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Status of Implementation of the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa

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60TH MEETING -COMMISSION ON THE STATUS OF WOMEN

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THE MAPUTO PROTOCOL

The Maputo Protocol guaranteeing comprehensive rights to women was adopted by the AU on 11 July 2003, in Maputo, Mozambique. Following its adoption, AU Member States in the Solemn Declaration on Gender Equality in Africa adopted in July 2004, undertook to sign and ratify the Maputo Protocol by the end of 2004, support the launching of the public campaign aimed at ensuring its entry into force by 2005, and to usher in an era of domestication and implementation of the Protocol, as well as, other national, regional and international instruments on gender equality by all States Parties. In the AU Gender Policy, Member States undertook to achieve full ratification and enforcement of the Maputo Protocol by 2015 and its domestication by 2020.

As of October 2015 however, out of the 54 Member States of the AU, only 37 countries have ratified the Maputo Protocol; Sierra Leone being the last country to have ratified on 30 October 2015. Prior to this ratification the last ratification was that of Cameroon on 13 September 2012. A 3 years gap.

17 countries have not yet ratified the Protocol and these are *Algeria, Botswana, Burundi, Central African Republic, Chad, Egypt, Eritrea, Ethiopia, Madagascar, Mauritius, Niger, Sahrawi Arab Democratic Republic, Sao Tome and Principe, Somalia, South Sudan, Sudan and Tunisia*.

A few countries have made reservations upon ratification. These include:

1. **Cameroon** which ratified the Maputo Protocol with the following reservation:

“ The acceptance of the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in African should in no way be construed as endorsement, encouragement or promotion of homosexuality, abortion (except therapeutic abortion), genital mutilation, prostitution or any other practice which is not consistent with universal or African ethical and moral values, and which could be wrongly understood as arising from the rights of women to respect as a person or to free development of her personality.

Any interpretation of the present Protocol justifying such practices cannot be applied against the Government of Cameroon “.

2. **Kenya:**

“The Government of the Republic of Kenya does not consider as binding upon itself the provisions of Article 10(3) and Article 14(2)(c) which is inconsistent with the provisions of the Laws of Kenya on health and reproductive rights.”

3. **Namibia:**

“The Government of the Republic of Namibia has a reservation on Article 6 (d) of the Protocol, until legislation regarding the recording and registration of customary marriages is enacted.”

4. **South Africa:**

“Article 4(j): does not find application in the Republic of South Africa as the death penalty has been abolished.”

“Article 6(d): South Africa does not consider itself bound by this Article that a marriage be recorded in writing and registered in accordance with national laws in order to be legally recognised.”

“Article 6(h): South Africa enters a reservation on this Article, which subjugated the equal rights of men and women with respect to the nationality of their children to national legislation and national security interests, on the basis that it may remove inherent rights of citizenship and nationality from children.”

Interpretative declarations:

•“Article 1(f): definition of “discrimination against women” in the Protocol has the same meaning and scope as provided for in and interpreted by the Constitution of South Africa from time to time.”

“Article 31: The South African Bill of Rights shall not be interpreted to offer less favourable protection of human rights than the protocol, which does not expressly provide for such limitations.”

5. **Uganda:**

“Article 14(1)(a): In respect to the women’s right to control their fertility interpreted to mean; women entirely have the right to control their fertility regardless of their marital status.”

“Article 14(2)(c): interpreted in a way conferring an individual right to abortion or mandating a State Party to provide access thereto. The State is not bound by this clause unless permitted by domestic legislation expressly providing for abortion. “

6. **Rwanda** entered a reservation on Article 14(2)(c).

DOMESTICATION/IMPLEMENTATION

Ratification obliges States Parties to the African Charter to adhere to the rights entrenched in the Protocol.

Human rights guarantees contained in the Maputo Protocol are far-reaching. However, there is still a huge gap between commitments pursuant to the ratification of the texts and the reality of women’s lives. Indeed, harmonization with domestic law in several countries which have ratified the Protocol is yet to be conducted due to the lack of real political will and the persistence of several other obstacles. Gender policies have however been developed in almost all countries and have resulted in the adoption of specific laws and reforms in areas such as family law, health, education and the judiciary taking into consideration the gender dimension.

