



Recent Status & Progress of Article 14 of the Maputo Protocol in South Africa

When did South Africa ratify the Maputo Protocol and what impact has it had on women's rights?



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It strengthens the existing legal instruments dealing with women's rights and gender equality in the private and public

Since ratification, what has been done by the state to implement the commitments made in the Maputo Protocol?

- The Department of Women, Youth and Persons with Disabilities is responsible for the implementation of the Maputo Protocol.
- It aims to drive implementation through developing appropriate standards for implementation of the Maputo Protocol. The Department is also responsible for reporting on measures undertaken to implement the Maputo Protocol to the African Commission and has since 2004 filed 5 periodic reports.


How do ratified policies like the Maputo Protocol affect domestic law in South Africa?

- The Constitution of the Republic of South Africa, 1996 provides that international treaties only become enforceable once they have been enacted into law by national legislation.
- Many of the rights contained in the Maputo Protocol are entrenched in the South African Constitution, though not specifically in respect of women, but apply to all persons in the Republic.

Migrant, refugee and asylum-seeking women's right so sexual and reproductive health under Article 14 of the Maputo Protocol

State parties shall ensure that the right of women to sexual and reproductive health is respected and promoted. This includes the right to control their fertility, to decide whether to have children, the number of children and the spacing of children, the right to choose any method of contraception, the right to self-protection and to be protected against sexually transmitted infections including HIV/AIDS. States must protect the reproductive rights of women by authorising medical abortion. Article 24 of the Maputo Protocol provides for the special protection of women in marginalised population groups.





Current state and challenges of migrant, refugee and asylum-seeking women's right to sexual and reproductive health in South Africa.

Refugee, migrant and asylum-seeking women are often confronted with 'medical xenophobia' as they are denied healthcare services based solely on their foreign nationality or legal status. Language and cultural barriers as well as xenophobic attitudes displayed by the medical personnel may discourage these women from seeking sexual and reproductive health services or may result in them receiving substandard care. The healthcare system in South Africa is greatly overburdened. However, this is not a result of non-nationals seeking primary and emergency healthcare in the country. The current laws on access to healthcare for non-nationals are inconsistent and generate confusion among medical personnel making them reluctant to provide healthcare to non-nationals.

What is the South African government doing to realise sexual and reproductive health rights of migrant, refugee and asylum-seeking women?

The South African Constitution confirms that everyone has the right to have access to health care services, including reproductive health care. The National Health Act reaffirms that state health institutions must provide pregnant and lactating women and children below the age of six years with free health services and all persons with free primary health care services and women, subject to the Choice on Termination of Pregnancy Act, free termination of pregnancy services.

The Refugee Act confirms that refugees and asylum-seekers present in South Africa have the same right to access health care as South African citizens. This right has been maintained in the Department of Health 2007 Circular which confirms that refugees and asylum-seekers, with or without permits, can access the same basic health care services as South African citizens as well Antiretroviral Treatment in cases of HIV.

Healthcare providers should desist from being political gatekeepers and instead use notions of morality, ethics and public services in their decision making.



What can I do if I am not able to access my right to sexual and reproductive health?

If refused primary/emergency healthcare, inform the hospital supervisor. If still wrongfully turned away, the incident must be reported to one of the public institutions (left) or seek help from a private institution (right).

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