



PAMBAZUKA NEWS 222

THE PROTOCOL TO
THE AFRICAN CHARTER ON
HUMAN AND PEOPLES' RIGHTS
ON WOMEN'S RIGHTS IN AFRICA

FROM RATIFICATION TO
THE REALISATION OF AFRICAN
WOMEN'S HUMAN RIGHTS



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Reproduced from the
Special Issue of Pambazuka News No 222
Pambazuka News is published by Fahamu

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The Protocol to the African Charter on Human and Peoples' Rights on Women's Rights in Africa: From ratification to the realisation of African women's human rights

Pambazuka News has been supporting the Solidarity for African Women's Rights Coalition (SOAWR). Ahead of a conference co-convened by the African Union (AU) and SOAWR to be held in Addis Ababa, Ethiopia between 27 and 30 September, this edition consists of editorials written by SOAWR members and updates about the progress of the campaign from across the African continent.

The conference seeks to chart out the next steps for the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women. With 13 countries having ratified the Protocol, attention needs to shift from a focus on campaigning for ratification to strategies for domestication and implementation for rights realisation by African women and girls.

The conference will take place at the AU Headquarters in Addis Ababa, Ethiopia. It will bring together 40 senior staff from women's organisations, research institutions, African governments and the AU. Key outputs will include a conference communiqué and a booklet on strategies for implementation. It is expected that the conference will influence implementation strategies within the AU and at least twelve African countries.

Background

On July 11, 2003, the Heads of State and Government of the AU adopted the Protocol. A year later, Heads of State and Government of the AU adopted the Solemn Declaration on Gender Equality in Africa in which they undertook to sign and ratify the Protocol by the end of 2004. Ongoing campaigns and pressure by the AU and NGOs have since contributed to the ratification of the Protocol by 13 countries namely Cape Verde, Comoros, Djibouti, Gambia, Lesotho, Libya, Malawi, Mali, Namibia, Nigeria, Rwanda, Senegal and South Africa.

The Protocol legitimises the struggles for gender equality and the promotion and protection of women's human rights as an African struggle. Despite its imperfections, it is a potential force for freedom and justice for African women. If properly harnessed, it could serve as an effective empowerment tool for African women. Empowering African women, who make up more than half of the continent's population, will have a positive multiplier effect that will end with happier, healthier and wealthier African families.

As more countries ratify the Protocol, the challenge shifts from ratification to domestication, implementation and rights' realisation. From experience with the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) and national legal frameworks, a number of obstacles will stand in the way of harnessing the potential force of the Protocol. At the societal level, the strength of patriarchal (interpretations of) culture, tradition and religion, the co-existence of multiple legal systems and the public/private dichotomy continue to disempower African women. At an organisational level, the weakness of the African women's movement and key alliances and partnerships within it continue to mitigate against African women's empowerment. At the national level, gender machineries in several African countries are characterised by powerlessness and poor resources.

Furthermore, there is little awareness about the Protocol and the standards that it sets for Africa. This fact is compounded by the low use of international human rights instruments and the poor record of compliance of States Parties to these instruments. The Protocol itself does not contain sanctions for non-compliance. And uncertainties abound regarding the merger of the

Court on Human and Peoples' Rights and the Court of Justice of the AU. It is as yet unclear how the merger will affect the AU's capacity to promote and protect human rights. In addition, countries will also have to make a declaration accepting the competence of Court to receive individual complaints before their citizens enjoy its protection.

SMS messages in support of the Solidarity for African Women's Rights campaign:

1. Thanx 4 the update. Its gd progress. I'll share the information with my colleagues. Tanzania
2. Hooray 4 the gd news. Uganda
3. Youth dev't forum uganda do recommend the ratification of women's rights in africa and world over, and we do commit ourselves to advocate for it and stand, Uganda
4. Great news! Thanks 4 the hard work sisters, South Africa
5. Great News. We should continue our fight for more ratification. DRC
6. I am in support of the ratification of the protocol on the Rights of Women in Africa. Nigeria
7. African leaders: Walk the talk on women's rights. Ratify and implement. Kenya

You can send an SMS message in support of the SOAWR by sending a message to +27-832-933-934 with the word petition followed by your full name

Nearly 4 000 people have told African leaders to ratify the Protocol on the Rights of Women in Africa.

You can join then now by signing a petition to African leaders online, by email or through sending an SMS message.

To sign online, visit <http://www.pambazuka.org/petition>

To sign by email, send a message to petition@pambazuka.org with your full name in the body of the email

To sign by SMS, send a message to +27-832-933-934 with the word petition followed by your full name

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* The role of women in the regulation of information during conflict situations

If women are to participate fully in brokering peace, in decision making, and in post conflict reconstruction, it is imperative that they work in partnership with all forms of media at their disposal to raise awareness, to ensure participation of women of all ages, to influence policy decisions, and to ensure accountability on the part of governments, NGOs, and international organizations, writes **Amie Joof- Colé**

* From ratification to implementation in West Africa: Strategies for civil society organisations

Most West African countries have signed and ratified international and regional instruments on women's rights, notes **Aminata Dieye**. But despite the legal arsenal, statutory inadequacies and weaknesses translate into continued existence of discriminatory provisions. It has become crucial, she argues, that organisations are better mobilised and more vigilant so that change in African women's lives becomes a reality. (French version also available)

* Restoring Rights to African Women: Who will Bell the Cat?

Macro-economic reform, armed conflict and weak democratic political institutions are some of the limitations to enacting laws that protect women. Strong political will by African governments against these forces is crucial for the enforcement of laws that protect women, writes **Eve Odete**.

* The MDGs, gender and Africa

In 2000, 189 world leaders signed the Millennium Declaration and committed to "free all men, women and children from the abject and dehumanizing conditions of extreme poverty". As a result eight Millennium Development Goals were formulated with a target to half poverty by 2015. The 2005 World Summit of the UN General Assembly will be held from 14-16 September to review progress towards these goals. **Karoline Kemp** examines what the MDGs say about gender and how they relate to African women.

* Solidarity for African Women's Rights Coalition: Campaign updates from around Africa

The Protocol To The African Charter on Human and Peoples' Rights on The Rights of Women in Africa: The Challenges of Domestication

Sarah Mukasa

Once 15 African countries have ratified The Protocol To The African Charter On Human and Peoples' Rights On The Rights of Women in Africa, its provisions will have to be included in country-level legislation. This is the next challenge facing the Solidarity for African Women's Rights Campaign, says **Sarah Mukasa**, who assesses some of the potential stumbling blocks inherent in the domestication process. "It is imperative that strategies adopted for this campaign take into account these factors and prepare for the resistances that will surely come," she warns.

To date, 13 member states of the African Union have ratified The Protocol To The African Charter On Human and Peoples' Rights On The Rights of Women in Africa. This is in spite of the undertaking made by the Heads of State in the African Union Solemn Declaration on Gender Equality in Africa, July 2004. Commitment was made to sign and ratify the protocol by the end of 2004. This is indicative of the measure of political will there is to address substantively the rights of women on the continent. The disconnect between pronouncements made at regional level, and the action taken at national and local levels, demonstrates that the road to domestication and implementation is riddled with challenges that will have to be overcome if the protocol is to be of benefit to the women it seeks to protect. Activists must be at the forefront of the efforts to domesticate this protocol. This brief article will attempt to contribute to this process by assessing a number of possible challenges that will come with the campaign for domestication. It will do this by presenting a synoptic view of the response to women's empowerment initiatives in the past, at government and community levels.

The main challenge is at the level of the patriarchal state. Engaging the state on women's rights has been an extremely difficult struggle with varying degrees of success. Historically, the state has been at worst hostile and at best extremely slow to respond to advancing the rights of women. It has entrenched this

practice with a regime of discriminatory laws and policies. Even in those countries that have managed to enshrine the principles of equality and non-discrimination in the supreme law, the Constitution, the process of domestication, that is of aligning and framing national laws to reflect these principles, has been wanting. For example, in Uganda, in spite of an extremely progressive constitution, efforts to effect a law that protects the rights of women in marriage, separation and divorce, has for over 40 years yielded no results. Similarly, given our governments' past record for on the whole failing to honour internationally agreed standards, there is little reason to believe that the protocol will be regarded any differently.

The protocol, which seeks to commit states to protect the rights of women in Africa on the political, social, cultural and economic fronts, is the only regionally generated standard to address the specificity of women's oppression. It is thus critical that African governments apply this standard at national and local levels. In addition, given that it addresses many of the context specific violations, its application throughout the continent would go a long way to ensure that women are able to exercise their rights. However, it is because the protocol seeks to redress the power equation in gender relations, and to significantly alter the status quo that resistance to it on all levels is to be expected.