The new Constitutions that were adopted in **Kenya and Zimbabwe** for instance, took a gender sensitive dimension which enhances women’s rights. Reforms tackle issues such as violence against women, stereotypes, discrimination, nationality and poverty. In accordance with Article 144 of the

Namibian Constitution, Maputo Protocol is part of the Namibian domestic laws. This therefore means that the rights and freedoms provided in the Protocol are enforceable in Namibian judiciary and quasi-judicial bodies.¹

I will now proceed to mention a few countries that have taking measures to domesticate and/or implement the Maputo Protocol.

Benin

Adopted a family code in 2004 which focuses on gender equality, prohibits polygamy, affords children equal access to rights irrespective of their Status
Sexual harassment Act 2006

Law on the protection of persons living with HIV/ AIDS 2006

Abolished death penalty in 2011

Free medical services to women giving birth by C Section since 2008

2012 Law to prevent and punish violence against women

BURKINA FASO

One of the three states to have reported to have reported under the Maputo Protocol
FGM is punished under the Criminal code and the law of the fight against excision. Awareness raising campaigns involving government ,customary and religious authority to fight FGM
Criminal code punishes rape, battery, indecent assault
Law fixing quotas for Legislative and municipal elections April 2016 : 18.8% women in current Parliament
Creation of women's income generation activities fund and assistance fund for income-generating activities for women farmers, a Special Assistance Window for Women Entrepreneur ship.
Free grants to health facilities for the benefit OVDs, Pregnant women and people living with HIV/AIDS
Has established a national commission for the implementation of the commitments of Burkina Faso for women since 2008 whose mandate includes: support the ratification of existing and up coming legal instruments that enhance socio-economic, political and cultural advancement of women in Burkina Faso

RWANDA

2015 Constitution enshrines the principle of gender equality and provides for minimum of 30% quota for women in all decision making positions. Presently 64% in Parliament, 40% in Government, 50% female Judges, 50% Female Provincial governors
2008 Law on the prevention and punishment of Gender Based violence

¹ Namibia report page 48

2013 Law guaranteeing women equal rights with men on land access, ownership and utilisation
2009 Law on equal opportunities and pay for women and men, and prohibits sexual harassment in the work place
2013 Law governing political parties prohibits any form of discrimination based on gender , sex, race or religion
2013 Law instituting gender responsive budgeting
ISANGE ONE STOP CENTER provides a holistic response to VAW/GBV under one roof.
In the area of media 29% of journalist are women and the 2013 law on the responsibilities, organisation and functioning of the Media High Council requires at least 30% of female representation on its Board of Directors

Marriage:

In **Sierra Leone** the Registration of Customary Marriage and Divorce Act protect persons entering into customary marriage from forced marriages in line with traditional customs and practices. In general, marriage under whatever law, be it under the Christian Marriage Act, the Muslim Law or Civil Law, is entered into by two adults (aged 18 years and over).

Mozambique had adopted a new Penal Code in 2014 which, amongst others, afforded rapists the chance to marry the victim in exchange of prosecution and this created an uproar amongst civil society organisations. The Government has reviewed this section and removed the provision which allowed the rapist to marry the victim to avoid prosecution. In addition to the removal of this provision, the Penal Code now includes marital rape as an offence.²

Malawi adopted the **Gender Equality Act in 2013** and the **Marriage, Divorce and Family Relations Act in 2015** so as to ensure that discrimination against women is eliminated. The Marriage, Divorce and Family Relations Act sets the legal age of marriage at 18. Additionally, Malawi also delivered ground-breaking judgements in 2015 which ensure that women are protected from discrimination. In relation to a case where sex workers were forced to have an HIV test, the High Court of Malawi stated that compulsory HIV testing was unconstitutional.³

Violence Against Women:

Benin passed Act No. 2011-26 of 09 January 2012 on the Prevention and Repression of Violence Against Women which protects women from such violations, including domestic violence, FGM, forced marriages and other traditional harmful practices against women.

² AllAfrica 'Mozambique: Offensive articles removed from new draft of Penal Code' (2014) available at <http://allafrica.com/stories/201404080228.html> (accessed on 15 March 2016).

³ Southern Africa Litigation Centre 'Malawi High Court rules that mandatory HIV testing is unconstitutional' (20 May 2015) available at <http://www.southernafricalitigationcentre.org/2015/05/20/malawi-high-court-rules-that-mandatory-hiv-testing-is-unconstitutional/#> (accessed on 15 March 2016).

Guinea Bissau also adopted a Domestic Violence Act which regards domestic violence as a public act, wherein other members of the society can lodge a complaint for the victim in the event where he/she does not.⁴

Similarly, in 2011 **Angola** adopted a Domestic Violence Act which regards domestic violence as a public crime.

