanisms and indicators to ensure effective monitoring and evaluation of the gender responsive budget initiative
South Africa	<ul style="list-style-type: none"> ● Parliament – The Joint Standing Committee on Finance (since 1994) and Joint Monitoring Committee on the Improvement of the Quality of Life and Status of Women (since 1996) ● NGOs ● Department of Finance (1997) ● With technical support from the Commonwealth 	<p>In 1995 parliament in conjunction with some non-governmental organisations embarked on a gender-sensitive analysis of expenditure portfolios of education, health, welfare, housing, labour, trade and industry, land affairs, agriculture, safety and security, transport, energy, foreign affairs, public sector employment and taxation.</p> <p>In 1997 the Department of Finance and the Commonwealth embarked on another initiative to integrate gender perspectives into expenditure policy.</p>
United Republic of Tanzania	<ul style="list-style-type: none"> ● Ministry of Finance ● Tanzania Gender Networking Programme (TGNP) ● Feminist Activism Coalition (FemAct) 	Gender budgeting launched in 1997 to transform the conceptual paradigms of development and economic governance. Initially 6 sectors were gender mainstreamed, i.e. Ministry of Community Development, Women Affairs and Children, Regional Administration and Local Government
Zimbabwe	<ul style="list-style-type: none"> ● Zimbabwe Women's Resource Centre and Network (ZWRCN) 	Since 2001, ZWRCN has done sector analyses of budgets, of the ministries of agriculture, health and child welfare, public service, labour and social welfare, and youth development, gender and employment creation. Initiatives in Zimbabwe are continuing with analyses of, for example, the national budget and the education sector

Sources: SARDC WIDSAA and ZWRCN *Beyond Inequalities 2005: Women in Zimbabwe*, 2005; Rusimbi M, "The Case of Gender Budget Initiative", SARDC WIDSAA, *Beyond Inequalities 2008: Women in Southern Africa*, SARDC, Harare, 2008

Other initiatives included government appointing a national coordinator for home-based care to ensure urgent responses, as well as establishing a home-based care coalition to lobby for the recognition of care work.

Economic Empowerment

The launch of the SADC Free Trade Area in 2008 placed trade and trade-related issues in the forefront of empowerment of people in the region. The SADC Protocol on Gender and Development, among other measures towards women's economic empowerment, sets targets to put in place policies and laws for equal access, benefit and opportunities in trade and entrepreneurship by 2015 taking into account the contribution of women and men in the formal and informal sector, and for countries to have gender-sensitive national trade and entrepreneurship policies by 2015.

The SADC Trade Protocol seeks to liberalise trade in the region, while ensuring fair, equitable and beneficial trade arrangements for all nations involved. Despite its noble intentions, the Protocol does not have any mechanisms for the protection of women who are likely to be affected by trade liberalisation. For women to benefit from the trade protocol, its implementation must be gender sensitive so as to align with the commitments made in the gender protocol and other documents. For example, the majority of trading activities by women are informal and small scale – although women are slowly establishing and strengthening their presence in the formal sector in the region. The Trade Protocol only recognises and protects formal trade, thus leaving women unprotected and on the margins of such economic activities.

Internationally, the Cotonou Agreement (2000) between the African, Caribbean and Pacific (ACP) group of countries and the European Union seeks to guide trade relations between them. All SADC countries are members of the ACP. The agreement is significant in that it includes clear commitments towards gender equality in trade between the two groups. It has specific articles and sections on gender issues and gender considerations are explicitly integrated in some areas. However gender issues are missing from the “hard” areas of negotiations especially trade and trade-related areas.

The majority of cross-border traders in the SADC region are women, and a recent survey for SADC on informal cross-border trade showed that 70 percent of informal traders are women.¹⁷ Most informal traders lack business management skills, and have little access to price and demand/supply information in other markets. Traders also lack reliable sources of information on markets and customs regulations, and often rely on other women traders for socio-economic support and information. The majority of women cited in the survey revealed that harassment by officials is a major setback to their business. These factors limit women's trading activities and affect their full access to trading as a source of economic empowerment.

Access to Property and Resources

Women in the region still have limited access to and control of productive resources despite positive developments in the review and repeal of laws on access to land in Member States such as Botswana, South Africa, Mauritius, Lesotho and Tanzania that have improved

Access to Land by Women in Some SADC Member States Table 13

Country	Legislation on access to land	Gender sensitive provisions
Angola	<ul style="list-style-type: none"> • 2004 land law 	Conflict between customary and formal land tenure means women's rights are overshadowed by customary law.
Botswana	<ul style="list-style-type: none"> • 1996 Deeds Registry Act 	Enables women to acquire land for their sole use and deal with immovable property bequeathed or donated to them even when they are married in community of property. Adult citizens of either sex are eligible to receive customary land grants and common law leases on tribal land.
DRC	*	*
Lesotho	<ul style="list-style-type: none"> • Married Persons Equality Act (2006)⁴ • Draft National Land Policy (2001) 	Women can own property or borrow money from banks in their own right. Commitment to remove all forms of gender discrimination in land dealings.
Madagascar	*	*
Malawi	<ul style="list-style-type: none"> • Customary Land Development Act • National Land Policy (2002) • Wills and Inheritance Act 	There are no guarantees for women's ownership to land.
Mauritius	*	*
Mozambique	<ul style="list-style-type: none"> • National Land Policy (1995) • Land Law (1997) • Regulations and Land Policy Framework 	Recognition that women can be title holders and are therefore entitled to property rights.
Namibia	<ul style="list-style-type: none"> • National Land Policy (1998) • Communal land Reform Act 	The law makes land rights for widows more secure as it provides that upon the death of the land rights holder, the land may be reallocated to a spouse or dependant.
Seychelles	*	*
South Africa	<ul style="list-style-type: none"> • Communal Land Rights Act (2005) • Restitution of Land Rights Act (1994) 	Recognises women's rights to land. May disadvantage women as Act aims to restore land to those who had rights before, and most of these were men.
Swaziland	<ul style="list-style-type: none"> • National Land Policy 1999 	*
United Republic of Tanzania	Land Act (1999) and Village Act (1999) were revised in 2004	Establishes land tribunals whose composition must include not less than 43 percent women.
Zambia	<ul style="list-style-type: none"> • Land Act (1995) • National Land Policy (1998) 	Land Act in theory does not discriminate against women, but has no gender sensitive framework under which the women can access land.
Zimbabwe	National Land Policy (1998/9)	Land policy seeks to redress gender imbalances and other forms of discrimination in landholding by providing an enabling environment for women. In 1998, the government adopted equity in its land reform agenda but women are still not guaranteed access to land in their own right.

