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## **How States can deliver on the AU Declaration for an African Women's Decade 2010-2020**

Policy briefing for African delegations attending the AU Ministerial Conference of Gender Ministers and the 8<sup>th</sup> African Regional Conference on Women to review 15 years of the Beijing Platform of Action, The Gambia, November 2009

## Summary

Following the report of the Extraordinary Meeting of African Ministers in charge of Gender and Women's Affairs of December 2008 and the recommendations of the Executive Council of the African Union in January 2009, the Assembly of the African Union declared 2010-2020 the African Women's Decade. The Summit called on Member States, AU Organs and RECs to support the implementation of Decade activities.<sup>1</sup>

The declaration comes at a significant moment when women worldwide mark the 30th anniversary of United Nations (UN) Convention on Elimination of all Forms of Discrimination against Women (CEDAW) in 2009. 2010 is a significant year. It marks 25 years since the UN World Conference on Women held in Nairobi; 15 years since the Fourth World Conference on Women in Beijing (Beijing +15), 10<sup>th</sup> anniversary of the UN Millennium Declaration (2000) and review of the Millennium Development Goals (MDGS); six years since the adoption of the *Solemn Declaration on Gender Equality in Africa* (SDGEA) and; five years since the *Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa* entered into force. By all indications 2010, provides an opportune moment for states to review and re-focus on gender equality and women's rights in all areas. Will African states seize this opportunity and use the Decade to implement existing commitments on women's rights or will this be another empty declaration?

This policy briefing argues that the implementation of the Beijing Declaration and Platform for Action in Africa, the AU Women's Protocol and the Solemn Declaration on Gender Equality in Africa should be the focus of the declared Decade. It assesses the gap between continental and international policy aspirations and norms on the one hand and current national policy implementation and the reality of women and girls in Africa on the other. Finally, it recommends a multi-sectoral approach to implementing a set of thirteen legal, policy and institutional measures. Adoption of these measures would unleash the energy and results that would truly make the next ten years a decade Africa could be proud of.

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<sup>1</sup> Decision on the African Women's Decade - Assembly/AU/Dec. 229(XII)

### **Short-term (2010-2011)**

1. With a sense of urgency, sign and ratify the Protocol and other international instruments that protect the rights of women;
2. Build the capacity of Gender Machineries/Ministries/Focal points in the use of a multi-sectoral approach in implementing women rights commitments in order to coordinate implementation and monitoring by all sectors in government;
3. Put in place effective monitoring mechanisms to measure the implementation of the Protocol and SDGEA including adopting best practices on implementing women's rights such as establishing performance contracts for all stakeholders in the multi-sectoral approach;
4. Strengthen capacity to coordinate integration, analysis and periodic reporting on the domestication and implementation of the Protocol as provided for under the *African Charter on Human and People's Rights (ACHPR)* and the SDGEA;
5. Develop and include gender-sensitive indicators and sex-disaggregated data on women's rights into national statistics, national development plans and national budgets;
6. Build the capacity of Ministries of Finance in gender budgeting to ensure that women's rights priorities as set out in the Protocol and the SDGEA, are fully financed;
7. Develop a comprehensive communications strategy targeting key policy and decision makers, as well as the general population. The aim of the strategy would be both to popularize the Protocol and the SDGEA as well ensure that their benefits and implications of ratification/adoption are made clear to key constituencies;
8. Continue involving civil society in a coordinated advocacy campaign on the ratification, domestication and implementation of the Protocol and SDGEA;
9. Develop audience-specific training materials and conduct training sessions/series on the Protocol and the SDGEA to key publics-civil servants and citizens;

### **Medium- term (2012-20)**

10. Adopt and utilize a multi-sectoral approach to the domestication, implementation and monitoring of the Protocol and other international women's rights commitments by aligning the linkages between women's rights provisions to each sector in government as well as develop partnerships with key stakeholders in implementation including civil society, private sector and development partners;
11. Institutionalize policies that guarantee gender equality in all political/governance and decision-making bodies. The African Union gender parity principle must be replicated and implemented at all levels of national, sub-regional and regional governance, including through affirmative action and set timelines;
12. Confront the cultural and religious barriers to full attainment of women's rights by accelerating legal and policy reforms to remove discriminatory laws and policies in line with the Protocol and SDGEA provisions;
13. Put in place dedicated budgetary allocations for capital and recurrent expenditures on activities that integrate women's rights in sector-wide programmes.