Liberia passed the Rape Amendment Act and amended the Liberian Penal Code which expanded the definition of what constitutes “rape”, to include “*intentionally penetrates the vagina, anus, mouth or any other opening of another person (male or female) with his penis, without the victim’s consent*” or “*intentionally penetrates the vagina or anus of another person with a foreign object or with any other part of his body ... without the victim’s consent or if the victim is less than 18 years old.*”⁵

In **Namibia**, the Combating of Domestic Violence Act, Act No. 4 of 2003, contains an extensive definition of domestic violence, to include physical, sexual, economic, verbal, emotional and psychological violence, intimidation and harassment. It further provides for the issuing of protection orders and police warnings in domestic violence matters. It also has provisions which should give added protection to complainants that lay criminal charges against their abusers. The Act gives police specific duties in domestic violence incidents, including the duty to help complainants get access to medical treatment and collect their personal belongings.⁶

In **Liberia** Gender and Sexually Based Violence Act, provides for the establishment of a specialized Court to try cases of sexual violence.

Sexual violence against women is a criminal offence under the Penal Code and Domestic Violence Act in **Malawi**. The review of the Penal Code was completed in 2000 and enacted into law in 2010. It has, among other things, extended the definition of sexual activity ‘*to include practices between or perpetrated by females.*’ However, during the enactment process, no effort was made to reconsider the neutralization of rape as an offence which may be committed by both males and females. The enactment of the Penal Code (Amendment) Act also revised the age under which a girl may be defiled from 13 years to 16 years in line with the constitutional provision of protection of rights of children under section 23. The Gender Equality Act outlaws sexual harassment defining it in Section 6 as:

*A person commits an act of sexual harassment if he or she engages in any form of unwanted verbal, non-verbal or physical conduct of a sexual nature in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated.*⁷

In **Namibia**, the Combating of Rape Act defines rape as the intentional commission of a sexual act under coercive circumstances.

⁴ African Development Bank ‘Country Profile Guinea Bissau’ (2015) 17.

⁵E Horvát & M Zukani et al Gender-Based Violence Laws in Sub-Saharan Africa 2007 page 19.

⁶ http://www.achpr.org/files/sessions/58th/state-reports/6th-2011-2014/namibia_state_6th_periodic_report.pdf 49

⁷ http://www.achpr.org/files/sessions/56th/state-reports/1-1995-2013/malawi_state_report_eng.pdf 87

In **Sierra Leone**, the Domestic Violence Bill criminalises violence. The Prevention of Domestic Violence Act (2006) in **Malawi** has assisted many women to use it as a tool of seeking justice against abuses.

South Africa's Sexual Offences Bill explicitly states that “[a] marital or other relationship, previous or existing, shall not be a defense” to a charge of rape. Namibia’s Combating of Rape Act similarly provides that “no marriage or other relationship shall constitute a defense to a charge of rape.”⁸

Harmful cultural practices:

In **Malawi**, the Gender Equality Act prohibits harmful practices which have been defined as: *a social, cultural, or religious practice which, on account of sex, gender or marital status, does or is likely to – (a) undermine the dignity, health or liberty of any person; or (b) result in physical, sexual, emotional, or psychological harm to any person.*⁹

The Gambia, which is one of the countries with a high prevalence rate of female genital circumcision (FGM), has, on **28 December 2015**, adopted a law which criminalises female genital circumcision. This law provides a fine of about \$1250 or three years in prison for offenders.

The **Government of Ghana** amended the Criminal Code in 2012 and included a section which can be used to prosecute those who aid and abet female circumcision. Previously, section 69A of the Criminal Code only provided for the liability of the person who is performing the female circumcision whereas now, with the amendment of 2012, liability can be extended to the persons who are participating in the female circumcision.¹⁰

In 2011, **Guinea Bissau** also passed a law banning FGM.

Health:

The right to health is articulated in several Constitutions in Africa (**South Africa, Kenya, Democratic Republic of Congo, Benin, Zimbabwe and Rwanda** while in some states such as **Nigeria and Zambia**, health is provided for under the principles of State Policy. In **Sierra Leone** for example, the Medical Health Programme and National Health Maternity Protection Strategic Plan of Sierra Leone caters for pregnant women and children aged five and below.¹¹

In **Malawi**, the Gender Equality Act specifically provides for the right to adequate sexual and reproductive health. The right covers access to sexual and reproductive health care services; access to family planning services; protection from sexually transmitted infections; self-protection from STIs; choice of whether and when to have a child; fertility control; and choice of contraceptive method.