*No data available.

Sources: Government of the Republic of Zambia (2000), *The Land Policy*, Ministry of Lands, Lusaka; SARDC WIDSAA, *Beyond Inequalities 2008: Women in Southern Africa*, SARDC, Harare, 2008; University of Western Cape Gender Equity Unit, University of Witwatersrand Centre for Applied Social Sciences and SARDC WIDSAA, *Beyond Inequalities 2005: Women in South Africa*; Johannesburg and Harare, 2006.

women's access to land. Land is particularly important in the economies of southern Africa as most countries are highly dependant on agriculture.

Women provide, on average, between 80–90 percent of all labour in subsistence agriculture and 70 percent in cash crop production. Women still have limited access to land and security of tenure because of the existence of customary law that operates side by side with statutory law therefore creating mixed tenure systems that often disadvantage women, especially in owning land. Table 13 shows the situation with legislation and women's access to land in the SADC region.

The SADC Protocol on Gender and Development requires Member States to ensure access by women to water rights and property such as land and tenure, credit, capital, mortgages, security, training, and access to modern, appropriate and affordable technology (and support services) by 2015.

Most women in the region do not have access to credit. There are no laws noted that prohibit women from accessing loans but practices that still exist make it difficult for women to access credit. Some of the problems women face include the attitude of banks towards women borrowers, high interest rates charged by banks, and the lack of sufficient collateral. This affects female entrepreneurs as well because many women who want to start small businesses are unable to get funding from banks as usually banks are not geared to lending small

amounts of money. Many women in southern Africa have had to rely on governments or micro-finance institutions to finance or re-capitalise their businesses, and this situation is not sustainable for the majority of the women.

Equal Access to Employment and Benefits

The formal labour market is still dominated by men and most women are employed in the informal sector in the region. In recognition of this the SADC Protocol on Gender and Development seeks to ensure that all SADC Member States have laws and policies on equal access to wage employment in all sectors of the economy by 2015. Most countries have in place labour laws to provide equal and fair treatment in terms of recruitment, remuneration and other conditions of work including safety. Despite these laws, labour markets are still not inclusive. This may be, among other reasons, because women have lower educational and skills levels than men that could facilitate entry and participation in higher paying jobs.

All SADC Member States have provisions for maternity leave in their labour laws, according to the International Labour Organisation (ILO), at 12 weeks minimum standard. Botswana, Lesotho and Madagascar go further to prohibit the dismissal of a worker during maternity leave for whatever purpose. Table 14 shows the maternity leave provisions by country.

Maternity Leave Provisions in SADC			Table 14
Country	Length of leave	Who pays	% of wages
Angola	90 days	Employer	100
Botswana	12 weeks	Employer	At least 25
DRC	14 weeks	Employer and Social Security	50 and 100 for public employees
Lesotho	12 weeks	*	0
Madagascar	14 weeks	Employer and Social security	50 by employer, 50 by social Security
Malawi	*	*	*
Mauritius	12 weeks	Employer	100
Mozambique	60 days	Employer	100
Namibia	12 weeks	Social security	*
Seychelles	14 weeks	Social security	Flat rate for 10 weeks
South Africa	12 weeks	Unemployment Insurance	45
Swaziland	12 weeks	*	0
Tanzania	12 weeks	Employer	100
Zambia	12 weeks	Employer	100
Zimbabwe	90 days	Employer	60-75

*No data available
Source: International Labour Organisation, 1998

GENDER-BASED VIOLENCE



The SADC Protocol on Gender and Development (2008) sets as one of its targets, to have all SADC Member States enact and enforce legislation prohibiting all forms of gender-based violence. Under the Protocol, Member States have agreed to ensure that perpetrators of gender-based violence are tried before a court of competent jurisdiction.

Targets set out in the SADC Protocol on Gender and Development include commitments to:

- ◆ Enact and enforce legislation prohibiting all forms of gender-based violence by 2015;
- ◆ Ensure that perpetrators of all forms of gender-based violence, including femicide, sexual harassment, and female genital mutilation are brought to justice by a court of competent jurisdiction;
- ◆ Take measures to protect women, men, girls and boys against HIV and AIDS infection and other sexually transmitted infections contracted as a result of any sexual violation;
- ◆ Ensure that all health facilities in their territories administer Post Exposure Prophylaxis to prevent the onset of sexually transmitted infections;
- ◆ Eradicate harmful traditional norms, including social, economic, cultural and political practices and religious beliefs which legitimise and exacerbate the persistence and tolerance of gender-based violence;
- ◆ Enact and adopt specific legislative provisions by 2010 to prevent human trafficking;
- ◆ Introduce a composite index for measuring the reduction in gender-based violence; and

- ◆ Allocate the necessary resources to ensure the implementation and sustainability of the programmes set out in this article.

Most countries in southern Africa have made notable achievements in legislating against Gender-Based Violence (GBV) as shown in Table 15. Relevant legislation in most countries in the region covers a whole range of issues including sexual violence, domestic violence, sexual harassment and trafficking, among other issues.

Various countries have different penalties for perpetrators of violence against women. The Botswana Penal Code, for example, denies the possibility of bail for persons charged with rape. The code also provides for conviction of attempted rape. The Code of Penal Procedure in DRC provides that perpetrators of gender violence with an official capacity or jurisdictional privileges are not exempt from investigation or arrest for sexual crimes. In addition, any perpetrator with parental or legal guardianship of the victim will lose that authority.