There is no doubt that advancements have been made

on the continent for African women, the most significant of which has been increasing access for women and girls into the public space, especially local and national politics, education, the business sector and so on. Similarly there has been much initiative at policy level to take into account the interests of women and other marginalised groups. However, this investment has not translated into a fundamental change for the better for the vast majority of African women. Moreover, these gains come against a backdrop of other developments that stand to put these gains and all future work to domesticate the protocol in jeopardy. These include:

a) Weak institutional mechanisms for implementation. This in particular refers to government gender machinery. Most governments have established machinery, either in the form of ministries or departments, to oversee government initiatives for the empowerment of women. However, at the recent review in Addis Ababa in October 2004 of the Beijing Declaration and Platform for Action, 10 years after it was agreed, there was considerable concern raised about these machineries' performance. In particular, it was noted that their capacities to spearhead the women's rights agenda are extremely limited due to severe (and in many cases disproportionate) cuts in budget allocation and human resources. Given that it is this machinery that will be largely responsible for monitoring the process of domestication and also implementation of the protocol, it is of major concern that it will not be in a position to do so effectively.

b) The slow process of change. This is particularly at legislative and policy levels. Different countries have different legal regimes. As a general rule, those countries that have inherited the French legal system have some advantage. For under these systems, ratification of the protocol automatically qualifies it as national law. However those of the British system have to undergo a process in which national parliaments effect a law that meets the agreed standard. If the past example of CEDAW is anything to go by, many of the countries that have ratified CEDAW have so far failed to incorporate these standards in national law. This is further complicated by the existence of dual legal systems in much of Africa. In most African countries,

the existence of customary and religious law on the one hand and statutory law on the other often means that women's rights are compromised. When drawing up laws on matters relating to women's rights, often customary and religious law is given precedence. The protocol which seeks to challenge discriminatory cultural practice is likely to meet with highly organised resistance therefore, and actually be undermined as a result of this duality of legal systems.

c) The failure to promote the culture of Constitutionalism and respect for the rule of law has serious implications for the domestication of the protocol. Recent developments in a number of countries such as Uganda, Ethiopia, Togo, Zimbabwe and Chad indicate a direct correlation between the failure of governments to respect the rule of law and to protect the human rights of citizens. As governments subvert Constitutions and compromise the rule of law in order to entrench their power bases, so too do cases of increased arbitrary detentions, curtailing media freedoms, harassment of political opponents and so on. The state apparatus is used to clamp down on rights and also to silence the voices of dissent. In these instances, the priority will not be to implement laws and regulations that promote rights, particularly those of women.

d) As with CEDAW, the political agency of the protocol is likely to be undermined through the practice of ratifying it with reservations. Where a government enters reservations on a particular provision, it is in effect absolving itself of the responsibility to implement the provision. A number of the countries that have hitherto ratified the protocol have done so with reservations. It is feared that in particular those articles dealing with reproductive and sexual rights, will be compromised in this way.

Other environmental factors that will have an impact on this campaign include:

e) The increase in insecurity and conflict in much of Africa and its effect on women and girls. Whilst the protocol seeks to protect women in conflict, the citizenry's ability to effect change of this kind is severely weakened in the context of conflict and insecurity. The collapse of law and order systems, the break down and dispersal of communities and support networks, and the

struggle just to survive makes it virtually impossible to implement these or any other kinds of measures.

f) The growing marginalisation of Africa as a result of globalisation fuelled by market led growth strategies. Africa's size in global market share is shrinking. The inequitable competition for market share (since government subsidies in northern economies are still firmly intact), means that Africa will continue its downward slide in gaining access to western markets. Together with the reduction of the role of the state in welfare provision, the plight of poor women in particular will continue to be a major challenge. With regards to the protocol, weak state structures, with reduced revenues, especially in the law and order sector (police and other law enforcement agencies), are less able to address these needs. Given that considerable investments in terms of finance are required for the effective application of the protocol, this development should be a cause for major concern.

g) Current global policy. The terrorist attacks of September 11th 2001 in New York marked a period of drastic change in global policy. This incident marked a paradigmatic shift from safeguarding and promoting human rights to fighting terrorism. Global politics has become highly militarised, and the subtext to this shift is that respect for basic human rights principles can and will be compromised in the interest of fighting terrorism. This has had a knock on effect, with the growing intolerance for progressive thinking, ideas and development programmes. Women's empowerment initiatives, particularly those aimed at strategic levels, such as the campaign for the domestication of the protocol, are especially endangered. Resources and support allocated to these kinds of programmes has been on the decline.

At the level of the community, there are number of challenges that are to be expected. These include:

h) A lack of awareness, especially at local levels, of the protocol and what it seeks to address. This suggests a general apathy and ambivalence by much of society for initiatives of this kind. Since one of the most effective ways to effect change is to have a critical mass of public support, this aspect of the campaign for the domestication of the protocol cannot be

ignored. Since the protocol seeks to protect in particular those women especially vulnerable to violations, it is imperative that efforts to engage them in the process are strengthened.

i) The significant increase in religious fundamentalism and conservatism will seriously threaten the campaign for the domestication of the protocol. There is an increasing resistance to progressive measures to protect the rights of women. The protocol aims to promote a number of measures which for some time have been resisted in a number of national and local contexts. In particular those aspects prohibiting harmful traditional and cultural practices, that seek to promote sexual and reproductive rights and property ownership rights, are likely to be contentious. As part of the campaigning process, our nets should be cast wider to make strategic alliances with some of the more progressive but influential cultural and religious authorities, in order to circumnavigate this resistance.

Discussed above has been the challenges that are likely to impact on the campaign for the domestication of the protocol. It is imperative that strategies adopted for this campaign take into account these factors and prepare for the resistances that will surely come. It is critical that our networking, support and information sharing capacities are enhanced in order that collectively we can address the resistance. A multi pronged approach is required in which community mobilisation strategies are strengthened with, for example the use of non-traditional methods such as the arts and popular culture. In addition, we must strategically incorporate documentation and research initiatives which highlight the economic and social dividends accrued from the domestication of the protocol. The significant advantage that the protocol has is that is an instrument that was generated in Africa by Africans. It came out of the lived experiences of women in Africa. It should be highlighted that our governments actually formulated this instrument, working hand in hand with civil society in order to improve the quality of life of half of the continent's population.

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The HIV/AIDS pandemic - A challenge to the successful implementation of the protocol

Elize Delpont

HIV/AIDS poses an enormous challenge to gender equality in Africa, states Elize Delpont. She writes that The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa has the potential to ensure the development of a strategic human rights response specifically suited to those most affected by the pandemic - the women of sub-Saharan Africa.

Introduction

The HIV/AIDS pandemic arguably poses the greatest threat to the promotion and attainment of gender equality in Africa. It has the power and potential to nullify each and every human right and to erode any development gains. Conversely, the AIDS virus can only flourish when socio-economic rights like the right to adequate health care and proper nutrition are violated. It is only if the rights to equality and non-discrimination are violated, that the virus can take advantage of the social, political and economic vulnerability this creates to flourish unabated among women. Far from being merely a health issue, the pandemic is now recognised as a human rights and development crisis. Gender inequality is at the root of this crisis.

The statistics are alarming and clearly expose gender fault lines:

In sub-Saharan Africa, approximately 23 million adults aged 15-49 are living with HIV/AIDS. Of these 57 % (13.1 million), are women. This region is burdened with the highest HIV prevalence rates and displays the most disproportionate impact of the pandemic on women and girls. In 1985, roughly half a million women and half a million men were living with HIV/AIDS in sub-Saharan Africa. However, the number of women living with HIV/AIDS relative to men has increased every year. Particularly affected are young women aged 15-24, who are currently more than three times more likely to be infected than young men.

The impact of HIV/AIDS on women and girls

Gender roles and relations have a significant influence on the course and impact of the HIV/AIDS pandemic. It is acknowledged that HIV/AIDS poses a greater threat to the lives and futures of women and girls. Gender inequality and power imbalances between women and men in every society heightens the vulnerability of women to infection and leaves them with heavier burdens when HIV/AIDS enters households and communities.

Research shows that being a female or male influences how a person experiences and responds to the HIV/AIDS epidemic.

Gender influences include:

- Individual risk and vulnerability to HIV infection;
- The experience of living with HIV/AIDS;
- The impact of an individual's HIV-related illness and death within a family or community; and
- Responses to the pandemic at the individual, community and national level.

Understanding the influence of gender relations on the ability of individuals and communities to protect themselves from HIV and effectively cope with the impact of AIDS, is crucial for expanding the response to the epidemic.

The centrality of gender inequality to the pandemic

The United Nations General Assembly Special Session on HIV/AIDS (UNGASS) convened in June 2001 marked a critical turn in the awareness of the international community around the centrality of gender inequality and discrimination to the pandemic. On this occasion, delegates from 180 countries acknowledged that gender equality and the empowerment of women are fundamental elements in reducing the vulnerability of women and girls to HIV/AIDS.

In the Declaration adopted at the UNGASS, States committed themselves to a wide range of actions to combat the HIV/AIDS pandemic, many of which address its gender dimensions. States are called upon to review the social and economic impact of HIV/AIDS at all levels of society, especially on women and the elderly, particularly in their role as caregivers, and in families affected by HIV/AIDS and address their special needs. States committed themselves to intensify efforts to challenge gender stereotypes and attitudes, and gender inequality in relation to HIV/AIDS, encouraging the active involvement of men and boys. Furthermore, the Declaration calls for national strategies to promote women's full enjoyment of their human rights and for the elimination of discrimination against women. However, the question the Declaration leaves open is what women's human rights actually are in the context of the pandemic.

In an innovative publication entitled '*Turning the tide - CEDAW and the gender dimensions of the HIV/AIDS pandemic*', UNIFEM explains how, as a blueprint for women's human rights, CEDAW is a critical tool for assisting us to understand what gender equality and the elimination of discrimination will require. In many of the critical areas for addressing HIV/AIDS from a gendered perspective - whether it is access to health services, care and care-giving, women's leadership and participation or the ability to negotiate safer sex - CEDAW provides the guiding human rights principles and directives for action which, if realised, can turn the tide of the HIV/AIDS pandemic.