⁸ Gender Based Violence laws in Sub-Saharan Africa (2007) available on <http://www.nyctbar.org/pdf/report/GBVReportFinal2.pdf> 29

⁹ http://www.achpr.org/files/sessions/58th/state-reports/6th-2011-2014/namibia_state_6th_periodic_report.pdf 89

¹⁰ Criminal Offences (Amendment) 2012 of Ghana available at <http://www.refworld.org/pdfid/44bf823a4.pdf> (accessed on 15 March 2016).

¹¹ http://www.achpr.org/files/sessions/57th/state-reports/1st-1983-2013/sierra_leone_state_report_eng.pdf

In **Senegal**, the 2005 Law in Relation to Reproductive Health, recognizes reproductive health as a “*fundamental and universal right guaranteed to all individuals without discrimination based on age, sex, wealth, religion, race, ethnicity, matrimonial situation or any other situation.*” Thus there is access to contraceptives and other basic services, such as pregnancy and STI testing. However, one has to be 15 or older to access such services. Abortion is only available in cases where the life of the mother is in danger. This is the case in most other countries as well, except in South Africa.

Property:

In 2011 **Malawi** passed the **Deceased Estates (Wills, Inheritance and protection) Act**. This Act repealed the Wills and Inheritance Act which posed a number of challenges especially for women after the death of their husbands. The Act is therefore deemed a milestone in addressing the predicament of women and children in as far as the administration of deceased estates is concerned.

Decision making and public participation:

Public positions have for a long-time been male dominated and in some cases women were totally excluded. However with the progressive developments such as the adoption of the Maputo Protocol, countries have begun to change the *status quo* and afford women opportunities which tradition denied them. The **South African Constitutional Court** in *Bhe v Magistrate, Khayelitsha* declared unconstitutional and invalid the African customary rule of male primogeniture which only allows an oldest male descendant or relative to succeed the estate of a deceased man.¹²

In **Sierra Leone** the Chieftaincy Act encourages women to contest for Paramount Chieftaincy. Before this law, chieftaincy was a male domain controlled by traditional norms and values.¹³

The **Senegalese** Parity law passed in 2010 requires all political parties and coalitions to avail equal numbers of men and women on their candidate list.¹⁴

Another example is the **Constitution of Kenya** which prohibits either gender from constituting more than two thirds of any elected body; this means women must make up at least one-third of all elective public bodies within Kenya’s political arena. The implementation of this Article should result in an increase in women’s representation within all levels of government and, consequently, allowing women to increase their influence in the decision making processes that affect equality throughout the country. For instance: (1) Article 81(b) states that not more than two-thirds of the members of elective public bodies shall be of the same gender; (2) Article 97 states that the Kenyan National Assembly shall consist of at least 47 women elected by registered voters of the counties; (3) Article 98 states that the Senate shall consist of 16 women members; (4) Article 100 states that Parliament shall enact legislation to promote the representation of women in Parliament; and (5) Article 177 requires that no more than two-thirds of the membership of the county assembly shall be of the same

¹² http://www.achpr.org/files/sessions/58th/state-reports/2nd-2002-2015/staterep2_southafrica_2003_2014_eng.pdf

¹³Sierra Leone Country Gender Profile October 2011 ,
African Development Bank Group report page 16

¹⁴S Faye Breakthrough for Women in Senegal’s Lower House available on
<http://www.ipsnews.net/2012/08/breakthrough-for-women-in-senegals-lower-house/>

gender.¹⁵ The Political Parties Act 2011 of Kenya also provides opportunities for women to enter into politics.

In **Rwanda**, the Constitution requires that 30% of decision-making positions should be occupied by women.¹⁶

In **Malawi**, the Gender Equality Act also introduces quotas in the Public Service. According to Section 11 of the Act, *“Notwithstanding anything contained in the Public Service Act and subject to subsection (2), an appointing or recruiting authority in the public service shall appoint no less than forty percent (40%) and no more than sixty percent (60%) of either sex in any department in the public service.”*¹⁷

In **2014**, the **President of the Democratic Republic of Congo** signed ‘a law requiring that women make up 30 percent of each party’s slate of candidates for local or legislative elections’.¹⁸ Although this is not in line with gender equality which requires that men and women are equally represented, it can be considered as a step towards the implementation of the rights in the Maputo Protocol.