# 1 Introduction

The transition from Organisation of African Unity (OAU) to the African Union (AU) in 2002 marked a major shift in addressing women's human rights at the continental level. From the outset, they committed to ensure gender parity and made it a reality by electing five female Commissioners to the AU Commission. Within one year of its existence, the AU adopted by the *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa* in 2003, herein after referred to as the Protocol. By its second anniversary, the AU Summit, meeting in Ethiopia, further adopted the *Solemn Declaration on Gender Equality in Africa* (SDGEA) in 2004 committing to hold each other accountable on progress made in terms of gender mainstreaming through annual reporting to the AU Commission.

The Summit undertook to '*sign and ratify the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa by the end of 2004 and to support the launching of public campaigns aimed at ensuring its entry into force by 2005 and usher in an era of domesticating and implementing the Protocol as well as other national, regional and international instruments on gender equality by all States Parties*'<sup>2</sup>. However, the solemn commitment to ensure the Protocol's entry into force by was realised in 2005, not due to states campaigns but mainly due to advocacy by women's organisations under the Solidarity for African Women's Rights Coalition (SOAWR). It entered into force on November 25, 2005, the International Day for the Elimination of Violence against Women that marks the start of the annual 16 days of activism on violence against women, observed in many countries worldwide. The era to ensure its domestication and implementation is yet to be set, to date only 27 countries have ratified it.

What are States that signed on to the SDGEA and those that have ratified the Protocol doing to ensure that they are implemented? This policy briefing contains findings from a recent pilot study that assessed state capacity to implement the Protocol in three countries namely Tanzania, Nigeria and Liberia. It finds that 5 years since the Protocol entered into force, none of the Governments have made deliberate attempts or progress towards domesticating or implementing the Protocol. Indeed, any current progress on promotion and protection of women's rights in the country is not as a result of intentional domestication and implementation of the AU Women's Rights Protocol but rather as a result of earlier efforts aimed at domesticating and implementing the United Nations CEDAW<sup>3</sup>. In this context what is needed for the Protocol to be deliberating and effectively implemented to protect the rights of women in Africa?

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<sup>2</sup> African Union. **Solemn Declaration on Gender Equality in Africa**. 2004

<sup>3</sup> Solidarity for African Women's Coalition (SOAWR), '*From Ratification to Implementation: a State Capacity Needs Assessment on Domestication, Implementation and Monitoring of the African Union's Protocol to the African Charter on Human and Peoples' Rights in Africa on the Rights of Women*'. July 2009

## A Continental Policy Framework for Women's Rights

Over the last five years a continental policy framework has emerged consistent with the CEDAW and the *Beijing Declaration and Platform for Action* (Beijing DPFA). The two core documents are the *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa* and the *Solemn Declaration on Gender Equality*.

### Commitments already enshrined in the Continental Policy Framework for Women's Rights in Africa

Women's Protocol on the Rights of Women in Africa, 2005	Solemn Declaration on Gender Equality, 2004
<ul style="list-style-type: none"> <li>• Comprehensively enshrines civil and political rights; economic, social and cultural rights; the rights to development and peace and reproductive and sexual rights.</li> <li>• Provides a legal framework for addressing gender inequality and the underlying aspects that perpetuate women's subordination.</li> <li>• For the first time in international law, it explicitly sets forth the reproductive right of women to medical abortion when pregnancy results from rape or incest or when the continuation of pregnancy endangers the health or life of the mother. In another first, the Protocol explicitly calls for the legal prohibition of female genital mutilation.</li> <li>• Calls for an end to all forms of violence against women including unwanted or forced sex, whether it takes place in private or in public.</li> <li>• Endorses affirmative action to promote the equal participation of women and their representation in elected office, the judiciary and law enforcement agencies and equal protection and benefit of the law.</li> <li>• Articulates a right to peace and recognizes the right of women to participate in the promotion and maintenance of peace.</li> <li>• Enshrines the right to equal pay for equal work; the right to land and productive resources; right to a sustainable environment; and the right to adequate and paid maternity leave in both private and public sectors.</li> <li>• Outlaws the exploitation and abuse of women in advertising and pornography.</li> <li>• Acknowledges multiple discrimination and violations and protections for women of many backgrounds and identities-including women across the life cycle.</li> <li>• Outlines measures to ensure the protection of the rights of widows, girls, women living with HIV/AIDS, elderly women, women with disabilities, refugee women, displaced women and marginalised and poor women, women in detention and pregnant or nursing women</li> <li>• Under Article 26 of the Protocol commits States to implement these provisions at national level, and in their periodic reports under Article 62 of the African Charter, indicate the legislative, budgetary and other measures undertaken.</li> </ul>	<ul style="list-style-type: none"> <li>• Commits to accelerate the implementation of gender specific economic, social, and legal measures aimed at combating the HIV/AIDS pandemic;</li> <li>• Ensure the full and effective participation and representation of women in the peace process including the prevention, resolution, management of conflicts and post-conflict reconstruction in Africa;</li> <li>• Initiate, launch and engage within two years (by 2006) sustained public campaigns against gender based violence as well as trafficking in women and girls;</li> <li>• Expand and promote the gender parity principle adopted with regard to the Commission of the African Union to all the other organs of the African Union, including its New Partnership for Africa's Development (NEPAD) programme, to the Regional Economic Communities, and to the national and local levels in collaboration with political parties and national parliaments;</li> <li>• Ensure the active promotion and protection of all human rights of women and girls including the right to development;</li> <li>• Actively promote the implementation of legislation to guarantee women's land, property and inheritance rights including their right to housing;</li> <li>• Take specific measures to ensure the education of girls and literacy of women, especially in the rural areas, to achieve the goal of "Education for All";</li> <li>• Sign and ratify the Protocol to the <i>African Charter on Human and Peoples' Rights on the Rights of Women in Africa</i> by the end of 2004 and to support the launching of public campaigns aimed at ensuring its entry into force by 2005 and usher in an era of domesticating and implementing the Protocol as well as other national, regional and international instruments on gender equality by all State Parties;</li> <li>• Establish an African Trust Fund for Women for the purpose of building the capacity of African women;</li> <li>• Report annually on progress made and champion the Declaration, at national, during Ordinary Sessions of the AU</li> </ul>