The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa has

the potential to build on the framework that CEDAW provides and to ensure the development of a strategic human rights response specifically suited to those most affected by the pandemic - the women of sub-Saharan Africa.

The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa

Explicit reference to HIV/AIDS in the Protocol is limited to Article 14, which deals with health and reproductive rights. This article provides that:

"1. States Parties shall ensure that the right to health of women, including sexual and reproductive health is respected and promoted. This includes:

d) The right to self - protection and to be protected against sexually transmitted infections, including HIV/AIDS;

e) The right to be informed on one's health status and on the health status of one's partner, particularly if affected with sexually transmitted infections, including HIV/AIDS, in accordance with internationally recognized standards and best practices..."

The implementation of these provisions is likely to be fraught with practical and ethical difficulties. Given the vast body of research that points to the gender and human rights dimensions of the HIV/AIDS pandemic, it is rather unfortunate and disappointing that the Protocol seemingly reverts to the out-dated approach of classifying the pandemic merely as a health issue.

While issues of gender and HIV/AIDS are not explicitly mainstreamed in the text of the Protocol, all is not lost provided we make every effort to ensure that issues of gender and HIV/AIDS form an integral part of our implementation strategies. Many articles in the Protocol provide appropriate responses to, and protection against, the ravages of the pandemic.

Mainstreaming issues of gender and HIV/AIDS in our implementation strategies

As a starting point, aspects of the pandemic for which the Protocol has special relevance should be identified. The key responses that are required in terms of the Protocol should then be set out. In addition, refer-

ence should be made to the guiding articles of CEDAW and relevant General Recommendations formulated by the CEDAW Committee.

This exercise should provide tools to support efforts to integrate a rights-based approach into programmes, policies and strategies to respond to the gender dimensions of the pandemic.

Building on the strategy suggested by UNIFEM in *'Turning the tide - CEDAW and the gender dimensions of the HIV/AIDS pandemic'*, the following may serve to illustrate this approach:

Gender inequality and safer sex

The challenges

Power imbalances and inequalities between men and women render many women unable to negotiate safer sexual practices with their partners. Such imbalance and inequality may stem from family structures, economic relations, differences in education and experience, exposure to violence and cultural expectations. In unequal relationships, women demanding safer sex may risk impoverishment or assault. Social norms dictate that women should be passive and compliant in sexual relations. The right to decide how and when sex takes place is regarded as a male prerogative. There are numerous constraints on a woman's ability to engage only in sexual relations and practices that she chooses or desires. The autonomy needed by a woman in order to negotiate safer sex, depends on the realisation of her right to equality in many different areas of life.

The provisions of the Protocol, if effectively implemented and enforced, provide protection and guidance in the following ways:

Inequality within the family

Power imbalances within family relations often stem from forced marriages, male ownership and control over family resources and legal impediments to women obtaining divorce.

Article 6 of the Protocol obliges States Parties to ensure that women and men enjoy equal rights and are regarded as equal parties in marriage. In this regard, appropriate national legislation must be enacted to

ensure, amongst other things, that:

- Marriage will not take place without the free and full consent of both parties;
- The husband and wife must, by mutual consent, choose their matrimonial regime and place of residence; and
- During her marriage, a woman will have the right to acquire her own property and to administer and manage it freely.

Article 7 of the Protocol obliges States Parties to enact appropriate legislation to ensure that women and men enjoy the same rights in cases of separation, divorce or annulment of marriage. Such legislation must provide men and women with the same rights to seek separation, divorce or annulment of a marriage and with the right to an equitable sharing of the joint property deriving from the marriage.

Early marriage of girls

Early marriage is regarded as a major factor in increasing women's vulnerability to HIV. Marriage to an older man creates significant imbalances between husband and wife in terms of experience, authority and economic autonomy. The situation is exacerbated when a girl leaves school in order to marry and/or falls pregnant at an early age. Early marriage poses a serious threat to the health, education and employment prospects of girls.

Article 6 of the Protocol obliges States Parties to enact and enforce legislation to set the minimum age of marriage for women at 18 years. The further requirement that no marriage takes place without the free and full consent of both parties, has the potential to protect against forced marriages. The requirement that every marriage should be recorded in writing and registered in accordance with national laws in order to be recognized, may provide additional protection against early and forced marriage.

Early marriage may be seen as a harmful practice which negatively affects the human rights of women and which are contrary to international standards. In this case, Article 5 of the Protocol obliges States Parties to take all necessary legislative and other measures to eliminate such practices, including the creation

of public awareness in all sectors of society regarding harmful practices through information, formal and informal education and outreach programmes.

Early marriage often goes hand in hand with violence against women. Article 4 of the Protocol obliges States Parties to take appropriate and effective measures to enact and enforce laws to prohibit all forms of violence against women in public or private, including unwanted or forced sex. States Parties are also obliged, through curricula and social communication, to eradicate elements in traditional and cultural beliefs, practices and stereotypes that legitimise and exacerbate the persistence and tolerance of violence against women.

Other initiatives and best practices

When exploring ways to include issues of HIV/AIDS in a Protocol implementation strategy, one may consider current initiatives and research that provide useful guidelines and recommendations in this regard. As time is not on our side, it makes sense to utilize existing information rather than to reinvent the wheel. Examples of current initiatives and research are:

The UN Task Force on Women, Girls and HIV/AIDS in Southern Africa

The Task Force on Women, Girls and HIV/AIDS in Southern Africa was convened by the United Nations Secretary General in 2003. This Task Force identified key actions to reduce prevalence rates among girls and women. These actions include:

- Protecting female school enrolment figures;
- Protecting girls and women from the direct and long-term risk of HIV infection as a result of violence;
- Protecting the rights of women and girls to own and inherit land;
- Addressing gender norms, violence, stigma and discrimination as potential barriers to women's access to care and treatment; and
- Collapsing the bridge of infection between older men and younger women and girls.

The Task Force indicated that strategies were required to:

- Strengthen the legal and policy frameworks that support women's rights to economic independence;
- Challenge the social norms and values that contribute to the lower social status of women and girls and condone violence against them;
- Ensure access to health services and education; and
- Empower women and girls economically.

Women and HIV/AIDS: Confronting the crisis - a joint report by UNAIDS/UNFPA/UNIFEM

This recent report provides valuable direction in charting the way forward and prioritising areas of intervention. The report stresses that, in each area, women and girls, especially those living with HIV/AIDS, must be involved in interventions. It has identified the following actions that must begin without delay:

- Support positive women and their organizations and networks;
- Make AIDS money work for women;
- Ensure that adolescent girls and women have the knowledge and means to prevent HIV infection;
- Ensure equal and universal access to treatment;
- Promote girls' primary and secondary education and women's literacy;
- Recognise and support home-based caregivers and AIDS patients and orphans;
- Promote zero tolerance of all forms of violence against women and girls; and
- Promote and protect the human rights of women and girls.

Conclusion

The time has come for those promoting and protecting the human rights of women in Africa to mainstream issues of HIV/AIDS in all areas of activity. With the Protocol, CEDAW and other initiatives providing strategic direction in this regard, this task will be made far easier.

* Elize Delpont is director of Mhalva Consulting Services.

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University of Pretoria Centre for the Study of AIDS 2002 *Whose Right?*

United Nations Secretary-General Task Team on Women, Girls and HIV/AIDS in Southern Africa 2004 *Facing the Future Together*

Many relevant documents may be found at www.unaids.org

The role of women in the regulation of information during conflict situations

Amie Joof- Colé

If women are to participate fully in brokering peace, in decision making, and in post conflict reconstruction, it is imperative that they work in partnership with all forms of media at their disposal to raise awareness, to ensure participation of women of all ages, to influence policy decisions, and to ensure accountability on the part of governments, NGOs, and international organizations, writes Amie Joof- Colé

West Africa has experienced and is still experiencing very high levels of conflict, especially intra-state conflict. The conflicts have had a devastating effect on the African people, causing drops in political, economic and social development, and continuous instability for both the states concerned and the continent as a whole.

In the late eighties conflict erupted in Liberia, which lasted for almost a decade and signalled the advent of Charles Taylor, who exported war to Sierra Leone. Sierra Leone witnessed one of the most gruesome civil crises ever seen in the West African sub-region. Not only had it recorded the most gruesome murder and mutilation of civilians by the rebel factions, it had also displaced a significant number of the nation's population, most especially women and children, some of whom are yet to return as they continue to receive rations as refugees in the neighbouring countries of Guinea Conakry and The Gambia. Ivory Coast, a former bastion of democracy in Africa, is today the epicentre of crisis in the region.

Politically, the West African sub- region is prone to crises, with almost all its countries, with the exception of Senegal and Cape Verde, having experienced military coup d'etat. One can say that taking West Africa as a whole, the military regimes that emerged ended up being even worse than the civilian governments that they overthrew. Consequently, the sub-region is confronted with economic crises, indebtedness, poverty, political instability, disease, and frequent human rights violations.

Women and children are often among those most acutely affected by conflict, though they frequently have little or no role in creating the situations in which they find themselves. It is important to consider what impact conflict has on women's lives in practical terms.

Article 10 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa puts emphasis on the right to peace. It states:

1. Women have the right to a peaceful existence and the right to participate in the promotion and maintenance of peace.
2. States Parties shall take all appropriate measures to ensure the increased participation of women:
 - a) in programmes of education for peace and a culture of peace;
 - b) in the structures and processes for conflict prevention, management and resolution at local, national, regional, continental and international levels;
 - c) in the local, national, regional, continental and international decision making structures to ensure physical, psychological, social and legal protection of asylum seekers, refugees, returnees and displaced persons, in particular women;
 - d) in all levels of the structures established for the management of camps and settlements for asylum seekers, refugees, returnees and displaced persons, in particular, women;



e) in all aspects of planning, formulation and implementation of post-conflict reconstruction and rehabilitation.