Access to justice:

In **South Africa**, for example, the Constitution states that everyone has the right to access the courts in pursuit of justice. Thus South African women are guaranteed of equal protection before the law as enshrined in section 9(1) of the Constitution which provides that *‘everyone is equal before the law and has the right to equal protection and benefit of the law’*.¹⁹

Labour rights:

Labour rights have for a long time been a struggle for women. In **Sierra Leone**, strides have been made in ensuring and guaranteeing women’s right to work- examples include, measures such as paid maternity leave or leave with social security benefits. In addition, Sierra Leone has taken certain measures to protect women in many areas including guarantees against dismissal for working mothers, irrespective of their marital status during a reasonable period before and after childbirth.²⁰

In **Namibia**, the Labour Act, Act No. 11 of 2007, makes explicit provision for maternity benefits. It outlaws discrimination in workplaces on the basis of pregnancy and HIV and AIDS status, and prohibits sexual harassment.²¹

The right to education:

¹⁵ Implementing the Protocol on the Rights of Women in Africa: Analysing the Compliance of Kenya’s Legal Framework available on <http://www.soawr.org/sites/default/files/ml-implementing-protocol-womens-rights-africa-010314-en.pdf>

¹⁶ Maputo Protocol, A journey to equality available on

http://www.equalitynow.org/sites/default/files/MaputoProtocol_JourneytoEquality.pdf 49

¹⁷ http://www.achpr.org/files/sessions/58th/state-reports/6th-2011-2014/namibia_state_6th_periodic_report.pdf 75

¹⁸ Republic of the Congo 2014 Human Rights Report (2014) 21 available at <http://www.state.gov/documents/organization/236560.pdf> (accessed on 14 March 2016).

¹⁹South Africa Constitution Section 9.

²⁰ http://www.achpr.org/files/sessions/57th/state-reports/1st-1983-2013/sierra_leone_state_report_eng.pdf 22

²¹ http://www.achpr.org/files/sessions/58th/state-reports/6th-2011-2014/namibia_state_6th_periodic_report.pdf 50

The **Malawi Constitution** for instance, provides for the right to education. In addition, the Gender Equality Act provides for equality in education and training, access to scholarships in Sections 14 to 16. Main provisions state that *every person has the right to access education and training including vocational guidance at all levels, except in the cases of special need, the Government shall take active measures to ensure that educational institutions provide equal access to girls and boys and women and men, to the same curricula; the same examinations; teaching staff with qualifications of the same standard; institutional premises and equipment of the same quality, irrespective of sex of students at the same level; or provision of sanitary facilities that take into account the specific needs of the sex of the students.*²²

E/ THE ROLE OF COMMISSION

I. Ratification

In order to speed up the entry into force of the Protocol after its adoption and promote its ratification across the continent, the Special Rapporteur on the Rights of Women conducts an effective and constant advocacy campaign among the Ministries of Foreign affairs and Parliaments of AU Member States through country missions, sending Notes Verbales to diplomatic missions, as well as during the presentation of State Periodic Reports before the Commission, encouraging States to ratify the Maputo Protocol and this has proved effective over the years as ratifications increase, albeit slowly.

Furthermore, the Special Rapporteur on the Rights of Women organises side events on the Maputo Protocol at every Ordinary Session of the Commission and there is a standard item on the Agenda of every Ordinary Session of the Commission wherein panel discussions are held between the Commission, State Parties and other stakeholders about the Maputo Protocol and the importance of ratifying the same.

II. Activities

The mechanism undertook the following activities towards enhancing the knowledge of the Maputo Protocol:

- In September 2010, the first Regional Conference on the Rights of Women for West and North African countries (18 in total) took place in Mali. The conference was attended by the Representatives of State Parties, NHRIs, NGOs, UN Agencies and Parliamentarians.
- A high level Seminar on the Impact of Conflict on the Rights of Women and Girls was held in Mali in October 2014, in collaboration with the Department of Political Affairs and the Minister in charge of the Family, Women and Children. The seminar aimed to evaluate the national action plan on the implementation of Resolution 1325.
- The mechanism undertook missions and activities in more than 25 countries. At the end of these missions, the mechanism makes specific recommendations urging States Parties who have ratified the Protocol to adopt laws, action plans, as well as programs for a better protection of the right of women and girls.