However, despite all these positive advances, the prevalence of GBV remains very high, and some countries in the region have reported an increase in cases of violence against women and children.¹⁸

Gender-based Violence and HIV and AIDS

Sexual violence in the region is widespread and it poses serious concerns to countries already grappling with the HIV and AIDS pandemic. It is now understood that women and girls are disproportionately affected by HIV and AIDS as a result of unequal gender relations and sexually related violence.



Legislation Against Gender-based Violence in SADC Member States

Table 15

Country	Gender Violence Legislation
Angola	<ul style="list-style-type: none"> No specific legislation
Botswana	<ul style="list-style-type: none"> Sexual Offences Act (2001) Domestic Violence Act (2007) – deals with domestic violence Public Services Act (1999)– deals with sexual harassment
DRC	<ul style="list-style-type: none"> Article 15 of the Constitution (2006) – deals with sexual violence Draft new law Against Sexual Violence (2006) Act No. 015/2002 – (2002) the new Labour Code – deals with sexual harassment Law No. 06/019 modifying and supplementing the Code of Criminal Procedure (2006) deals with forced marriage and sexual violence
Lesotho	<ul style="list-style-type: none"> Sexual Offences Act (2003) – deals with marital rape and sexual violence Section 200 of the Labour Code – deals with sexual harassment
Malawi	<ul style="list-style-type: none"> Prevention of Domestic Violence Act (2006) – deals with domestic violence Rape included in the general penal code
Madagascar	<ul style="list-style-type: none"> Law No. 2000-21 of 2000 amending and supplementing provisions of the Penal Code – deals with domestic violence, sexual harassment and sexual violence Law No. 2007-38 of 2007 modifying and completing the provision in the Penal Code concerning trafficking in persons and sexual tourism – deals with trafficking Updating the Penal Code of Malagasy on the penalties for perpetrators of violence against women and children
Mauritius	<ul style="list-style-type: none"> Domestic Violence Act (1997)
Mozambique	<ul style="list-style-type: none"> Addressed in the Family law (2004) Draft Law Against Domestic Violence (2006) – deals with domestic violence Anti-trafficking in Persons, 2008.
Namibia	<ul style="list-style-type: none"> Combating of Rape Act (1999) – deals with marital rape and sexual violence Domestic Violence and Child Maintenance Act (1999) Combating Domestic Violence Act (2003) – deals with domestic violence
Seychelles	<ul style="list-style-type: none"> Family Violence (Protection of Victims) Act No. 4 of 2000 – deals with domestic violence
South Africa	<ul style="list-style-type: none"> Domestic Violence Act (No. 118 of 1998) Code of Good Practice on the handling of sexual harassment issued under the Labour Relations Act (1998) – deals with sexual harassment Section 8 of the Promotion of Equality and Prevention of Unfair discrimination Act (No. 20876) of 2000 – deals with female genital mutilation and violence against women Criminal Law (Sexual Offences and Related Matters) Amendment Act (No. 32) of 2007 – deals with marital rape and sexual violence Employment Equity Act (No. 55 of 1998) – deals with sexual harassment Draft Sexual Offences Bill (2003)
Swaziland	<ul style="list-style-type: none"> Draft Sexual Offences Bill (2006) – deals with sexual violence Draft Domestic Violence Bill (2006) – deals with domestic violence
United Republic of Tanzania	<ul style="list-style-type: none"> Sexual Offences (Special Provision) Act (1998) – deals with female genital mutilation, sexual harassment, sexual violence and trafficking Marital Rape Exemption (1998) – deals with marital rape Anti-trafficking in Persons Act No. 6 of 2008
Zambia	<ul style="list-style-type: none"> Addressed in the general Penal Code The Anti-Human trafficking Act (No. 11 of 2008) – deals with trafficking
Zimbabwe	<ul style="list-style-type: none"> Sexual Offences Act (2001) – deals with marital rape and sexual violence Domestic Violence Act (2006) – deals with domestic violence

Source: SARDC WIDSAA, *Beyond Inequalities 2008: Women in Southern Africa*, SARDC, 2008, accessible through the Virtual Library for Southern Africa www.sardc.net.

Violence Against Women interacts with HIV in various ways including:

- ◆ Chances of contracting HIV are increased through a forced sexual encounter since forced sex often involves trauma and tissue tearing which can provide conditions for the virus.
- ◆ Sexual abuse in childhood is associated with risk-taking behaviour later in life, increasing risks of HIV.
- ◆ Violence and fear can prevent a woman from insisting on condom use or refusing unwanted sex.
- ◆ Fear of violence, stigma and abandonment can dissuade women from learning their HIV status, or sharing this information with partners.
- ◆ Since violence can affect women's willingness to be tested, it can have a detrimental effect on HIV control, treatment and prevention of Mother to Child Transmission programmes.¹⁹

South African Law recognises these inter-linkages and therefore the Criminal Law Amendment Act (1997) imposes a mandatory life sentence on anyone convicted of rape who knew that he was HIV positive at the time of the rape, while the victim can request that the accused be tested for HIV.²⁰ The Sexual Offences Act in South Africa provides for the provision of treatment at state cost to rape survivors if they are considered at risk of contracting HIV or any other Sexually Transmitted Infection (STI).

Sexual violence can take the form of rape, sexual harassment at places of work, sexual exposure, attempted rape, having sexual relations with under-age children and mentally challenged women, abduction of girls, insertion of objects and degrading sexual treatment of women, incest, forced

marriage and cleansing of widows, so legislation may need to be extended in the different countries to cover the various forms of violence.

In a bid to address issues of GBV and HIV and AIDS, the SADC Gender Protocol sets targets to ensure that by 2015, laws on gender-based violence provide for the comprehensive testing, treatment and care of survivors of sexual offences including:

- ◆ Emergency contraception;
- ◆ Ready access to post-exposure prophylaxis at all health facilities to reduce the risk of contracting HIV; and,
- ◆ Preventing the onset of sexually transmitted infections.

Trafficking in Persons

The phenomenon of trafficking in persons, especially women and children is growing in the SADC Region. This represents a new, sophisticated and aggressive form of slavery. The secrecy of this illegal trade in persons makes it rather difficult to have clear data on the patterns, levels and trends of the practice. Although the precise extent of trafficking in persons is being debated, it is clear that a high level of trafficking in persons, especially women and children is occurring in the SADC region.