## The Status of Women in Africa: Moving Forward or Looking Back?

*Ten years after the adoption of the Beijing Declaration and Platform for Action, governments have recognized that passing laws and policies alone does not bring about substantial gender equality and equity or respect for women's human rights. The national and sub-regional reports on the 10-year review of BPPFA from both governments and non-governmental organizations (NGOs) identified the need to bridge the gap between commitments and their implementation<sup>4</sup>.*

As we review 15 years of the BDPFA, celebrate the 30<sup>th</sup> anniversary of CEDAW, the 5<sup>th</sup> anniversary of the Protocol, the 6<sup>th</sup> anniversary of the Solemn Declaration and the 10<sup>th</sup> anniversary of the Millennium Declaration and its Millennium Development Goals (MDGs) and, as we usher in the AU Women's Decade 2010-2020, have the regional policy and normative frameworks impacted on the policy and legal frameworks at national level? Have the standards translated into changes in the lives and welfare of women in Africa? What are the implications for the next decade?

At the 7th African Regional Conference on Women in Addis Ababa from 7–14 October 2004, African states assessed progress that Africa had made in implementing the twelve critical areas of the Dakar and Beijing Platforms for Action.<sup>5</sup> They noted that the decade following the adoption of the Beijing DPFA has witnessed many changes in the African continent. Some these included the development of regional declarations and mechanisms on gender and development including the AU's commitment to the principle of gender parity for its leadership, the election of the first female Speaker of the AU Pan-African Parliament (PAP) and the provision for at least one in every five national members of the PAP to be a woman, the adoption of the Protocol and SDGEA that obliges States to respect normative standards on women's human rights and the inclusion of women's rights indicators in the African Peer Review Mechanism (APRM).

The meeting also celebrated that 51 of the 53 African Member States had ratified the CEDAW. Seventeen had gone further to sign its Optional Protocol and several countries had aligned their national legislation to the provisions of CEDAW. Attempts were underway to engender poverty surveys conducted during the poverty reduction strategies (PRS) processes, to demonstrate the feminization of poverty and provide the basis for stronger gender analysis in macroeconomic and socio-economic policies.

Some countries showed evidence of considering gender in their budgets thus triggering more transparent processes for gender responsiveness in public expenditures. Other countries had managed to reduce gender differentials in education through affirmative action and gender-aware policies.

However, the Conference noted that despite these successes and in spite of African women's mobilization, advocacy and increased representation in governance at regional and national levels **normative gains are not yet reflected in substantial changes in women's lives.**

Five years after that assessment, in 2009, it is clear that women's lives have not yet seen the promise of the continental framework.