²² http://www.achpr.org/files/sessions/56th/state-reports/1-1995-2013/malawi_state_report_eng.pdf 79

- The mechanism has developed country reports on child marriage in more than 10 countries which have the highest prevalence in Africa.
- The mechanism is preparing a General Comment on early marriage in line with Article 6 of the Protocol in partnership with the Committee of Experts on the Rights and Welfare of the Child.
- Another General Comment on Economic and Social Rights is before the Commission for adoption.
- The mechanism has just launched a campaign on the Decriminalization of Abortion in line with its Resolutions and other commitments (Article 14).

III. Guidelines for State Reporting under the Maputo Protocol

By virtue of Article 26 of the Maputo Protocol, States are requested to report on the measures taken (both administrative and legislative) to implement their obligations under the Protocol. In order to encourage States that have ratified the Protocol to honour their obligations, the Mechanism, with the support of the Centre for Human Rights of the University of Pretoria adopted Guidelines for State Reporting under the Maputo Protocol during the 46th Ordinary Session of the Commission held from 11 to 25 November 2009 in Banjul, The Gambia. The guidelines are intended to assist Member States in drafting periodic Reports, to integrate legislative and other measures taken to give full effect to the provisions of the Maputo Protocol.

The Special Rapporteur on the Rights of Women in Africa has also organized several capacity building workshops to enhance the capacity of stakeholders in report writing techniques using the Guidelines. States report in two parts: Part 1, States report on the legislative and administrative measures taken to implement the provisions of the African Charter by virtue of article 62, and Part 2, States report on the administrative and legislative measures taken to implement the provisions of the Protocol by virtue of article 26. States should associate the Ministers in Charge of gender in the elaboration of Part 2.

As at its last Ordinary Session in November 2015, the only countries that have incorporated the Guidelines during its State Reporting are Malawi and Nigeria during the 56th Ordinary Session of the Commission in April 2015 and Burkina Faso at the 57th Ordinary Session of the Commission in November 2015.

IV. General Comments 1 & 2 of the Protocol to the African Charter on the Rights of Women in Africa

African Commission adopted General Comments 1 on Article 14 (1) (d) and (e) of the Maputo Protocol at its 52nd Ordinary Session held from 9 to 22 October 2012 in Yamoussoukro, Côte d'Ivoire with the support of the Centre for Human Rights, Pretoria. The General Comments provide a set of international standards and best practices towards an effective implementation of the provisions of Article 14 (1) (d) and (e) guaranteeing women's right to self-protection and to be protected from HIV infection, as well as their right to be informed of the HIV status of their partners. The General Comments are to be used by States in preparing and submitting their periodic reports to the Commission.

The African Commission also adopted General Comment No. 2 on Article 14 (1) (a), (b), (c) and (f) and Article 14 (2) (a) and (c) of the Maputo Protocol at its 55th Ordinary Session held from 28 April - 12 May 2014 in Luanda, Angola with the support of IPAS Africa Alliance. This General Comment

provides interpretive guidance on the overall and specific obligations of States Parties towards promoting the effective domestication and implementation of Article 14 of the Maputo Protocol guaranteeing women's sexual and reproductive rights.

The General Comments are to be used by States when preparing their periodic reports.

V. Guidelines on combatting sexual violence and its consequences

The Special Rapporteur on the rights of women in Africa (SRRWA), in collaboration with the International Federation of Human Rights (FIDH) and its South African member organisation Lawyers for Human Rights (LHR), is implementing a new project on sexual violence against women and its consequences. The project aims to strengthen the capacity of African governments and civil society to combat this scourge and protect victims. To this end the ACHPR is developing Guidelines for Combating Sexual Violence and its Consequences. The Guidelines will be a practical tool for African Union member states to better honour their obligations to combat sexual violence and its consequences under regional (African Charter, Maputo Protocol) and international instruments (CEDAW, UNSC resolutions on Women, Peace and Security). It will focus on the practical measures necessary to prevent violence and successfully prosecute perpetrators. It will also focus on practical ways to ensure access to justice, protection and other services, victim and witness protection, access to sexual and reproductive rights, and restitution for victims.