These offences are criminal activities and require clear and comprehensive legislation to prevent and combat. Furthermore, there is a need for programmes and legislation to protect and assist victims of such trafficking, with full respect for their human rights, and to promote cooperation among Member States in order to address this problem.

SADC Member States have in recent years started to legislate against trafficking in persons after seeing that traf-



ficking in persons in the region is on the rise. Some countries in the region such as Madagascar, Mauritius, Mozambique, Tanzania and Zambia already have Anti-Human Trafficking Legislation.

Zambia passed the Anti Human Trafficking Act (No.11 of 2008) that enables the prosecution of human traffickers and commits government to providing protection services to victims of the crime.²¹ Customs officials in Zambia are able to search and arrest those suspected of transporting human trafficking victims and government is required to provide protection and compensation to victims of human trafficking.

The SADC Gender Protocol provides for legislation to combat trafficking in persons, especially women and children by 2015 as well as mechanisms that will allow law enforcement officials to eradicate human trafficking networks, collect data on types and modes of human trafficking, establish bilateral and multilateral actions against human trafficking and ensure capacity building, awareness-raising and sensitisation campaigns on human trafficking.

Within the region, Lesotho, Mozambique, Malawi, Namibia, Swaziland, Zambia and Zimbabwe have been cited as key source countries for women and children, with South Africa being the key regional destination. However, evidence shows that women trafficked from Malawi and Zambia also find their way to European destinations.

The region's young women and children are exceptionally vulnerable to recruitment tactics of human traffickers where there is civil unrest and economic deprivation in the source countries.

There are fears arising in the region that the 2010 FIFA World Cup could lead to children recruited into prostitution rings and trafficked. In response to the anticipated explosion of trafficking in persons, especially women and children in the SADC region during the 2010 FIFA World Cup, SADC Ministers responsible for combating trafficking in persons, met on 28 May 2009 in Maputo, Mozambique to deliberate, consider and approve a Ten Year Strategic Regional Action Plan on Combating Trafficking in Persons, especially Women and Children.

HEALTH AND HIV AND AIDS



The new SADC Protocol on Gender and Development seeks to ensure that State Parties shall by 2015, adopt and implement legislative frameworks, policies, programmes and services to strengthen gender-sensitive, appropriate and affordable quality health care, in line with the SADC Protocol on Health and other regional and international commitments by Member States. In particular, they have agreed to:

- ◆ reduce the maternal mortality rate by 75 percent by 2015;
- ◆ develop and implement policies and programmes to address the mental, sexual and reproductive health needs of women and men; and
- ◆ ensure the provision of hygiene and sanitary facilities and nutritional needs of women, including women in prison.

Access to Health Care

There have been mixed results in access to health care by SADC Member States. Most countries in the

region have made gains in providing access to healthcare, but access has not been uniform. People in Botswana, Namibia and South Africa have seen improved access to primary healthcare facilities. However, some of these gains have been reversed due to various challenges and some countries have made little progress in reducing maternal mortality rates. A few countries are actually seeing an increase in maternal mortality.

The health sector in most countries has suffered from under-investment, resulting in deteriorating health infrastructure, loss of skilled human resources as a result of migration of highly trained health workers to developed countries of the north, the increasing burden of morbidity and mortality as a result of HIV and AIDS, and impoverished communities unable to cope with the costs and burden of caring for the ill and dying.²²

Maternal Mortality

Maternal mortality rates in the different countries in SADC remain high. Maternal mortality ratios reflect the

Maternal Mortality Rates in SADC			Table 16
Country	1990-1998	2000	2005
Angola	-	1700	1400
Botswana	330	330	330
Democratic Republic of Congo	-	950	1 300
Lesotho	-	550	760
Madagascar	490	490	470
Malawi	620	1 100	810
Mauritius	50	21	22
Mozambique	1100	1100	410
Namibia	230	270	270
Seychelles	-	-	57
South Africa	-	150	170
Swaziland	230	230	590
Tanzania	530	530	580
Zambia	650	730	730
Zimbabwe	400	700	560

NB: Maternal mortality rates refer to the annual number of deaths of women from pregnancy-related causes per 100,000 live births.
Source: UNICEF, State of the World's Children, 2000, 2005, 2009.

overall effectiveness of health systems, which in many countries may suffer from weak administrative systems, technical and logistical capacity, inadequate financial investment and lack of skilled health personnel. The high rates of maternal mortality in the region indicate the lack of access to reproductive health services for women and poor quality of health care. Table 16 shows a mixed picture of maternal mortality rates, and the rates remain very high.

Reproductive Health Services

Most countries in the region provide antenatal and postnatal services to women. In Mauritius and Tanzania, it is notable that maternal and child health services are provided free of charge, therefore encouraging women to deliver in formal health facilities. Zimbabwe provides pregnancy, antenatal and postnatal services to all women beginning at clinic, district, provincial and central hospitals. Both conventional and traditional midwives are involved in delivering babies.

Countries are also instituting reforms intended to decrease the incidence of teenage pregnancy as well as abortion-related mortality. For termination of pregnancy, South Africa is the only SADC Member State that has legalised abortion. Some states offer legal abortions under exceptional circumstances, for example if the pregnancy poses a danger to a woman's life or if the pregnancy was a result of rape, incest, or defilement or if the serious disability of the fetus can be determined. Zambia for example has the 1972 Termination of Pregnancy Act that allows for safe abortions on medical or social grounds. In spite of this law, the incidence of unsafe abortions remains high.

HIV and AIDS

In order to address the AIDS pandemic, especially the disproportionate numbers of women infected and affected, the SADC Protocol on Gender and Development calls on SADC Member States to adopt the following measures:

- ♦ Take every step necessary to adopt and implement gender-sensitive policies and programmes, and enact legislation that will address prevention, treatment, care and support in accordance with, but not limited to, the Maseru Declaration on HIV and AIDS.
- ♦ Ensure that the policies and programmes referred to in sub-Article 1 take account of the unequal status of women, the particular vulnerability of the girl child as well as harmful practices and biological factors that result in women constituting the majority of those infected and affected by HIV and AIDS.
- ♦ By 2015:
 - develop gender-sensitive strategies to prevent new infections;
 - ensure universal access to HIV and AIDS treatment for infected women, men, girls and boys; and
 - develop and implement policies and programmes to ensure appropriate recognition of the work carried out by care givers, the majority of whom are women, the allocation of resources and the psychological support for care givers as well as promote the involvement of men in the care and support of people living with HIV and AIDS.