Africa now has its first female head of state, Her Excellency Ellen Johnson Sirleaf, the President of Liberia. Women's representation in national parliaments has improved in a majority of African countries. Africa has

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<sup>4</sup> Seventh African Regional Conference on Women (Beijing + 10) Decade Review of the Implementation of the Dakar and Beijing Platforms for Action: Outcome and the Way Forward Addis Ababa, 12-14 October 2004 [http://www.uneca.org/beijingplus10/outcome\\_and\\_way\\_forward.htm](http://www.uneca.org/beijingplus10/outcome_and_way_forward.htm)

<sup>5</sup> [http://www.uneca.org/beijingplus10/recommendation12thematic\\_groups.htm](http://www.uneca.org/beijingplus10/recommendation12thematic_groups.htm) See also Seventh African Regional Conference on Women (Beijing + 10) Decade Review of the Implementation of the Dakar and Beijing Platforms for Action: Outcome and the Way Forward Addis Ababa, 12-14 October 2004 [http://www.uneca.org/beijingplus10/outcome\\_and\\_way\\_forward.htm](http://www.uneca.org/beijingplus10/outcome_and_way_forward.htm)

the highest reported rate of progress, 10 per cent, on this target in the world over the period 1990 to 2007. But the story is not all together cheerful, as several countries have shown only a slight improvement over the period 2003-2007.

Gender parity in decision-making has advanced the most in Rwanda (48.8 per cent), Mozambique (34.8 per cent), South Africa (32.8 per cent), Tanzania (30.4 per cent), Burundi (30.5 per cent), Uganda (29.8 per cent), Seychelles (29.4 per cent), Namibia (26.9 per cent), Tunisia (22.8 per cent), Eritrea (22 per cent) and Ethiopia (21.9 per cent)<sup>6</sup>. Many factors still hinder women's political participation, such as political parties being slow to respond to women's interest, under-investment in women candidates' campaigns, cultural barriers, and conflicting demands on the time of women candidates due to their domestic and social responsibilities.

African governments have established various mechanisms at different levels, including national machineries to mainstream gender in the formulation of policies, plans and programmes, policy advocacy and to monitor and evaluate the implementation of international, regional and national commitments. Particular attention has been given to the formulation of national gender policies and implementation plans, with some countries having prepared sector-specific gender policies.

However, the mechanisms for the integration of gender equality and women's empowerment remain weak at all levels—lacking adequate capacity, authority and funding. Line ministries have not reached gender equality targets due to low levels of resource allocations. Gender concerns continue to be treated rhetorically or as separate women's projects. Sex-disaggregated data and information from gender-sensitive indicators are often not collected. When they are collected, they are lost in aggregation of published data or not used<sup>7</sup>.

The continent is experiencing a rise in food prices far beyond the reach of the poor in the context of global, food, energy and financial crises further exacerbated by climate change. Due to their subordinate position in society, a large number of African women have borne the brunt of these crises further exacerbating their already precarious situation. In Sub-Saharan Africa, agriculture accounts for approximately 21% of the continent's GDP and women contribute 60-80% of the labour used to produce food both for household consumption and for sale<sup>8</sup>.

An African woman's average workday lasts 50% longer than that of a man and she shoulders the burden of unpaid activities, often linked to low access to clean water and energy sources<sup>9</sup>. However, women face discrimination under both customary and formal systems as a result of culturally embedded discriminatory beliefs and practices, male control of inheritance systems, and the spread of HIV/AIDS, which further weakens land rights and livelihood options of widows and orphans<sup>10</sup>.

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<sup>6</sup> African Union Commission and United Nations Economic Commission for Africa. **Assessing Progress in Africa towards the Millennium Development Goals Report 2008. March 2008.** E/ECA/COE/27/10 AU/CAMEF/EXP/10(III) p. 8-9

<sup>7</sup> Seventh African Regional Conference on Women (Beijing + 10) Decade Review of the Implementation of the Dakar and Beijing Platforms for Action: Outcome and the Way Forward Addis Ababa, 12-14 October 2004 [http://www.uneca.org/beijingplus10/outcome\\_and\\_way\\_forward.htm](http://www.uneca.org/beijingplus10/outcome_and_way_forward.htm)

<sup>8</sup> <http://www.fao.org/docrep/X0250E/x0250e03.htm#TopOfPage>

<sup>9</sup> "*Gender and Economic Empowerment in Africa*", a paper presented to the 8th Meeting of the Africa Partnership Forum in Berlin, Germany on 22-23 May 2007. [www.africapartnershipforum.org](http://www.africapartnershipforum.org)

<sup>10</sup> FAO 'Agrarian Reform, Land Policies and the Millennium Development Goals: FAO's Interventions and Lessons Learned During the Past Decade', ARC/06/INF/7 (2006)

A joint AU Commission and UN Economic Commission for Africa Report assessing progress in Africa towards the Millennium Development Goals (MDGs) paints a mixed picture of progress on key indicators of women's development and empowerment discussed below<sup>11</sup>.