V. Implementation by State Parties of the provisions of the Maputo Protocol

During its missions and thanks to its meetings with States Parties, the Mechanism has made concrete progress in the protection of women's rights, particularly with regard to legislation. As such, several States Parties have adopted a Code of Persons and the Family reflecting gender equality, laws on reproductive health, the protection of women against HIV/AIDS, domestic and/or sexual violence, the prohibition of FGM, quotas, and the promotion of education for girls and female literacy. Several governments also now have full-fledged Ministries to empower women, children and the family. Most countries have adopted and implemented national gender policies, national action plans for the promotion of the rights of women and the family, national action plans for implementing UN Resolution 1325, and relevant sectoral policies in the area of maternal and child protection. With regard to socioeconomic achievements, several countries have adopted ambitious action plans to alleviate poverty among women by establishing funds for women's empowerment and initiating land reforms with the aim of promoting women's access to social housing, land and agricultural loans.

F/ WHERE ARE WE NOW?

Following the diagnosis therefore, the commitment by States Parties on the Solemn Declaration on Gender Equality has not been realized. Deadlines fixed in the AU Policy to achieve full ratification by 2015 and domestication by 2020 has not been met. Even in countries which have ratified the Maputo Protocol, women's rights are still being violated without the perpetrators being punished. Due to ignorance, many women still do not know their rights. Those who would love to prosecute violations of their rights lack financial means to do so. Legal aid is either not available or inaccessible and the Commission is not explored because of lack of legal aid fund.

RECOMMENDATIONS:

Although different legislative and other measures have been taken to give effect to the Protocol, women still face vulnerabilities due to the fact that the implementation of the Maputo Protocol at the domestic level faces various challenges. To ensure that all African women benefit from the rights provided by the Maputo Protocol, African States are urged to take the following steps:

- ratify the Maputo Protocol, for those that have not yet done so;
- lift reservations made during ratification of the Maputo Protocol to ensure effective implementation of the same.
- Align national laws with the provisions of the Maputo Protocol;
- give effect to the provisions of the Maputo Protocol to ensure that African women have access to domestic remedies in case of violations of their human rights. Where laws exist, focus on better enforcement, including strengthening institutional mechanisms, allocating resources and increasing the human capacity needed to ensure that enacted legislation serves its purpose;
- repeal or amend domestic laws which are discriminatory towards women;
- put in place comprehensive systems through which victims can report cases of human rights abuses. These systems must be confidential and be linked to healthcare, counselling and other comprehensive and integrated services which provide for support of victims;
- strengthen data collection to reveal the true extent of women's human rights violations;
- fight against impunity
- ensure the use of the Guidelines on State Reporting the Maputo Protocol adopted by the Commission during State Reporting under Article 62 of the African Charter
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PRESENT STATUS OF SUBMISSION OF STATE PERIODIC PREPOTS UNDER ARTICLE 62 OF THE AFRICAN CHARTER.

Nine (9) States are up to date with their reports:

The Republics of Algeria, Burkina Faso, Djibouti, Ethiopia, Kenya, Namibia, Niger, Nigeria, and South Africa;

Ten (10) States are late by one report;

The Republics of Cameroon, Cote D'Ivoire, Gabon, Liberia, Malawi, Mozambique, Sahrawi, Senegal, Sierra Leone, and Uganda;

□ Four (4) States are late by two reports;

The Republics of Angola, Libya, Sudan, and Togo;

□ Five (5) States are late by three reports;

The Republics of Benin, Botswana, Madagascar, and Rwanda;

□ Eighteen (18) States are late by more than 3 reports;

The Republics of Cape Verde, Central African Republic, Chad, Egypt, Congo Republic, Democratic Republic of Congo, The Gambia,

Guinea Republic, Kingdom of Lesotho, Mali, Mauritania, Mauritius, Seychelles, Swaziland, Tunisia, Zambia and Zimbabwe;

□ Six (6) States have never submitted any report;

The Republics of Comoros, Equatorial Guinea, Eritrea, Guinea Bissau, Sao Tome and Principe, and Somalia.

WAY FORWARD

States should fix a new deadline to achieve full ratification and organize continental and regional campaigns for ratification. The PAP and National Parliaments should be involved in the campaigns. Academia should contribute to the popularization of the Protocol. The CSOs have an important role to play in popularizing the Protocol especially at the grassroots and assisting victims in prosecuting their rights. States that have ratified should take urgent measures to domesticate the Protocol as we celebrate the Year 2016, as the year for human rights in Africa with particular focus on the rights of women, women who constitute more than 50% of the population in most countries should be empowered if sustainable development must be achieved.

I thank you for your kind attention!!