State of the AIDS Pandemic

In most countries in the region, HIV prevalence rates have either gone down or have stabilised over the last few years. In 2008, UNAIDS reported that prevalence rates have gone down drastically, notably in Zimbabwe where HIV prevalence in pregnant women attending antenatal clinics went down from 26 percent in 2002 to 18 percent in 2006. In the same period, prevalence rates for young pregnant women aged 15-24-year-olds, fell from 21 to 14 percent. In Botswana, the prevalence rate went down in pregnant 15-19 year olds from 25 percent in 2001 to 18 percent in 2006.

The prevalence rates in Malawi, South Africa and Zambia have stabilised, however the report noted that prevalence rates in the region have stabilised at high levels and are still the highest in the world. South Africa has the highest number of people living with HIV in the world, with an estimated 5.7 million people living with the virus. Swaziland has the highest prevalence with 26 percent people living with HIV.²³ Prevalence

rates are on the increase in Mozambique.

While countries in the region have made huge strides to lower prevalence rates, a lot more still needs to be done, as southern Africa still has the highest prevalence rates in the world. Globally, women account for half of all new infections, but in southern Africa, young women face greater risks of becoming infected than men in the same age group. Among 15-24 year olds for example, young women in South Africa are estimated to account for around 90 percent of new infections and the trend is similar in most countries in the region.

Policies and Legislation

Countries in the region have passed laws, or amended legislation as part of the AIDS response. Legislation ranges from protection against discrimination in employment, to criminalising the wilful transmission of HIV. Table 17 shows the laws and policies on HIV and AIDS in SADC Member States.

HIV and AIDS Policies and Legislation in SADC Member States

Table 17

Country	Policy or Legislation
Angola	<ul style="list-style-type: none"> • Law 8/04 on HIV and AIDS • Decree 43/03 on HIV and AIDS, Employment and Professional Training (2003) forbids HIV testing for employment • Law 8/04 (2004) on HIV and AIDS criminalises intentional transmission of HIV and AIDS
Botswana	<ul style="list-style-type: none"> • Penal Code (Amendment) Act 5 of 1998 – Makes HIV testing compulsory for persons convicted of rape and provides harsher sentences for convictions where the HIV test is positive
DRC	*
Lesotho	<ul style="list-style-type: none"> • Sexual Offences Act (2003) states that knowing or unreasonably not disclosing one's HIV status is an offence • Labour Code (Amendment) Act (2006) outlaws pre-employment testing and guarantees confidentiality and non-discrimination
Madagascar	<ul style="list-style-type: none"> • Law 2005-040 (2006) on the fight against HIV guarantees protection of rights of people living with HIV • Law criminalises reckless or negligent transmission of HIV
Malawi	*
Mauritius	<ul style="list-style-type: none"> • The Labour (Amendment) Act (2004) prohibits harassment based on HIV status in the workplace • Civil status (Amendment) Act (2004) – foreigners with HIV cannot marry citizens of Mauritius • HIV/AIDS Act 31 (2006) provides provisions on disclosure, testing, counselling and needle exchange
Mozambique	<ul style="list-style-type: none"> • Bill on the protection of people infected with or affected by HIV – It integrates HIV status to the national Code of non-discrimination
Namibia	<ul style="list-style-type: none"> • Labour Act 15 (2004) provides for non-discrimination on the basis of HIV in employment • Children's Status Bill 13 (2005) deals with social issues relating to the impact of HIV on children • Combating of Rape Act 8 (2000) provides harsher sentences for HIV positive rapists
Seychelles	*
South Africa	<ul style="list-style-type: none"> • Employment Equality Act 55 (1998) deals with HIV and AIDS in employment • Labour Relations Act 66 (1995) prohibits the dismissal of an employee on the basis of HIV and AIDS status except for members of the South African Defence Forces or the National Intelligence Agency • Occupational health and Safety Act 85 (1993) seeks to minimise occupational exposure to HIV and the administration of post exposure prophylaxis • Promotion of Equality and Prevention of Unfair Discrimination Act No. 4 of 2000 where HIV is prohibited on the grounds of discrimination • Compensation for Occupational Diseases and Injuries Act 130 of 1993 – workers can claim compensation in the event of contracting HIV in the course of normal working activities • Code of good conduct: Key aspects of HIV and employment of South Africa (2000) offers broader protection of people living with HIV • Children's Act No. 38 (2005) • Sexual Offences and Related Matter (Amendment) Act (2007) makes HIV testing compulsory for alleged offenders • Criminal Law Amendment Act 105 of 1997 – provides sentences of life imprisonment for an HIV positive first offender convicted of rape • Criminal Procedure Second amendment Act 85 of 1997 makes bail more difficult for HIV positive suspected rapists
Swaziland	<ul style="list-style-type: none"> • Sexual Offences and Domestic Violence Bill (2006) criminalises intentional failure to disclose HIV positive status and the death penalty for rape were HIV is an aggravating factor
United Republic of Tanzania	*
Zambia	*
Zimbabwe	<ul style="list-style-type: none"> • Statutory Instrument 202 (1998) under the Labour Relations Act deals with HIV in the workplace • Sexual Offences Act 8 (2001) criminalises the wilful transmission of HIV and tests sexual offenders of HIV if found guilty • Domestic Violence Act

*No data available
Source Compiled by SARDC WIDSAA

The Southern African Development Community (SADC) has enjoyed unparalleled peace and stability in the post-independence era with the exception of a few countries that have experienced challenges of bringing about sustainable peace in the wake of armed and civil conflicts.