According to the report, many countries in Africa will meet the target of achieving universal primary enrolment. Also latest updates confirm that, at primary school level, most African countries are likely to reach gender parity by 2015. However, the impressive improvement in gender parity in primary education is not mirrored in secondary education where there is still significant under-representation of girls. The African Partnership Forum notes that limited education and employment opportunities for women in Africa reduce annual per capita growth by 0.8%. Had this growth taken place, Africa's economies would have doubled over the past 30 years<sup>12</sup>

Several countries<sup>13</sup> have made significant progress in reducing under-five mortality in recent years. However, Africa as a region made very little progress over the period 1990-2005. This places most African countries significantly off track to achieving this goal. Conflict is an important contributor to the high rate of under-five mortality. HIV/AIDS explains in large measure the high levels of under-five mortality in Botswana, Lesotho, South Africa, Swaziland, and Zimbabwe while malaria explains the high rates in West Africa.

Each year, Africa loses half a million women in deaths caused by preventable complications of pregnancy and childbirth. The vast majority of African countries are experiencing a negligible improvement in maternal mortality rate. Without a major leap forward, Africa is off-track to meet this goal.<sup>14</sup> Half of all maternal deaths globally (265,000) occur in sub-Saharan Africa and another third (187,000) in Southern Asia. Very little progress has been made in sub-Saharan Africa, where women face the greatest lifetime risk of dying as a result of pregnancy and childbirth. Haemorrhage alone causes 34 per cent of maternal deaths. Yet most of these conditions could be prevented or treated with good quality reproductive health services, antenatal care, skilled health workers assisting at birth, and access to emergency obstetric care<sup>15</sup>

The MDGs report indicates that in 2007, 76 per cent of the global total of 2.1 million adult and child deaths due to AIDS occurred in Central, East, South and West Africa. The proportion of women infected by HIV is high and increasing. As of December 2007, women constitute 61 per cent of infected people in the four sub-regions except North Africa. In almost every country in the region, prevalence rates are higher among women than men. The vulnerability of African women and girls to HIV infection is integrally linked to underlying gender inequalities, societal norms and discrimination<sup>16</sup>.

The democratic recession in Africa has seen cultural and religious fundamentalism and intolerance. This has resulted in enactment of laws that curtail citizens, civil society and media freedoms, adoption of and implementation of discriminatory laws and discrimination and attacks against sexual minorities, which individually and combined affect the advancement of women's rights in Africa. In addition, threat to lives of human rights defenders and infringements of freedoms of association that impact the promotion, realisation and enjoyment of human rights and women's rights are on the rise.

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<sup>11</sup> African Union Commission and United Nations Economic Commission for Africa. **Assessing Progress in Africa towards the Millennium Development Goals Report 2008. March 2008.** E/ECA/COE/27/10 AU/CAMEF/EXP/10(III)

<sup>12</sup> "Gender and Economic Empowerment in Africa", a paper presented to the 8th Meeting of the Africa Partnership Forum in Berlin, Germany on 22-23 May 2007. [www.africapartnershipforum.org](http://www.africapartnershipforum.org)

<sup>13</sup> Eritrea, Ethiopia, Madagascar, Malawi, Niger and Tanzania

<sup>14</sup> Angola, Burundi, Chad, Democratic Republic of the Congo, Guinea-Bissau, Liberia, Malawi, Nigeria, the Niger, Rwanda, Sierra Leone, and Somalia.

<sup>15</sup> United Nations, **The Millennium Development Goals Report 2009** pp. 27

<sup>16</sup> African Union Commission and United Nations Economic Commission for Africa. **Assessing Progress in Africa towards the Millennium Development Goals Report 2008. March 2008.** E/ECA/COE/27/10 AU/CAMEF/EXP/10(III) P. 15

While states have failed to fulfill their commitments, they are undermining regional and international standards by introducing anti-human rights bills. Several governments have adopted or are in the process of adopting discriminatory legislation reversing fundamental women's rights including, but not limited to, bills on criminalization of HIV, indecent dressing laws and anti-homosexuality bills. These bills violate various rights: the right to privacy and confidentiality, right to sexual integrity and autonomy, right to bodily integrity, freedom from discrimination, right to health, the right to equal protection before the law, freedom of association, sexual and reproductive rights, freedom of choice, the right to life etc.

Violence against women and girls has remained one of the most widespread violations of human rights in our continent. Violence, or the threat of it, not only causes physical and psychological harm to women and girls, it also limits their access to and participation in society because the fear of violence circumscribes their freedom of movement and of expression as well as their rights to privacy, security and health.