3. States Parties shall take the necessary measures to reduce military expenditure significantly in favour of spending on social development in general, and the promotion of women in particular.

Women as involuntary and voluntary participants in hostilities

Few women who participate in conflicts do so by choice. In many cases, women are abducted by soldiers to be used as "sex slaves", cooks and cleaners in the camps. During their abductions, women are frequently subjected to physical abuse, sexual abuse, torture and even killings. Sometimes when opposing forces attack, these same women are abducted again.

It would be a mistake, however, to believe that women are always innocent bystanders to conflict. When it comes to infiltration and attacks, some groups prefer using women because they are less suspicious, they are not always subjected to body searches, and they can wear devices beneath their clothes and appear pregnant. Women may also take part in hostilities by providing men with the moral support needed to wage war. They can also be useful providers of information in relation to the enemy's position or strategies.

Women as civilians

Most women experience the effects of armed conflicts as part of the civilian population. Women and girls (like men and boys) suffer the direct and indirect effects of fighting, enduring indiscriminate bombings and attacks as well as lack of food and other essentials needed for survival. Invariably, however, women bear greater responsibility for children, the elderly, and the larger community - especially when the men have left to fight or have been detained or killed. With men gone, and the traditional support mechanism for protection in the community broken, women are at increased risk.

Most women and children flee conflict in search of safety and end up being refugees. Those who refuse to flee often stay because they are either too sick

to go or are widows; to take care of the elderly, the sick, and the young; to support family members; or to assess the security situation in order to advise fleeing relations on whether to return. Ironically, many of these women believe that their gender will protect them from hostilities. But contrary to their beliefs, women are frequently targeted precisely because they are women. Women also suffer when the fighting is close to where they live and work. This limits their movements as well as their access to work, food, water, and medical assistance. The situation is especially grave for those in need of maternal or child healthcare.

Women are also subjected to harassment, intimidation, and attacks, at their homes, in their villages, and at check points. Their personal security and freedom of movement is greatly hampered by a lack of identity documents, increasing their risk of abuse and sometimes even sexual violence.

Women as victims of sexual violence

In many conflicts, women and girls are systematically targeted for sexual violence, sometimes with the broader political objective of ethnic cleansing. It is now evident that rape is being used as a weapon of war. Reliable statistics concerning the number of victims of sexual violence are not easy to come by as they are often simply based on the number of people seeking medical help for pregnancy-related issues and for sexually transmitted infections such as HIV/AIDS.

Conflicts force many women and girls to go into sex work in order to make a living and survive. They also create room for other forms of sexual exploitation such as trafficking. Those who survive sexual violence are frequently unwilling to speak out for fear of being ostracized and rejected by their families and communities. Many victims also believe that no one can help them because the harm has already been done.

Displaced women in times of conflict Women and children make up the majority of the world's refugees and internally displaced persons. Fleeing and living in displacement camps creates numerous problems for women and exposes them to enormous risks. Women who flee their homes generally take few possessions with them and many become separated from their



families. They are then forced to rely on the people in the countries in which they are seeking refuge or on assistance from international and non-governmental organizations. When they are forced to travel long distances to look for water, food, firewood, and medication, they are frequently exposed to attacks by soldiers, injury from mines, and sexual abuse.

Women in camps for displaced persons frequently have to shoulder all the responsibilities for the entire family's survival. At the same time, the special needs of women are sometimes not taken into account by camp authorities and organizations. Women in situations of displacement lack the privacy needed to maintain their personal hygiene and dignity because they have to share facilities with other people, including men. For these reasons, women need to be actively involved in the planning, implementation, and evaluation of the humanitarian activities carried out and of the assistance distributed. Detained women during conflicts Women are also detained as a result of conflict, often in conditions worse than their male counterparts. Women in detention are sometimes detained with their young children; sometimes, they have to leave those children behind to be taken care of by other people.

This enforced separation can be very traumatic for women. Women also have specific needs that are hard to meet in detention. For instance, women and girls of menstruating age often have problems in obtaining suitable sanitary protection, regular access to sanitary facilities, and appropriate clothing to deal with their menstruation in a manner that preserves their health and dignity. Furthermore, women are subjected to maltreatment, including sexual violence, torture and other forms of degrading inhuman treatment while in detention. This abuse puts them at risk of pregnancy and may cause health problems as HIV/AIDS. They therefore live in perpetual fear.

Women in peace building

There are many examples of women's groups coming together in support of peace. One example is Roots for Peace, an association formed by Angolan women in 1994 with the aim of bringing an end to the conflict and promoting peace and security. Another example is

the Liberian Women's Initiative, also established in 1994. They claimed that the disarmament process in their country needed to be speeded up and called on the UN not to ignore their recommendation to provide incentives to the fighters to disarm.

In 1999, the First Pan African Women's Conference for Peace and Non Violence was held in Zanzibar. In 2000, women peace activists from Liberia and Sierra Leone met in Abuja at the invitation of the Economic Community of West African States (ECOWAS) and together with their counterparts from Guinea, launched a regional women's peace movement, the MANO River Union Women Peace Network (MARWOPNET) There are many other examples of women organizing themselves to promote peace in conflict torn areas.

However, the consequences conflict has on women's lives needs more attention than it is currently receiving. Women have realized that conflicts in Africa tear apart families and destroy lives. We therefore need to establish approaches to peace and security that include women's ideas and interests.

Women, media, and conflict

If more attention is to be given to how conflict affects women, women must play a role in the identification, treatment, dissemination, and evaluation of the information that is produced. If women are to participate fully in brokering peace, in decision making, and in post conflict reconstruction, it is imperative that they work in partnership with all forms of media at their disposal to raise awareness, to ensure participation of women of all ages, to influence policy decisions, and to ensure accountability on the part of governments, NGOs, and international organizations.

Women must put themselves into the picture both as producers of information and as subjects of it. When we look at the media, we are referring to radio news, radio dramas, television programmes, print media, popular music, interactive video dialogues, posters, talk shows, call-in shows, community media projects, the Internet - and more. By doing this, women may ensure their voices are heard at the local, national, sub-regional, regional, and international levels.

Currently, very few women journalists are taking an active role in peace and conflict reporting. This is part-

ly due to the highly gendered bureaucratic structures of media institutions where the majority of women do not have decision-making powers. At other times, women journalists are not interested in such tasks, are afraid of the risks involved, or do not have access to the training needed to take up the challenge. It is therefore necessary to address gender specific professional problems so that we may get women's perspectives on conflict. Of equal importance is the need to document efforts undertaken by women to create and promote peace and security in Africa. The media should publicize women's involvement in peace processes and actively lobby for inclusion of women in peace negotiations at all levels. It is worth investigating how women define peace and reconciliation at both family and community levels, and the skills and knowledge they use to work towards these goals. The media should show such aspects of women, rather than portraying them as mere victims.

The media can also play an important role in the process of healing following conflict. During the period of reconciliation and rehabilitation, the media can help empower groups such as women's groups that had previously been voiceless. Television, radio and print materials can provide specific social support to women's groups. The media can thereby help in rebuilding civil society. Women outside of the media also have a role to play. The women's movement must establish its presence in organizing anti-conflict campaigns so that women become more visible as peace initiators. Others must work to ensure people are not denied information because of poverty, lack of access, repressive media laws that inhibit free expression, or illiteracy.

Conclusion

It is crucial to document through research the role of the media in generating conflict and its potential to manage conflict. Documentation should also include finding out the use of language, culture, sources of information, adherence to professional norms and ethics. The media should be systematically engaged as an agency for peace promotion and conflict resolution. We should develop media resource packages on reporting on peace and security and endeavour to democratise the media so that it becomes easily accessible to and useable by different social actors.

The perpetrators of violence against women, especially rape and unwanted pregnancies, which constitute a crime against humanity, should be brought to justice. Women in post conflict situations should be encouraged and protected to give evidence against the perpetrators of rape and other forms of violence against women.

In order to make these changes, women's organizations, human rights groups, media outlets, community groups, and other social actors should collaborate to maximize human, material, and financial resources to avoid unnecessary duplication and conflict among themselves. If we do this well, we may all come to better understand how women are affected by conflict, how they can participate in preventing and managing conflict as well as promoting peace and stability.

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From ratification to implementation in West Africa: Strategies for civil society organisations

Aminata Dieye

Most West African countries have signed and ratified international and regional instruments on women's rights, notes Aminata Dieye. But despite the legal arsenal, statutory inadequacies and weaknesses translate into continued existence of discriminatory provisions. It has become crucial, she argues, that organisations are better mobilised and more vigilant so that change in African women's lives becomes a reality. (French version below)

The adoption in July 2003 in Maputo of the protocol on women's rights has inspired hope in thousands of African women who fought for more than a decade for social justice and gender equity in African societies. This hope was strengthened by the adoption of the Solemn Declaration on gender equality of 2004, reaffirming the commitment of heads of state to make the protocol effective through its coming into force in 2005. Three ratifications remain outstanding before the protocol can come into force. Moreover, the commitment of African heads of state to take appropriate steps to enable the launching of campaigns "aimed at ensuring the coming into force of the Protocol before 2005" has not been followed by concrete actions. In fact, the ratifications are taking place slowly.