SADC Member States, through the Organ on Politics, Defence and Security, have contributed significantly to the resolution of conflicts within the region through direct interventions and collaborations with other sub-regional organisations with interest in conflict resolution elsewhere on the continent.²⁴

Article 28 of the SADC Protocol on Gender and Development says that States Parties shall:

- ◆ Endeavour to put in place measures to ensure that women have equal representation and participation in key decision-making positions in conflict resolution and peace-building processes by 2015 in accordance with United Nations Security Council Resolution 1325 on Women, Peace and Security.
- ◆ During times of armed and other forms of conflict take such steps as are necessary to prevent and eliminate incidences of human rights abuses, especially of women and children, and ensure that the perpetrators of such abuses are brought to justice before a court of competent jurisdiction.

Armed conflict such as that in Angola or the Democratic Republic of Congo (DRC) has had a significant impact on women and their livelihoods. The end of the war in DRC marked a milestone as SADC Member States remain committed to

UN Security Council Resolution on Women in Armed Conflict

Box 7

The UN SCR 1325 seeks to address the impact of armed conflict on women. The resolution highlights the following:

- Participation of women in all peace-building processes and decision-making;
- Importance of integrating gender perspectives and training in Peace Keeping Operations (PKOs);
- Obligation to protect women from gender-based violence and or sexual exploitation and abuse in conflict zones;
- Need to mainstream gender into the UN reporting system and programme implementation mechanisms.

encouraging the parties to achieve lasting peace and devote efforts toward reconstruction and national reconciliation.

Since the adoption of Resolution (UN SCR) 1325 on Women, Peace and Security on 31 October 2000 during the Namibian Presidency of the Security Council, to address the unequal representation of women in peace-building processes, a number of measures have been put in place throughout the SADC region to achieve the objectives in accordance with this resolution.

In Angola, the establishment of a peace-building committee of women soon after the peace agreement was signed in 2002 focuses on strengthening women's participation in peace building. The committee is coordinated by Rede Mulher, the Angolan Women's Network comprising women's empowerment groups and development-oriented organisations. This has provided a platform to bridge gender disparities in the process of national reconstruction.²⁵

Elsewhere, a gender unit was set up in the DRC in March 2002 to integrate gender perspectives within the UN Mission there (MONUC).



Why Gender in Peacekeeping?

Box 8

- To ensure accountability of the institution itself (policy)
- To ensure both women and men benefit equally from all policies, activities or plans at all levels in conflict resolution and peace building
- To ensure that constraints impeding achievement of gender equality are addressed
- To ensure missions do not reinforce discrimination internally and externally on the basis of race and/or gender
- To implement mission mandate
- To incorporate a gender perspective in peace building and conflict resolution activities, through the design, implementation, evaluation and monitoring of gender mainstreaming in all work
- To bring the voice of the women, who are mostly affected during armed conflict into the peace building processes to ensure that their specific needs and concerns are addressed
- To ensure equality between men and women
- Individual and personal conviction that gender mainstreaming is the way to achieve equality for sustainable peace and security after peacekeeping ends.

The gender unit has worked closely with the population throughout the armed conflict to bring to the attention of decision-makers, the effects of the conflict on women.

Zimbabwe has also played a significant role in facilitating the inclusion of women in conflict resolution with the Zimbabwe Defence Forces contributing a women-only contingent to the peacekeeping mission in Cote d'Ivoire.²⁶

In spite of all these initiatives, nine years after the adoption of Resolution 1325, peace building still is essentially a male domain with a noticeable deficit of gender sensitivity continu-

ing to impede the full participation of women. This is despite widespread advocacy for the recognition of the importance of integrating a gender perspective into work that is done on peace and security; as well as valuing the role women have played as both combatants and key negotiators in the realisation of peace and reconstruction.

Hence, the inclusion of the Article in the Protocol on Gender and Development recalls renewed attention and focus on women as the most vulnerable victims of armed conflicts requiring protection; and second, and most importantly, as key stakeholders in negotiating peace agreements, planning peacekeeping operations and rehabilitating post-conflict societies.

The absence or minimal representation of women from peace-building platforms of conflict resolution in the region has resulted in major setbacks in achieving the objective of increasing women's participation in all peace processes. This has further undermined the resolve of SADC Member States to mainstream gender into all aspects of people's livelihoods particularly peace building and conflict resolution.

The continued need for raising awareness on why women are particularly at risk and why it is imperative that women are at the main focal points of conflict resolution is even greater. By 2005, there continued to be a low representation of women in all phases of the peace-building process.²⁷

Historically, gender-based exclusion, including women's absence from peace negotiating forums, has resulted in damaging setbacks in reconciliation and post-conflict recovery efforts.

Prevention of Sexual Exploitation and Abuse

Sexual exploitation and abuse are often used as a strategy during armed conflicts, either as weaponry or as a form of terrorism to humiliate communities and prevent their recovery and women and children are the most vulnerable.

This is exacerbated by women and children's powerlessness physically, increased poverty levels, loss of social services, loss of access to rights and a fear of reporting and retaliation characterising conflict situations.

Sexual exploitation and abuse pose serious security risks to peacekeeping operations as women may

be targeted by both parties in conflict and also peacekeepers may take advantage of their vulnerability. As aptly put, "it is more dangerous to be a woman than a soldier in modern conflicts,"²⁸ therefore, heightened sensitivity towards the plight of women in conflict and post-conflict situations is called for.

To this end, standards of conduct have been put in place to guide peacekeeping operations:

- ◆ Sexual activity with children (persons under the age of 18) is prohibited;
- ◆ Exchange of money, employment, goods, assistance or services for sex is prohibited;

Social Reintegration in Angola and DRC – Challenges for Women Ex-combatants

Box 9

The Democratic Republic of Congo (DRC) and Angola have embarked on peace-building processes (demobilisation and social reintegration) following the end of calamitous civil wars.

The aim of social reintegration exercises is primarily to convert former combatants into productive and self-sustaining civilians. It is intended to reduce discontent and destitution among former fighters. However, in many cases, social reintegration in post-conflict countries has neglected, or inadequately addressed the gender and development concerns of women ex-combatants.