Systematic rape has left millions of women and adolescent girls traumatized, pregnant, or infected with HIV<sup>17</sup>. However, in the face of high levels of violence, women and girls' access to the justice system is limited by legal illiteracy, lack of resources and, gender insensitivity and bias of law enforcement agents.

*If we are fighting to get our girls into school only to have them raped by HIV infected teachers who get off scot free, what is the point? And if we get a brave girl into court for redress from her being abused by her family and the judge merely returns her to her family, what have we done to her? Fundamentally, we need gender sensitive justice delivered to the girls and women on this continent. It is not that we need to scale up our current systems of "justice." We need to reform those systems, adding a lot of service innovations. We need justice systems available throughout our societies, we need them to be cheap and we need them to be quick<sup>18</sup>.*

Women and children constitute the majority of the displaced persons and refugees in conflict situations. Although African women are disproportionately affected by conflict compared to men, their voices in conflict prevention, post-conflict reconstruction, transitional justice and peace building process are only faintly listened to, often leaving them at the margins of peace processes. This is in spite of the international and regional commitments on gender equality in peace processes.

HIV/AIDS, violence and high levels of maternal mortality are reversing health gains made in the last decade in Africa. The UNECA recently undertook a study to identify the main sources of inequities in access to and utilization of health care in selected countries<sup>19</sup>, based on the analysis of Demographic and Health Surveys data. In all the study countries women from the poorest quintiles are less likely than those in better off quintiles to use basic health services such as prenatal care, modern contraceptives, and delivery assistance by a health professional, and immunization<sup>20</sup>.

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<sup>17</sup> UNAIDS, UNFPA, UNIFEM, Women and HIV/AIDS: Confronting the Crisis. Geneva, New York. 2004. 47-48

<sup>18</sup> K.Y. Amoako, Former Executive Secretary of the Economic Commission for Africa (ECA) Opening statement during the 7th African Regional Conference on Women Ministerial Conference on the Decade Review of the Implementation of the Dakar and Beijing Platforms for Action Addis Ababa, Ethiopia. 12 October 2004

<sup>19</sup> Ethiopia, Kenya, Ghana, Senegal, Zambia, Malawi, Egypt, Morocco, Chad and Cameroon

<sup>20</sup> African Union Commission and United Nations Economic Commission for Africa. Assessing Progress in Africa towards the Millennium Development Goals Report 2008. March 2008. E/ECA/COE/27/10 AU/CAMEF/EXP/10(III) p.16

## **National Implementation of the AU Women's Protocol to date: A Case Study of Liberia, Tanzania and Nigeria**

In 2009, the Solidarity for African Women's Rights Coalition, supported by United Nations Development Fund (UNDP) Gender Bureau undertook a state capacity assessment to domesticate and implement the Protocol of three out of the 27 countries that have ratified it. While laudable efforts in recognizing, protecting and promoting women's rights could be seen from the various legislation, programs and institutional mechanisms that exist, a worrying finding is that no **deliberate** attempts or progress has been made towards domesticating or implementing the Protocol. Indeed current progress on promotion and protection of women's rights in the countries is not as a result of **intentional** domestication and implementation of the Protocol but as a result of earlier efforts on domesticating and implementing the CEDAW<sup>21</sup>

The three countries currently face similar challenges in addressing domestication, implementation and monitoring of the AU Women's Protocol. These challenges include the following:

- slow pace of comprehensive legal reforms allowing discriminatory laws to exist;
- heavy reliance on Gender Machineries/Ministries for implementation in all sectors of government, yet the machineries are weak and under resourced;
- low legal literacy among women, due to the failure of states to fulfil their obligation to implement 'know your rights' education campaigns. Consequently, women often cannot demand their rights;
- lack of awareness and political will among key decision makers about the Protocol and what it seeks to address. With the exception of the Ministries of Gender, Foreign Affairs and Justice, other key decision makers interviewed either did not know about or had very scanty knowledge of the Protocol;
- negative culture and attitude towards women that often impedes change;
- limited funding and human resource capacity to implement existing laws and policies that are passed. Thus, women's rights are under-resourced with impunity;
- poor or minimum collaboration between civil society and key government players;
- concurrent operation of multiple legal systems-customary, religious and statutory laws-that conflict with each other and provide grounds for violation or denial of women's rights in matters of relating to marriage, divorce, property and inheritance;

An unwillingness to implement policies, allocate resources to programmes and take a stand on legislation renders the existence of policy frameworks meaningless. A few sympathetic advocates exist in positions of power but in isolation, their presence is not sufficient to make a difference in women's lives. The implementation of women's rights standards should not depend on the occasional progressive politician to uphold women's human rights. Political will has to extend beyond the individual and become institutionalized requiring all laws, policies and institutions implement women's rights obligations within their mandates. That way, state agencies can play a positive role in promoting, protecting and fulfilling women's rights by changing discriminatory laws and putting in place mechanisms to safeguard women's rights.