What justifies this slowness? What's happened to the mobilisation of women for the effectiveness of the protocol? Does rallying at a continental level suffice to implement the protocol? What strategies are there at national level for the implementation of the Protocol once it comes into force?

The situation of women's rights in francophone countries

It is now abundantly clear that since the Beijing Conference of 1995, civil society organisations, more specifically women's movements, have worked together to make women's rights in Africa effective. In fact, African women have pushed African governments, through a variety of actions and activities and with

the support of the UN's specialised institutions, to adopt new laws and to put in place measures aimed at promoting and protecting women's human rights.

Most West African countries have signed and ratified international and regional instruments on women's rights and reiterated the principle of equality in their Constitutions. For instance, upon adopting her new constitution, Senegal highlighted, among other things, the convention on the elimination of all forms of discrimination against women, the African charter on human rights, in general the principal instruments for the protection of women's rights. In this same scheme of things, she revisited the issue of rural women's rights, particularly that of access to land, which constitutes one of the biggest obstacles to the effectiveness of women's rights.

Over and above that, reforms have been added to the Penal Code through the adoption of the 1999 law defining as criminal offences domestic violence, sexual harassment, female genital mutilations, and paedophilia, as well as more precisely defining the criminal nature of rape and paedophilia.

The December 2004 ratification of the African Charter's Protocol on Women's Rights in Senegal was a direct result of the protracted mobilisation of women in the wake of the 1995 Beijing Conference. In fact, it must be said that preparations for Beijing gave Senegalese women the opportunity to come together for a common cause: respect for women's rights. The tan-

gible outcome of this mobilisation was the participation of civil society organisations in drawing up the 1997 Women's Plan and in its evaluation in 2003.

This situation is manifest in the other countries of the sub-region that have adopted measures to augment the protection of women in marriages or against certain offences and infringements affecting women and girls' physical integrity. These are, among others, personal and family laws (Benin, Burkina Faso, Togo), the law on rape (Burkina Faso), sexual harassment (Côte d'Ivoire), female genital mutilations (Burkina Faso, Togo, Côte d'Ivoire), etc.

However, notwithstanding the existence of a legal arsenal, there are still statutory inadequacies and weaknesses in these countries due to the continued existence of certain discriminatory provisions. This state of affairs is caused by the fact that African states have difficulty implementing the different texts and conventions they have signed and ratified.

Obstacles to the implementation of treaties and conventions

Implementation of treaties or conventions presupposes the incorporation of these various texts in national legislation, the setting up of institutional frameworks, regulatory measures and an appropriate mechanism for the monitoring and evaluation of related performance indicators. The October 2005 ministers' meeting on the appropriation of the African Heads of State's Solemn Declaration to be held in Senegal, is an opportunity to put in place implementation and evaluation procedures for the protocol. In order to achieve this, the involvement of organisations like WILDAF, Solidarity of African Women (Femmes Africa Solidarité), Equality Now, Femnet, Accord, African Leadership Forum, etc., which have worked for the adoption of this Declaration, is indispensable.

Subsequent to the Beijing Conference, we observed heightened interest by civil society organisations, which denounced and proposed measures for the respect of women's rights. Similarly, women's networks rallied at the continental level to ensure that the protocol becomes a reality.

We have however noted reduced vigilance in women as far as the monitoring of gains is concerned. For in-

stance, women in Senegal have relaxed due to the retreat of the female social movement since the change of government in 2000 and yet there are threats caused by the rise of religious fundamentalism weighing on what has been gained (Dr. Sarr, 2005). In fact, when women's movements agitated for joint parenthood, religious groups made a stunning entry onto the scene by proposing Sharia-based laws on personal status. That prompted the head of state to react by declaring that the laws governing the family will not be modified. By cutting the ground from under these Islamic groups, the Senegalese head of state effectively blocked proposed reforms to make the laws on the family conform to regional and international texts on the protection of women's rights.

This attitude shows how difficult it is to implement ratified texts and will constitute an obstacle to the incorporation of the measures spelt out in the protocol into Senegalese national legislation. On top of that there are socio-cultural pressures that require long-term efforts to socially conscientise and mobilise African societies.

Another important aspect affecting the effectiveness of women's rights in our societies is the fact that women's movements in West Africa are running out of steam. We note as a matter of fact that there is no changing of the guard in women's movements due to the fact that, in a context defined by increasing poverty, youths (girls and boys) are more preoccupied with looking for jobs than committing themselves to rallying for a common ideal.

In the context of the implementation of this protocol, the participation of youths is indispensable if we want continuity in advocacy.

Strategies for civil society organisations

The participation of African civil society organisations in the promotion and protection of women's human rights was a major act of the people's commitment to take control of their destiny. In fact, without this participation, the process of equality in our societies would not make progress. This critical mass of women and men needs to be maintained so as to avoid losing steam.

Good practices exist in the various countries and we

should document them and share the information through the networks.

Work being done at the continental level must continue at national level to give more weight to our actions. In some cases only members of networks are involved in the process of implementing the protocol and yet the greatest number of women is in rural settings.

Appropriation of the Protocol by rural women is imperative if we want to obtain the adherence of all sections of the African populace. For that, efforts to conscientise the elected local leadership, traditional chiefs, and political and religious leaders are key to making the protocol effective.

In countries that have been subjected to armed conflicts, reconstruction and setting up of a legal framework must have as its reference the protocol. Rwanda can be taken as an example for African countries that have experienced internal tensions. In fact, Rwanda is a practical example of a country undergoing reconstruction, which has been able to set up strategies through a system of quotas for women's participation in decision-making structures.

It is now abundantly clear that women's organisations have already embarked on such work to ensure that women's rights are respected, but it has become crucial, in a context where poverty, wars and famine undermine hope, that organisations are better mobilised and more vigilant so that the change introduced in

African women's lives becomes a reality. In order to achieve this, the protocol constitutes the most complete mechanism to make the promotion and protection of African women's human rights effective.

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De la ratification à la mise en œuvre du Protocole à la Charte Africaine des droits de l'homme et des Peuples relatif aux droits de la femme : quelles stratégies pour les organisations de la société civile ?

Aminata Dieye

L'adoption du Protocole à la Charte Africaine des droits de l'Homme relatif aux droits de la femme en juillet 2003 à Maputo a suscité l'espoir de milliers de femmes africaines qui se sont mobilisées plus d'une décennie pour l'instauration de la justice sociale et l'équité de genre au sein des sociétés africaines. Cet espoir a été renforcé par l'adoption de la Déclaration solennelle des Chefs d'états africains sur l'égalité de genre en 2004 qui réaffirme l'engagement de ces derniers à rendre effectif le

A moins de quatre mois des échéances, il reste encore trois ratifications avant l'entrée en vigueur du Protocole. En plus, l'engagement des Chefs d'états Africains à prendre des mesures appropriées pour le lancement de campagnes « visant à assurer l'entrée en vigueur du Protocole avant 2005 » n'est pas traduit concrètement en actions. En effet, c'est d'une manière lente que s'effectuent les ratifications.

Qu'est qui expliquent ces lenteurs ? Qu'en est-il de la mobilisation des femmes pour l'effectivité du Protocole ? La mobilisation au niveau continental suffit-elle pour la mise en œuvre du Protocole ? Quelles stratégies adoptées au niveau national pour une mise en œuvre du Protocole, une fois entré en vigueur ?

Voilà autant de questions qui vont nous permettre de partager nos réflexions sur l'entrée en vigueur du Protocole et sa mise en œuvre.

La situation des droits de la femme dans les pays francophones

Il n'est plus à démontrer que depuis la Conférence de Beijing en 1995, les organisations de la société civile, d'une manière spécifique, les mouvements de femmes ont travaillé ensemble pour rendre effectif les droits de la femme en Afrique. En effet, à travers différentes actions et activités, avec l'appui des institutions spé-

cialisées de l'ONU, les femmes africaines ont poussé les gouvernements africains à adopter de nouvelles lois et à mettre en place des mesures visant la promotion et la protection des droits humains des femmes.

La plupart des pays de l'Afrique de l'Ouest ont signé et ratifié les instruments internationaux et régionaux relatifs aux droits de la femme et réaffirment le principe de l'égalité dans leur Constitution.

Par exemple, le Sénégal, en adoptant sa nouvelle constitution a mis en exergue, entre autres, la Convention sur l'élimination de toutes les formes de discrimination à l'égard des femmes, la Charte Africaine des Droits de l'Homme, d'une manière générale les instruments majeurs pour la protection des droits de la femme. Dans cet même ordre d'idées, elle est revenue sur les droits des femmes du monde rural, notamment l'accès à la terre qui constitue un des obstacles majeurs pour l'effectivité des droits de la femme.

A cela, s'ajoutent les réformes apportées au Code Pénal par le vote de la loi en 1999 incriminant les violences domestiques, le harcèlement sexuel, les mutilations génitales féminines, la pédophilie et précise le délit le viol en le définissant et la pédophilie.

La ratification en Décembre 2004 du Protocole à la Charte Africaine relatif aux droits de la femme au

Sénégal est due à la longue mobilisation des femmes au lendemain de Beijing 1995. En effet, il faut reconnaître que la préparation de la Conférence de Beijing a permis aux femmes sénégalaises de se retrouver autour d'un même combat : le respect des droits de la femme. Cette mobilisation s'est concrétisée à travers la participation des organisations de la société civile à l'élaboration du Plan de la femme en 1997 et à son évaluation en 2003.