Because social reintegration is crucial for sustainable peace in the aftermath of war, it is important that gender concerns of women ex-combatants are not neglected in the DRC and Angola peace-building processes. Elsewhere, the failure to address the gender concerns of women ex-combatants in social reintegration processes has made it difficult for them to reintegrate and contribute meaningfully to the process of national development.

Large numbers of women played active roles in the DRC war and Angola conflict as combatants, intelligence information gatherers, nurses, cooks, porters of ammunition and weapons. In the DRC, women often have been reduced to pawns in rebel-controlled areas, and were sometimes abducted or persuaded to join rebel forces. Some women were subjected to sexual slavery through rape further exposing them to the risk of contracting HIV and AIDS.

A daunting challenge is that of disabled women ex-combatants who face rejection, stigmatisation and destitution. But perhaps the most serious challenge is to involve former women fighters in the planning process. The two countries have engaged researchers to come up with the social profiles of the women to highlight the nature and extent of their reintegration needs, expectations and concerns including the plight of the women's dependants and children.

A gender-sensitive social reintegration policy is needed since reintegration is a long-term process. Social values and norms should be put aside through awareness campaigns so that gender imbalances are not created deliberately.

The stigma of poverty and rejection should be fought so that women who are ex-fighters are part of the civilian society.

Given the above challenges of social reintegration, a multi-pronged approach is needed to yield positive results through gender-sensitive planning and widespread consultations.

Source: Molina Kuchena, *GADEX* No. 29, SARDIC WIDSAA, April-June 2003

- ◆ Sexual relationships with beneficiaries of assistance are strongly discouraged;
- ◆ Establishment of gender units to ensure inclusion of gender concerns for women peacekeepers and victims of sexual exploitation.

On September 30, 2009 the Security Council unanimously adopted 3rd Resolution 1888 on Women, Peace and Security that addresses the need to end sexual violence against women in conflict-affected countries. Introduced at a session chaired by US secretary of State, Hillary Clinton, the Resolution builds on Security Council Resolution 1325 and 1820, both of which were instrumental in raising the issue of sexual violence on Security Council's agenda.

HIV and AIDS in Armed Conflicts

Resolution 1325 reiterates the protection of women and girls who are increasingly prone to sexual infection therefore this extends to the high risk

of contracting or transmitting HIV due to increased incidences of sexual abuse of women and children during an armed and other forms of conflict. HIV and AIDS in conflict situations is the disproportionate disease burden carried mostly by women.

It has been noted that conflict and post-conflict environments are high risk areas that aggravate conditions for the spread of HIV due to institutional and social safety network collapse.

With only six years remaining before the 2015 target set to achieve the objective of increasing women's participation in peace processes, a number of challenges still need to be addressed.

As steps are taken on the continent to address the difficulties that women face in conflict situations, and to achieve the objective of increasing women's participation in peace processes, there is need for continued awareness on the vulnerabilities faced by women during armed conflicts as well as their role in the prevention of conflicts and upholding of peace in the region.

The SADC Protocol on Culture, Information and Sport outlines principles that Member States should follow in terms of ensuring gender equality in the media.

Article 9 of the Protocol states that “State Parties shall cooperate in ensuring gender equality and equity in areas of culture, information and sport in light of the SADC Declaration on Gender and Development”. Article 17 on information stipulates that the media should be adequately sensitised on gender issues so as to promote gender equality and equity in information dissemination

Article 29

The SADC Protocol on Gender and Development makes provisions that:

1. State parties shall ensure that gender is mainstreamed in all information, communication and media policies, programmes, laws and training in accordance with the Protocol on Culture, Information and Sport and other regional and international commitments by Member States on issues relating to media, information and communication.
2. State Parties shall encourage the media and media-related bodies to mainstream gender in their codes of conduct, policies and procedures, and adopt and implement gender awareness ethical principles, codes of practice and policies in accordance with the SADC Protocol on Culture, Information and Sport.
3. State parties shall take measures to promote the equal representation of women in the ownership of, and decision-making structures of the media, in accordance

with Article 12.1 that provides for equal representation of women in decision-making positions by 2015.

Gender Mainstreaming in Media

The licensing conditions in SADC Member States do not require that media houses demonstrate or set targets for achieving diversity in ownership, employment and content of the media. Gender issues are generally non-legislated and therefore do not have any binding effect. However, some media houses as well as regulatory and voluntary associations in the region have in place policy frameworks that consider gender in editorial content and programming. The majority of these deal with protection of discrimination on various grounds, including sex. Table 18 shows some of the gender provisions in various media codes of conduct in the region.

Gender and Media Content

Few countries in the region have legislation that deals specifically with issues of media content. However, when they do, the focus is on the portrayal of women. For example, Statutory Instrument 33 of 2008 of the Zimbabwe Electoral Commission on the coverage of elections states that, in election broadcasts and election publications, no broadcaster shall broadcast any elections programme or advertisement that initiates violence or advocates hatred that is based on race, ethnicity, sex, gender, religion or political conviction and that causes incitement to cause harm.

Table 18 also shows that Codes of Conduct in the region deal mostly with media content when addressing issues of gender equality.