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<sup>21</sup> Solidarity for African Women's Coalition (SOAWR), 'From Ratification to Implementation: a State Capacity Needs Assessment on Domestication, Implementation and Monitoring of the African Union's Protocol to the African Charter on Human and Peoples' Rights in Africa on the Rights of Women'. July 2009

The Africa Gender Development Index (AGDI), a UN-ECA tool that tracks progress towards gender equality and women's advancement, confirms these findings. When used to assess the performance of African countries in implementing international and regionally agreed commitments, the AGDI shows that governments score high both in terms of ratifying and developing policies for gender equality. However, their performance is rather poor when it comes to implementation<sup>22</sup>. Their findings note there has been limited progress in advancing women's human rights in Africa in the last five years and even regression in critical areas. Lack of progress in the area of women's rights also means lack of progress for the continent because gender inequality is increasingly being recognized as a hindrance to the overall growth and development of a country<sup>23</sup>.

### **Bridging the Gap between policies and the reality of women's lives: What can be done?**

*The adoption of human rights instruments is clearly not an end in itself, but the beginning. It goes without saying that rights without implementation and enforcement mechanisms are meaningless<sup>24</sup>.*

There is an urgent need to renew commitment to gender equality and empowerment of women and to take concrete steps to address the gaps between commitment and implementation. This will not happen without a paradigm shift to a multi-sectoral approach to ensure the implementation and monitoring of women's rights commitments made at regional and international levels.

The United Nations Development Fund for Women (UNIFEM) has developed a multi-sectoral framework that could accelerate implementation of women's rights commitments at national level if embraced by governments.<sup>25</sup> SOAWR believes that this framework forms the basis for implementing existing commitments and accelerating real changes in the lives of African women and girls.

According to UNIFEM, gender inequalities that disempower women cut across all sectors, from health, economy, labour, agriculture and food security, to education, security and justice. No one sector can provide a comprehensive response. A multi-sectoral framework proposed by UNIFEM emphasizes the need for women's rights targets, based on regional and international instruments, to be integrated in national development plans and strategies including growth and poverty reduction strategies and budgets. UNIFEM is quick to note that the multi-sectoral approach has been used in other areas such as in the response to the HIV/AIDS pandemic. Countries have been able to mobilise all sectors of governments, private sector, faith-based organisations and civil society, leading to significant gains in public awareness of the pandemic and a decrease in the level of stigma and discrimination against people living with HIV/AIDS.

Promoting the realization of rights and empowerment by women is a national priority in its own right, and because of its importance for the achievement of other national priorities including economic growth and poverty reduction. The multi-sectoral approach premise draws from the principle that all organs of government have obligations under the treaties ratified by a country as well as other commitments in

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<sup>22</sup> African Union Commission and United Nations Economic Commission for Africa. Assessing Progress in Africa towards the Millennium Development Goals Report 2008. March 2008. E/ECA/COE/27/10 AU/CAMEF/EXP/10(III) p. 9 also see African centre for Gender and Social Development-UNECA

<sup>23</sup> World Bank (2007), Gender Equality as Smart Economics (A World Bank Group Gender Action Plan (2007-10. p.2

<sup>24</sup> M. Robinson 'Foreword' in D Buss & A Manji (eds) *International law: Modern feminist approaches* (2005); C Chinkin *et al* 'Feminist approaches to international law: Reflections from another century' in Buss & Manji 17 26 28.

<sup>25</sup> This section summarises the Multi-Sectoral Approach Guide developed by UNIFEM 'Fast-tracking Implementation of the AU Protocol on Women's Rights and CEDAW in Africa.

Declarations. Each organ and department of government is thus responsible and accountable for women's rights falling within its mandate.

The multi-sectoral approach proposes a comparable division of roles. For instance, the ministry of labour would provide leadership in making progress on the obligation of government to take all measures to eliminate discrimination against women in the field of employment. The ministry of agriculture or rural development would address relevant women's rights issues: secure land tenure, access to and control over land, access to extension services and markets for produce. The ministry of health has responsibility to ensure the right to health of women, including sexual and reproductive health is respected and promoted. The Judiciary would ensure the implementation of regional and international commitments through application in constitutions and other provisions of law. The Police would be obligated to investigate and prosecute violations of women's rights promptly.