Cette situation est visible dans les autres pays de la sous-région qui ont adopté des mesures pour le renforcement de la protection de la femme dans le mariage ou contre certains délits et infractions qui affectent l'intégrité physique des femmes et des filles: il s'agit, entre autres, du Code de la personne et de la famille (Bénin, Burkina Faso, Togo), loi sur le viol (Burkina Faso), le harcèlement sexuel (Côte d'Ivoire), loi sur les mutilations génitales féminines (Burkina Faso, Togo, Côte d'Ivoire) etc.

Cependant, des vides et insuffisances juridiques persistent au niveau de ces pays par la présence de certaines dispositions discriminatoires malgré l'existence d'un arsenal juridique. Cette situation s'explique par la difficulté des Etats africains de mettre en œuvre les différents textes et Conventions signés et ratifiés.

Les obstacles à la mise en œuvre des traités et conventions

La mise œuvre des traités ou conventions supposent l'incorporation de ces différents textes dans la législation nationale, la mise en place de cadres institutionnels, de mesures réglementaires et un mécanisme approprié pour le suivi et évaluation des indicateurs de performance relatif à cela.

La réunion des ministres pour l'appropriation de la Déclaration Solennelle des chefs d'Etats africains qui va se dérouler en Octobre 2005 au Sénégal pour la mise en œuvre de la Déclaration Solennelle des Chefs d'Etats africains en collaboration avec la CEA est une occasion pour poser les actes de mise en œuvre et d'évaluation du Protocole à la Charte Africaine relatif aux droits de la femme. Pour ce faire, l'implication des organisations comme WILDAF, Femmes Africa Solidarité, Equality Now, Femnet, Accord, African Leader-

ship Forum, etc. qui ont travaillé pour l'adoption de cette Déclaration est incontournable

Nous avons observé un engouement des organisations de la société civile, au lendemain de la conférence de Beijing, qui ont dénoncé et proposé des mesures pour le respect des droits de la femme. De la même manière, les réseaux de femmes se sont mobilisés au niveau continental pour que le Protocole soit une réalité.

Cependant, nous avons noté une baisse de la vigilance des femmes quant au suivi des acquis. Par exemple au Sénégal les femmes ont baissé la garde avec le recul du mouvement social féminin depuis la survenue de l'alternance politique en 2000 alors qu'il y a des menaces qui pèsent sur les acquis à cause de la montée du fondamentalisme religieux (Dr. Sarr, 2005). En effet, lorsque les mouvements de femmes se sont mobilisés pour la parenté conjointe, des groupes religieux ont une entrée fracassante en proposant le Code du statut personnel basé sur la Charia. Cela a suscité la réaction du Chef de l'Etat qui a affirmé que le Code de la famille ne sera pas modifié. En coupant l'herbe au pied à ces groupes islamistes, le Chef de l'Etat sénégalais a du coup bloqué les réformes proposées pour rendre conforme le Code de la famille avec les textes régionaux et internationaux relatifs à la protection des droits de la femme.

Cette attitude montre toute la difficulté de mettre en œuvre les textes ratifiés et va constituer des obstacles pour l'incorporation des dispositions du Protocole à la législation nationale sénégalaise. A cela s'ajoute les pesanteurs socio-culturelles qui nécessitent un travail de longue haleine de conscientisation et de mobilisation sociale des sociétés africaines.

Un autre aspect non négligeable qui intervient pour l'effectivité des droits de la femme dans nos sociétés c'est l'essoufflement des mouvements féminins en Afrique de l'Ouest. En effet, nous notons qu'il n'y a pas de relève dans le mouvement féminin du fait que les jeunes (filles et garçons) sont plus préoccupés à chercher du travail dans un contexte de pauvreté accrue qu'à s'engager et se mobiliser autour d'un idéal commun.

Dans le cadre de la mise en œuvre de ce Protocole, la participation des jeunes est incontournable si nous



voulons la continuité dans les actions de plaidoyer et de conscientisation.

Quelles stratégies pour les organisations de la société civile

La participation des organisations de la société civile africaine dans la promotion et la protection des droits humains des femmes a été un acte majeur de l'engagement des populations pour la prise en charge de leur destin. En effet, sans cette participation le processus d'égalité dans nos sociétés ne connaîtrait pas d'avancées. Cette masse critique de femmes et d'hommes a besoin d'être entretenu pour éviter l'essoufflement.

Les bonnes pratiques existent dans les pays et il s'agit de les documenter et de partager les informations à travers les réseaux.

Le travail qui est entrain d'être mené au niveau continental doit être relayé au niveau national pour donner plus de poids à nos actions. Dans certains cas, seuls les membres des réseaux sont plus impliqués dans le processus de mise en œuvre du Protocole à la Charte Africaine alors que la plupart des femmes sont en milieu rural.

L'appropriation des femmes du monde rural du Protocole est impératif si nous voulons atteindre l'adhésion de toutes les tranches de la population africaine. Et pour cela, un travail de conscientisation des élus locaux, des chefs traditionnels, des leaders politiques et des religieux est important pour rendre effectif le Protocole.

Dans les pays qui ont connu des conflits armés, la reconstruction et la mise en place de cadre juridique doivent prendre comme référence le Protocole à la Charte africaine sur les droits de la femme. L'exemple

du Rwanda peut servir d'exemple aux pays africains qui ont connu des tensions internes. En effet, le Rwanda constitue un exemple de bonne pratique d'un pays en reconstruction qui a su mettre en place des stratégies à travers des quotas pour la participation des femmes aux instances de prises de décision.

Il n'est plus à démontrer que les organisations de femmes ont déjà entamé ce genre de travail pour le respect des droits de la femme, mais il est aujourd'hui crucial, dans un contexte où la pauvreté, les guerres et la famine minent l'espoir des populations, que ces organisations fassent preuve de plus de mobilisation et de vigilance pour que le changement entamé dans la vie des femmes africaines soit une réalité. Pour ce faire, le Protocole à la Charte africaine sur les droits de la femme constitue le mécanisme le plus complet pour rendre effectives la promotion et la protection des droits humains de la femme africaine.

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Restoring Rights to African Women: Who will Bell the Cat?

Eve Odete

Macro-economic reform, armed conflict and weak democratic political institutions are some of the limitations to enacting laws that protect women. Strong political will by African governments against these forces is crucial for the enforcement of laws that protect women, writes Eve Odete.

On 6 September 2005, the Gambia ratified the Africa Union Protocol on the Rights of African Women, bringing to 13 the number of countries that have ratified this landmark legislation on the rights of women in Africa. With only two more country ratifications required to bring the protocol into force, the next crucial phase in the first step to the realization of the rights of women in Africa is domestication of the law, and the prerequisite for this is political will within African states, for change.

At the twilight of the coming to force of the protocol, African civil society organisations and women's movements join the African Union, together with progressive states, to welcome an African legal instrument that dangles to the over 400 million women in Africa the promise of social, cultural, economic, and political emancipation. The protocol, like its forerunner the Africa Charter on Peoples' Rights, stands to swing African governments into action on creating platforms for addressing the rights of women in relation to food security, equal access to and full participation in power structures and decision-making, equal access to education and training, reproductive rights and access to health and the all important right to land, property and credit.

Africa is replete with civil society and women's movements working with governments to create new policies, national action plans and legislation to protect the rights of women. Efforts in Botswana, South Africa, Uganda, Ghana, Kenya, Namibia, Mozambique, Zimbabwe and Kenya have seen governments work very closely with coalitions of civil society organisations in developing national action plans for women.

These efforts have largely been the result of intense pressure and lobbying by civil society through mass education on women's rights, solidarity-building and lobbying governments for policy space within national structures.

The success in these efforts vary largely across Africa, but characteristically, the extent to which these action plans (e.g Beijing Plan of Action) and the domestic and international legislation (e.g CEDAW) have been translated into real programmes with clear policy outcomes for African women is minimal. Budgets for women's programmes remain insignificant as the agencies that are created or expanded to implement gender programmes remain under-resourced. Specific policy pronouncements have been made in relation to women's right to property, participation in decision-making, and safety nets for vulnerable groups against the impact of harsh macro-economic policies. These have remained on government policy papers and on the lips of the agitating groups. They have lacked in time-bound targets and benchmarks for monitoring. The role of NGOs in the consultation and agenda setting has been nebulous as most structures for such engagement have remained unclear and un-funded even when these have been clearly spelled out in legislation.

Limitations in enacting laws that seek to protect women range from the harsh realities of macro-economic programmes, devastation of armed conflict, the emergence of counter social forces opposed to women's rights, weaknesses of democratic political institutions, the weakness of a vigorous civil society and the lack of political will. A strong political will by

African governments against these forces is therefore an imperative for the enforcement of laws that protect women. In the absence of a counter civil force that keeps the agenda of women alive on the policy platform, governments are want to sweep such legislation under the political carpet.

Way back in March 1995 in Lome, Togo, civil society and women's movements began to scale the typical socio-political and economic hurdles to see the protocol established. They continue to lobby African

governments to finally bring it into force. Against the signatures and ratifications is a fragile political will by national governments that this third force, the civil society organisations and women's movements, must keep afloat.