Gender Mainstreaming in Media Codes of Conduct and Legislation

Table 18

Country	Provision
Botswana	The Press Council of Botswana Media Code of Ethics 2004. Under editorial rules obliges media institutions not to publish material that engenders hatred based on arbitrary grounds such as race, ethnicity, nationality, gender, physical disabilities, religion and political affiliation It also states that Media Institutions must not identify victims of gender violence or publish material likely to contribute to such identification unless the victims have consented to such publications or law has authorised them to do this.
DRC	Law No. 04/017 of 2004 providing for the High Authority of Media (HAM) – notes that gender is one factor that needs to be taken into account when appointments are made to ensure diversity within HAM
Lesotho	Telecommunications Authority (Broadcasting) Rules 2004 regulating radio and television – Code of Practice Section 6 prohibits broadcasting content that is likely to incite hatred based on race, ethnicity, nationality, gender, marital status, sexual preference, age, disability, religion and culture
Swaziland	Code of ethics for the Swaziland Association of Journalists – Article 6 states that journalists should not originate materials that encourage discrimination on the grounds of ethnicity, colour, creed, gender or sexual orientation The Ombudsman and Appeal Panel Code of Conduct states that a newspaper should not place gratuitous emphasis on the race, nationality, religion, colour, country of origin, gender, sexual preferences, marital status, political views or intellectual or physical disability of either individuals or groups, unless the fact is relevant. ²⁹
United Republic of Tanzania	Media Code of Conduct for election reporting 2000 – Section 12 on media obligations to political parties requires the media to promote the candidature of women and other disadvantaged groups. Section 22 on gender requires journalists to refrain from coverage that is biased and reinforces prejudices against women; and encourages women contestants by raising public awareness of the importance of women's participation in public life and by rebuking all moves to suppress them Media Council – Journalists Code of Ethics Article 6 requires journalists to avoid engaging in practices which discriminate on the basis of race, religion, origin or sex The Tanzania Code of Ethical Practice for Media Managers/Editors states that the media has a duty to ensure that information published does not incite discrimination, sexism, racism or violence.
Zambia	Media Council of Zambia (MECOZ) Clause 7 alerts journalists to the dangers of discrimination on arbitrary grounds such as sex or race.

Article 30

This article of the Protocol on Gender and Development on media content and gender states that:

1. State Parties shall take measures to discourage media from
 - a) Promoting pornography and violence against all persons, especially women and children;
 - b) Depicting women as helpless victims of violence and abuse;
 - c) Degrading or exploiting women, especially in the area of entertainment and advertising, and undermining their role and position in society; and
 - d) Reinforcing gender oppression and stereotypes.
2. State parties to encourage the media to give equal voices to women and men in all areas of coverage, including increasing the number of programmes for and about women on gender specific topics and that challenge gender stereotypes;
3. State Parties shall take appropriate measures to encourage the media to play a constructive role in the eradication of gender based violence by adopting guidelines which ensure gender sensitive coverage.

Women's Voices in the Media

The 2003 Gender and Media baseline study for southern Africa found that women's views and voices are under-represented in the news. Some 17 percent of known news sources in the media monitored were women. The study also found that the only occupational categories in which female views dominated were beauty contestants, sex workers and home-makers and women constituted less than ten percent of news sources in the econom-

ics, politics and sport categories.³⁰

These are based on purely typical gender-stereotyped roles that women are perceived to play in society and the media has a greater role to play in dismantling these societal views. Women politicians are not heard in comparison to their strength in parliament. Women constituted eight percent of the politicians quoted in the media monitored yet on average in 2003 they constituted eight percent of members of parliament.

This situation has not changed, although there have been improvements in some countries. Monitoring of election coverage in South Africa and Malawi showed a dramatic improvement in the representation and portrayal of women as voters, candidates and citizens. The studies showed that women sources increased from eight percent in the 1999 elections to 24 percent in the 2004 elections.³¹

A study conducted by MISA-Zimbabwe during the 2008 elections in that country highlighted that women are under-represented as sources and subjects of the news in articles reporting on the elections. In one of the Sunday newspapers monitored for example, there were 69 percent male voices as compared to 31 percent female voices.³² The trend in which women are under-represented in elections coverage remains the same in the region.

Portrayal of Women in the Media

The Gender and Media baseline survey reported that there are still cases of blatant sexist reporting that portrays women as objects and temptresses. It also noted that there is an increasingly challenge of subtle stereotypes that are conveyed in a variety of ways such as the relative weight given to male and female

sources and stories that glorify women and perpetuate the traditional roles of men and women.

A study conducted by Gender Links, on Gender and Tabloids in Southern Africa, in 2007 found that there are many tabloids mushrooming in the region and they present women in stereotypical roles. The study that took place in Mauritius, South Africa and Tanzania found that tabloids most often portray women as beauty contestants, home makers, domestic workers, office workers, students and social workers. Men on the other hand are featured in a range of roles including as professionals, NGO workers, business people, labourers, drivers, religious people and politicians.³³

Women and ICTs

Most countries in the region have now realised the need to have ICT policies and to different extents, they have integrated gender in their policies.

Article 31 of the SADC Protocol on Gender and Development on Universal Access to Information, Communication and Technology makes provisions for State Parties to put in place information and communication technology policies and laws in the social, economic and political development arena for women's empowerment, regardless of race, age, religion, or class. These policies and laws shall include specific targets developed through an open and participatory process, in order to ensure women's and girl's access to information and communication technology.

Table 19 shows some of the policies in countries in the region, including the gender issues they address.

ICT Policies and Gender Provisions in SADC		Table 19
Country	Policy	Gender Aspects
Angola	Strategy for the Development of ICT 2000-2010	*
Botswana	National Policy for ICT/Maitlamo (draft)	Limited to a mention of 'young mothers' under its "Connecting Communities Programme" *
DRC	No ICT policy yet	
Lesotho	National ICT policy 2005	Anticipates that ICT development and deployment will reduce inequality between the sexes
Malawi	2003 ICT policy framework document (draft)	*
Mozambique	National ICT policy in place	Has a specific chapter on "Gender and Youth"
Swaziland	National ICT Infrastructure (NICI) policy and plans	Under implementation plans, country seeks to improve access to information by gender and other disadvantaged groups, have gender balance in design of projects, improve ICT literacy of both sexes

ICT Policies and Gender Provisions in SADC*continued...*

United Republic of Tanzania	National ICT policy document in place	No reference to gender or women specific issues
Zambia	National ICT policy in place	The policy identifies mainstreaming youth and gender issues as important but concerns and issues are not featured in the policy goals
Zimbabwe	National ICT policy approved	Recognises gender as a crosscutting theme alongside youths, the disabled, and the aged/elderly
*No data available Sources: Computer Society of Zimbabwe, Engendering ICT Policy: Guidelines, Government of Mozambique (2001), <i>Mozambique ICT Implementation Strategy 2001</i> , (Accessed 15-02-07); Government of The United Republic of Tanzania (2003), <i>National Information and Communications Technologies Policy</i> ; SARDC-WIDSAA, <i>Beyond Inequalities: Women in Southern Africa 2008</i> , SARDC 2008		

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