Overall coordination would be done by a government agency that has gender and human rights technical capacity to provide backstopping services, and at a level or status of power and influence within the overall government system, that is well respected and is backed up by resources. Existing gender machineries could be strengthened to play this role. Governments already have inter-ministerial coordination mechanisms that may be expanded to include coordination of the implementation of human rights commitments. The coordination mechanism is key to developing or reviewing a national policy and action plan on achieving women's rights and clarifying respective roles and commitments of the various sectors and budgetary allocations to integrate women's rights into sector programmes. Monitoring progress and regular flow of information between different government agencies helps to facilitate a comprehensive approach to women's rights, developing training programmes, identifying gaps and contributing to regular country reports required by regional and international institutions.

More specifically, SOAWR recommends that national governments take the following thirteen legal and policy reform, institutional and popularisation measures over the next ten years.<sup>26</sup>

### **Short-term (2010-2011)**

1. With a sense of urgency, sign and ratify the Protocol and other international instruments that protect the rights of women;
2. Build the capacity of Gender Machineries/Ministries/Focal points in the use of a multi-sectoral approach in implementing women rights commitments in order to coordinate implementation and monitoring by all sectors in government;
3. Put in place effective monitoring mechanisms to measure the implementation of the Protocol and SDGEA including adopting best practices on implementing women's rights such as establishing performance contracts for all stakeholders in the multi-sectoral approach;
4. Strengthen capacity to coordinate integration, analysis and periodic reporting on the domestication and implementation of the Protocol as provided for under the *African Charter on Human and People's Rights (ACHPR)* and the SDGEA;

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<sup>26</sup> Some of the Recommendations drawn from the Communiqué of the 'Stakeholders Meeting on Domestication and Implementation of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa', 16 – 18 July 2009, Kigali, Rwanda organized by SOAWR, UNIFEM and the AU Gender Directorate and the Communiqué of the SOAWR Annual Review and Agenda-Setting Workshop, Theme: "Spreading our Wings: A Multi-Sectoral Approach to Women's Rights" 5-7 October 2009, Panafric Hotel, Nairobi, Kenya

5. Develop and include gender-sensitive indicators and sex-disaggregated data on women's rights into national statistics, national development plans and national budgets;
6. Build the capacity of Ministries of Finance in gender budgeting to ensure that women's rights priorities as set out in the Protocol and the SDGEA, are fully financed;
7. Develop a comprehensive communications strategy targeting key policy and decision makers, as well as the general population. The aim of the strategy would be both to popularize the Protocol and the SDGEA as well ensure that their benefits and implications of ratification/adoption are made clear to key constituencies;
8. Continue involving civil society in a coordinated advocacy campaign on the ratification, domestication and implementation of the Protocol and SDGEA;
9. Develop audience-specific training materials and conduct training sessions/series on the Protocol and the SDGEA to key publics-civil servants and citizens;

**Medium- term (2012-20)**

10. Adopt and utilize a multi-sectoral approach to the domestication, implementation and monitoring of the Protocol and other international women's rights commitments by aligning the linkages between women's rights provisions to each sector in government as well as develop partnerships with key stakeholders in implementation including civil society, private sector and development partners;
11. Institutionalize policies that guarantee gender equality in all political/governance and decision-making bodies. The African Union gender parity principle must be replicated and implemented at all levels of national, sub-regional and regional governance, including through affirmative action and set timelines;
12. Confront the cultural and religious barriers to full attainment of women's rights by accelerating legal and policy reforms to remove discriminatory laws and policies in line with the Protocol and SDGEA provisions;
13. Put in place dedicated budgetary allocations for capital and recurrent expenditures on activities that integrate women's rights in sector-wide programmes.

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## Useful Acronyms and Abbreviations

AGDI	Africa Gender Development Index
AU	African Union
Beijing DPFA	Beijing Declaration and Platform for Action
CEDAW	Convention on Elimination of All Forms of Discrimination Against Women
MDGs	Millennium Development Goals
NEPAD	New Partnership for Africa's Development
OAU	Organisation of African Unity
Protocol	Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa
RECs	Regional Economic Communities
SDGEA	Solemn Declaration on Gender Equality in Africa
SOAWR	Solidarity for African Women's Rights Coalition
UN	United Nations
UNDP	United Nations Development Fund
UNECA	United Nations Economic Commission for Africa
UNIFEM	United Nations Development Fund for Women

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**Solidarity for African Women's Rights (SOAWR) is a coalition of 30 civil society organizations across the African continent working to ensure that the Protocol to the African Charter on the Rights of Women in Africa remains on the agenda of policy makers and to urge all African leaders to safeguard the rights of women through ratification and implementation of the Protocol. For further information go to [www.soawr.org](http://www.soawr.org)**

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