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The MDGs, gender and Africa

Karoline Kemp

In 2000, 189 world leaders signed the Millennium Declaration and committed to “free all men, women and children from the abject and dehumanizing conditions of extreme poverty”. As a result eight Millennium Development Goals were formulated with a target to half poverty by 2015. The 2005 World Summit of the UN General Assembly will be held from 14-16 September to review progress towards these goals. Karoline Kemp examines what the MDGs say about gender and how they relate to African women.

“Without progress towards gender equality and the empowerment of women, none of the MDGs will be achieved.” - From the Gender Equality & the Millennium Development Goals website

Source: http://www.mdgender.net/resources/monograph_detail.php?MonographID=21

What do the Millennium Development goals say about gender?

The framework of the MDGs is comprised of 8 goals, 18 targets and 48 indicators. Although the achievement of all goals will benefit women both indirectly and directly, there are a number of objectives that pertain specifically to gender. Goal 3 aims to “promote gender equality and empower women.” The target is to “eliminate gender disparity in primary and secondary education, preferably by 2005, and in all levels of education no later than 2015.” The indicators for this particular goal include the ratio of girls to boys in primary, secondary and tertiary education; the ratio of literate women to men, 15 to 24 years old; the share of women in wage employment in the non-agricultural sector; and the proportion of seats held by women in national parliament. In addition, the MDGs endeavor to improve maternal health, by reducing “by three quarters, between 1990 and 2015, the maternal mortality ratio” (Goal 5). The attempts to combat HIV/AIDS (Goal 6) also make special note of women, as gender equality cannot be reached in environments affected by the pandemic. Key indicators include the HIV prevalence among pregnant women aged 15-24 years and contraceptive prevalence rates, among others.

Source: http://unstats.un.org/unsd/mi/mi_goals.asp

What is the status in Africa on the progress of these particular goals?

There are a number of ways of measuring the MDGs goals for girls and women, and the level of education for girls is one of these. UNDP statistics show that there has been a decline in the gap between girls' and boys' enrolment ratios for primary schools in the 1990s, and by 2000 the proportion of girls to boys in primary schools was over 90% in more than half of the countries in Africa. In some areas the enrolment of girls is greater than that of boys', while in other countries these numbers are much lower (one third or below). Female literacy is yet another way to measure the MDGs as they relate to gender. In Africa, the rates for female literacy rose in proportion to male literacy throughout the 1990s. While many improvements have been made in these areas, the MDG targets for female enrolment and literacy will not be made by their desired date.

Source: <http://www.undp.org/mdg/mdgreportinafrica.pdf>

The number of women in wage earning employment (non-agricultural) has risen only nominally in Africa, increasing from 31.5% to 35.8% over the years 1990 to 2003 in Sub-Saharan Africa and 18.9% to 21.5% in Northern Africa. There are a number of reasons for this, but the low integration of women into the monetary economy as compared to men is directly related to educational opportunities. In addition, the disproportionate representation of women in the informal

economy and as unpaid laborers contributes to these numbers, which are directly affected by socio-cultural and political attitudes towards women.

Involvement of women in parliamentary seats is a measurable statistic of gender equality and women's empowerment. According to the UNDP, these numbers have increased in Africa between the years 1990 and 2005. In Sub-Saharan Africa the percentage of women in parliamentary seats in the single or lower house only increased from 7.2% to 9.0% in 1997 and have finally reached 14.2%. In Northern Africa these percentages have been 2.6, 1.8 and 8.5, respectively. Some African countries have made provisions to enforce quotas in regards to the numbers of women in parliament, which has resulted in a number of countries with high numbers of women in government. This involvement is important to reaching MDGs because women in these positions have the potential to influence policy making.

Source: http://unstats.un.org/unsd/mi/goals_2005/goal_3.pdf

Maternal health is another measurable statistic, and UNDP reports show that in Sub-Saharan Africa, problems in pregnancy and childbirth cause the death of at least 250 000 women each year, which is the highest in the world. High fertility rates and the low rate of care by skilled health providers during pregnancy and births remain impediments to the goal of decreasing maternal deaths, which will most likely not be met by its projected date.

The pandemic of HIV/AIDS has many effects, least of all its consequences for women and their families. Of the over 40 million people living with HIV, more than half are in Africa, and at least three quarters of AIDS related deaths occur in Sub-Saharan Africa. Women who are poor, or have little or no education - those without much power in society - are most vulnerable, and in many parts of Africa, teenage girls are at a proportionately higher level of risk. While some African countries are combating the pandemic with education, a crucial part of its elimination, others face a wall of silence perpetuated by "silence, shame, stigma and superstition." This is one area of the MDGs that will most definitely not meet its targets

- even if new infection rates drop, as many as half of the young people in the most seriously affected areas of Africa face the risk of AIDS related deaths. Indeed, the pandemic has not only become the leading cause of death in Africa, it has reversed the development of many of its countries.

Source: <http://www.undp.org/mdg/mdgreportinafrica.pdf>

How do these specific goals relate to the women of Africa?

While it is key that gender equality and the empowerment of women are featured prominently in any undertaking towards development, and that these issues are addressed in the Millennium Development Goals, some would argue that they do not go far enough. Hilda Tadria, Senior Regional Advisor for the African Center for Gender and Development at the UN Economic Commission for Africa offers her critiques in an interview with the Development Gateway. She maintains that the largest challenge in achieving gender equality has more to do with socially accepted cultural beliefs and ideologies that uphold male privilege than with educational or economic goals. The goals will only be met once the interdependent and related inequalities of gender, such as unequal power relations and violence are addressed. These two examples alone may be said to be at the root of unequal access to resources, which can then potentially create dependence and poverty, and can lead to abuse in any number of manners. Tadria argues that if gender were key to the MDGs then each target would include gender related issues, and that while judging the access of girls and women to education and government may be some indication of equality, it does not go far enough. She proposes that all of the Millennium Development Goals would be met more successfully if they attempted to reinforce women's rights in regards to property ownership, control of reproductive rights and freedom from violence.

Source: <http://old.developmentgateway.org/node/130685/special/gender/InterviewHildaTadria.pdf>

The 2005 World Summit of the UN General Assembly will be held from 14-16 September. What will be its impact on the MDGs?

This summit aims to review progress since the Millennium Declaration, which was adopted by Member States in 2000. Policy decisions and reforms necessary for movement on these goals will be undertaken with the hope of revitalizing the MDGs. Priority areas for action include the development of national development strategies, each taking into account the clusters of policy, which include gender equality, the environment, rural development, urban development, health systems, education and science, technology and innovation.

In addition, financial assistance to development must be addressed, specifically by the meeting of pledges already offered by donor countries. In terms of trade, the Doha negotiations should be fulfilled, with Member States providing duty and quota free market access for all exports to Least Developed Countries. Debt Relief is also a priority, with the goal of reaching 2015 without an increase in debt ratios. Other goals in-

clude the efforts made to prevent terrorism, disarmament and non-proliferation, reduction in prevalence and risk of war and the adoption of a resolution to set out principles for use of force. The right of freedom to live in dignity will be met through the policies of the "responsibility to protect," the increase of human rights bodies and the implementation of a Democracy Fund. In addition, the goal of strengthening the United Nations will be addressed, specifically through reform towards the adaptations to the needs and circumstances of the 21st century.

Source: <http://www.un.org/largerfreedom/summary.html>

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Solidarity for African Women's Rights Coalition: Campaign updates from around Africa

Country Updates from SOAWR members

Burkina Faso

After the authorization for the ratification of the Protocol was given by the National Assembly on 20th May 2005, the finalization of the administrative procedure for the deposit of the instrument of ratification at the African Union is still pending. While waiting for this, the Association Voix des Femmes, a SOAWR member, is undertaking several activities aimed at popularizing the contents of the Protocol, enhancing the participation of women in local politics and coming up with strategies to make the Protocol a reality at the level of the judiciary and the whole society. In this regard, a televised debate around the Protocol took place in August 2005 and brought together representatives of several women's associations. This provided the opportunity to discuss the evolution of the process of ratification by questioning the structures that are charged with this task, provide information on the Protocol as it compares to the existing legal texts and also for the benefit of the associations present, and to make known the actions undertaken in the context of their work with a view to making the Protocol effective. The program was so well received that a retransmission has been requested and will be made in September.

Cape Verde

Cape Verde deposited its instrument of ratification on 22nd July, becoming the 12th country to ratify the Protocol.

Djibouti

Besides the finalization of the activities mentioned in the last update, UNFD has continued undertaking activities on the promotion and protection of the rights of women based on the Protocol. UNFD's action is spread out on several key areas covered under the Maputo Protocol and are aimed at improving the living conditions of Djiboutian women, in areas such as education and health. Regarding the last issue, several programs consisting of sensitizing, prevention

strategies and supporting the urban as well as the city dwellers with regard to HIV/AIDS is on course for the year 2005-2006. Similarly, UNFD has undertaken several actions of sensitization on a continuous basis to fight against the continuation of the practice of FGM in the whole country. Parallel to the action of civil society activists with whom she works in close collaboration, the Minister for Promotion of Women and Family Affairs plans to undertake in the coming months the first assessment of the general status of women in Djibouti. The first step is to undertake a status audit of the national legal texts that relate to the protection of the rights of women and the family. More precisely, this study will have as an objective to establish the conformity or lack thereof of the national law of Djibouti with the texts and conventions that have been ratified by the Republic of Djibouti and which then form an integral part of its collection of laws. As such, the outcome of the study will contribute to and facilitate the domestication of the Maputo Protocol into Djibouti national law. The desk research will be accompanied by the organization of preparatory workshops in the whole country (including the rural zones) aimed at itemizing the totality of issues that could slow the empowerment of women, especially within the framework of their domestic, social and professional life. The outcome of the study will be put in use in February 2006.

The Gambia

On 6th September, The Gambia deposited its instrument of ratification becoming the 13th country to have ratified it. SOAWR released a press communiqué to highlight the progress towards the coming into force of the Protocol and urged the remaining 40 countries to expedite their ratifications.

The African Center for Democratic and Human Rights Studies (ACDHRS) has continued carrying on sensitization of the Protocol. It has distributed the Arabic translation of the Protocol amongst the Muslim com-

munity and is encouraged by the response. ACDHRS intends to carry out a campaign for the review of the reservations entered by the Gambia. It has involved a larger coalition of people in the Protocol campaign.

Republic of Guinea

The Republic of Guinea has already ratified the Protocol to the African Charter through a vote in the National Assembly in 2004 but has not to-date deposited its instrument of ratification at the African Union. CPTAFE has continued to undertake activities aimed at informing and sensitizing the population on the content of the Protocol and its socio-political values and its applicability in their lives; and lobbying the government to officially deposit its ratification. More specifically, CPTAFE undertook the following activities:-

- Two transmissions on radio and TV during which several personalities commented on the Protocol and its potential positive impact on the improvement of conditions of the lives of women in Africa.
- A procession of young girls marched through the city of Conakry on 27th August (the National Day of Women) chanting slogans in favor of the Protocol.
- Face to face lobbying amongst the decision makers :-
 - Ministry of Social Affairs and the Promotion of Women and Children
 - Ministry of Foreign Affairs
 - Ministry of Interior and Decentralization
 - Speaker of the National Assembly

In the light of the delay in the depositing of Guinea's ratification, CPTAFE reached out to the First Lady who committed to make a solemn declaration in favor of the Protocol at a dinner that will be organized by CPTAFE on 14th September 2005. CPTAFE anticipates that this would have the desired effect of mobilizing the decision makers into action.

Kenya

COAW and Equality Now discussed and generated advocacy plans (to be implemented by COAW with support from Equality Now) to encourage the Kenyan government to ratify the Protocol which included staging a demonstration on 29th September 2005, the date that the AUC has scheduled to celebrate Pan-African women's Day, various meetings with MPs, media inter-

ventions such as speaking on talk shows and generating advocacy material. Subsequently, a joint meeting with the Director for Gender Affairs Department was held to find out about the status of Kenya's ratification. Unfortunately the Director was newly appointed and did not have updated information and hence was briefed. A future date for follow-up was scheduled. Equality Now, in addition, solicited the intervention of a couple of key officials: (a) the Chair of the Kenya Women Parliamentary Association (KEWOPA), Honorable Beth Tett, who was keen to know more about the campaign and help with the ratification process. Equality Now subsequently sent her a package of information.. Honorable Tett, who is also the Assistant Minister for Local Governments, expressed interest in involving KEWOPA in the awareness and sensitization process and indicated that she might call on Equality Now and other SOAWR members to make a presentation to its members on the campaign. (b) Hon Linah Kilimo, Minister for Immigration Affairs, who is an anti-FGM activist and has been at the center of pushing for Kenya's ratification in September 2004 when she hosted an international conference on FGM in Nairobi. Hon. Kilimo also expressed support and indicated she would raise the matter with the relevant government officials.

The Kenya National Commission on Human Rights (KNHRC) has also taken a keen interest on the ratification of the Protocol. One of the Commissioners has made contact with the Minister for Gender and is scheduled to follow up with him so as to get the government commitment to ratification before the end of September. COAW and Equality Now have been following closely KNCHR's initiative.

Equality Now also received communication from the government with a positive response that Kenya's ratification might be a reality soon.

At the beginning of September, Equality Now's Africa Regional Director made a presentation at a regional training in Nairobi on the Equal Status and Human Rights of Women in East Africa, organized by the Education Center for Women in Democracy (ECWD) and the Swedish Raoul Wallenberg Institute of Human Rights. The conference brought together 25 human rights activists from Burundi, Ethiopia, Kenya, Rwan-

da, Tanzania and Uganda. She shared with them the history of the Protocol, what it offers African women, and discussed the campaign for the popularization, ratification and domestication of the Protocol. Following group discussions, the participants generated several action steps that they hoped to undertake back home. Their focus was to push for the ratification by their countries (with the exception of Rwanda which already ratified it) and to build up momentum on popularization and public outreach activities starting off with their own organizations.

Mauritania

The recent coup d'état in Mauritania is likely to affect the progress of the ratification process. However, Equality Now sent a letter to the President with a red card enclosed and urged for the process to be completed soonest.

Nigeria

WRAPA Secretary General, Saudatu Mahdi, and Ms Chibogwu Obinwa of BAOBAB for Women's Human Rights amongst other African women participated in a global consultation on ratification and use of the Optional Protocol of CEDAW which was hosted by the International Women's Rights Action Watch-Asia Pacific (IWRAP) from August 27- 30th, 2005 in Kuala Lumpur, Malaysia. Mahdi presented a paper on "Ratification of the Optional Protocol to CEDAW: Strategies and Challenges in Nigeria" among others bringing out issues such as:

- (a) high turnover of elected/appointed leadership and government functionaries without political ideology that is gender oriented which jeopardizes any gains made;
- (b) national gender machineries and women groups which lack adequate expertise and technological support for programming, literature and comparative experiences to effectively implement their mandate; and
- (c) strong opposition to gender related reforms or laws which has created a distance between those who would ordinarily lend support to the cause of CEDAW and its mechanisms in fear of negative social and religious labeling.

The paper also outlines strategies applied in pushing for ratification of the Optional Protocol to CEDAW and lessons learnt which would come in handy for advoca-

cy around the domestication of the African Women's Protocol.

Saudatu anticipates that the same challenges would be faced in the efforts to domesticate and implement the Protocol on the Rights of Women in Africa as Nigerian activists prepare for advocacy to effect domestication. However, while CEDAW as an international law might be viewed with apprehension for the changes it portends and perceived as an incursion based on its 'external' origins and the intentions of its authors; the African Women's Protocol might stand a better chance of acceptability in coming out as an African initiative to right the wrong done onto women. Borrowing from the success of the SOAWR campaign, the creation of an Africa CEDAW Coalition was proposed to take charge of pressuring African countries to ratify and implement CEDAW.

WRAPA has continued to work on popularization of the African Women's Protocol through the media. WRAPA has also been working on cultivating good relationship with the new Minister for Gender updating her on the past collaboration with the Ministry around the campaign for the ratification of the Protocol and the additional work remaining to be completed.

Togo

On 27 July 2005, the Council of Ministers adopted a bill approving ratification of the Protocol. (WiLDAF West Africa). Togo currently holds a Yellow card.

Uganda

Equality Now received a response from the Legal Counsel of the President who seemed eager to assist in securing his country's ratification. Equality Now wrote back and urged him to get in touch with Akina Mama Wa Afrika (AMWA). AMWA has since received contact and is following up with the Legal Counsel.

Zambia

On 3rd August 2005, Zambia became the 38th country to sign the Protocol. On Behalf of SOAWR Equality Now issued a press release highlighting it and urged the Zambian government to make the critical step of ratification. The press release also called for more countries to move on in delivering their commitment to African women.

Zimbabwe

WiLDAF Regional Office has taken every opportunity to relate the Protocol to all its work, especially the linkages between CEDAW, the SADC Gender Declaration and the African Women's Protocol. At a meeting of SADC NGOs held in Botswana before the SADC Summit, the WiLDAF representative made a presentation on constitutional and legal rights of women within SADC countries in which she pointed out that the provisions of the Protocol take the issue of women's rights a major step further for all of us. She decried the slow pace of ratification by SADC members (to date only four countries - Malawi, Namibia, Lesotho and South Africa - of the 14 SADC member states have ratified.)

WiLDAF is issuing a newsletter in September addressing violence against women with reference to the

Protocol. There is unfortunately not enough awareness on the Protocol and its implications for the advancement of the rights of women. WiLDAF believes that women cannot claim rights that they are not fully aware of. As such, capacity building and sensitization/awareness creation are critical components of WiLDAF's campaign. WiLDAF has therefore developed a program to create more awareness among NGOs in SADC countries on the importance of having the Protocol ratified, domesticated and implemented. This will be done in all SADC countries that have not yet ratified the Protocol. It also includes the development of a simple document on the Protocol to be used in legal rights education programs. These programs will be carried out by members of the WiLDAF network as soon as funds are secured.



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The following organisations are campaigning for the ratification of the protocol; African Centre for Democracy And Human Rights Studies (ACDHRS), Akina Mama wa Afrika, Association des Juristes Maliennes, Cellule de Coordination sur les Pratiques Traditionnelle Affectant la Sante des Femmes et des Enfants, Coalition on Violence Against Women, Equality Now-Africa Regional Office, FAHAMU, FAMEDEV-Inter-African Network For Women, Media, Gender and Development, FEMNET - African Women's Development and Communication Network, Foundation for Community Development, Inter-African Committee on Harmful Traditional Practices (IAC), Oxfam GB, Sister Namibia, Union Nationale des Femmes de Djibouti, Voix de Femmes, University of Pretoria Center for Human Rights, Women's Rights Advancement and Protection Alternatives, Women in Law and Development in Africa (WILDAF)



Fahamu is committed to serving the needs of organisations and social movements that aspire to progressive social change and that promote and protect human rights.

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