



MAPUTO

PROTOCOL

@20

a celebration of
20 years of
women's rights

A NEWSLETTER
BY THE SPECIAL
RAPPORTEUR
ON THE RIGHTS
OF WOMEN IN
AFRICA

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FROM THE DESK OF THE SPECIAL RAPPORTEUR¹

I greet and welcome you to this special newsletter, marking the celebration of the 20th anniversary of our precious Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol). This year we celebrate this very significant regional instrument adopted by the African Union (AU) on 1st July 2003, and which came into force on 25th November 2005. As we celebrate this 20th anniversary, we must reflect on, and take stock of critical landmarks, strides, and challenges in Africa's women's rights trajectory and journey. This is indeed a celebration of triumphs

¹ Adapted from the Opening Statement of the Special Rapporteur at the celebration of Maputo@20 in Nairobi on 10 July 2023.

and reflection on challenges, as we commemorate the 20th anniversary of the Maputo Protocol. 2023 is indeed a significant watershed!

Allow me to salute all the founding mothers and champions on whose shoulders we all stand as we celebrate 20 years of Maputo. We must all acknowledge, with utmost humility, that the struggle that brought us to where we are today started well before the adoption of the Maputo Protocol in 2003. The Maputo Protocol is indeed a clear testimony to what can be achieved through collective, concerted, and sustained resolve! As we celebrate, let us also remember all those women, children and men who are presently going through civil conflict and strife. These women find themselves in a very challenging context, that provides a fertile ground for the violation of all the rights enshrined in the Maputo Protocol. We stand in solidarity with all women in Africa and globally, who are challenged and confronted with civil strife, conflict and disasters!

As we commemorate the 20-year anniversary of the Maputo Protocol, it is important to reflect on why this Protocol

was deemed necessary, despite the existence of global instruments such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and regional human rights instruments, including the African Charter on Human and Peoples' Rights (African Charter). The answer, as provided in the preamble of the Maputo Protocol itself, lies in the persistent discrimination and harmful practices that African women continue to face despite the existence of these instruments.

Article 18(3) of the African Charter does not specifically address the protection of women's rights, but rather addresses women's rights in the context of the family. Additionally, it fails to define discrimination against women comprehensively and does not adequately address violations resulting from such discrimination, including issues such as early marriage and female genital mutilation, amongst others.

The second reason for the adoption of the Maputo Protocol was the recognition that global human rights instruments, including CEDAW, were

not sufficiently equipped to tackle the unique challenges faced by African women in their daily lives. Consequently, the AU took the bold step of introducing this landmark regional instrument, which encompasses progressive and innovative provisions, aimed at addressing the specific needs and challenges faced by African women.

If the Protocol was a child, all things being equal, it would be well on its way to finishing a university career, so in essence our Maputo Protocol has come of age. Since its adoption on 11 July 2003, 44 Member States of the African Union have accepted the Maputo Protocol. While this is indeed an encouraging number, the more perfect number would be to have all 55 states of the African Union ratify or accede to it. After all, all the women of Africa deserve the protection that it brings. In this regard, I would like to highlight that through ratification, States can unequivocally demonstrate their unwavering commitment to establishing an inclusive society that fosters the full participation and contributions of women, unhampered by discrimination. Furthermore, ratifying the Protocol provides a robust

framework to confront and dismantle discriminatory structures and practices that impede women's pursuit of justice and their assertion of rights, thereby paving the way for the realization of gender equality.

Additionally, ratification also strengthens the capacity of judicial systems to address gender-based discrimination, ensuring the provision of effective remedies and justice for women who have experienced violations of their rights. Of paramount importance, ratifying the Protocol sends a powerful message that acts of gender-based discrimination will not be tolerated, fostering an environment that is safer and more secure for women and girls throughout Africa.

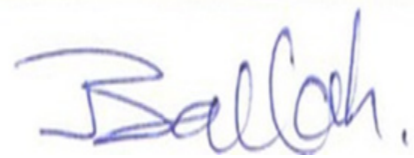
It is worth mentioning that ratification and implementation of the Maputo Protocol holds immense potential to bring about positive changes in the lives of African women. The pressing need for the universal ratification of the Maputo Protocol becomes evident and significant when we consider the persistent gender inequalities that prevail in many African countries in general, and in some of the non-ratified

States. It is, therefore, imperative for States to carefully consider the substantial benefits that can be derived from ratifying the Maputo Protocol.

It is important to note that the ratification of the Maputo Protocol alone does not automatically ensure women's rights unless it is accompanied by domestication and implementation. Regrettably, despite being ratified by 44 States, African women still face discrimination, gender-based violence and sexual harassment, among others, due to various challenges in the domestic implementation of the Protocol. These challenges include inter alia, lack of political will, judicial reluctance to apply the Protocol, weak national institutions, plural legal systems, and reservations.

Despite all these challenges, I am confident that as a continent we are on the right trajectory to protect women's rights. This newsletter features articles from all around Africa which highlight the triumphs and hurdles that the Maputo Protocol has faced. It is a testament to the far reaching effects of the instrument and the potential that it has to improve the lives of women in Africa. It is a celebratory edition, hence it

highlights some of the activities that have taken place so far in commemoration of the 20th anniversary, and I hope it will give you hope and drive to keep the fight for women's rights going!



**Hon. Janet
Ramatoulie
Sallah-Njie**

*Special Rapporteur on the Rights of Women
in Africa, African Commission on Human
and Peoples' Rights*

i. The origins

Tracing the Historical Roots of the Maputo Protocol

Meron Eshetu Birhanu

Legal Assistant-African Commission on Human and Peoples' Rights

Over the years, African women and girls have been disproportionately affected by discrimination stemming from deeply rooted patriarchal and stereotypical attitudes that consider women as second-class citizens. Despite the existence of a wide range of global and regional human rights instruments, these attitudes, coupled with discriminatory practices, continue to hinder women from enjoying their human rights on an equal basis with their male counterparts.

The existing instruments were inadequate; therefore it was time for an instrument that reflected the lived realities of African women. In March 1995, a Seminar jointly organized by the African Commission on Human and Peoples' Rights (African Commission) and a regional women's organization, Women in Law and Development in Africa (WILDAF), in Lome, Togo, marked a significant milestone as it initiated the adoption of a regional instrument on women's rights.² This initiative gained further momentum during the 31st Ordinary Session of the Assembly of Heads of States and Governments of the AU held in June 1995 in Addis Ababa, Ethiopia, when the Assembly mandated the African Commission to develop a protocol on women's rights.³ Following this, the Commission established an Expert Group with the responsibility of preparing the initial draft, in accordance with Article 66 of the African Charter.⁴ The Expert Group successfully crafted the inaugural Draft Protocol, which was subsequently presented at the 22nd Ordinary Session of the African Commission held in November 1997, in Banjul, the Gambia.⁵ It was then circulated to NGOs and CSOs for their input and feedback.⁶

² Nsibirwa (n 3 above) 41.

³ Nsibirwa (n 3 above) 41.

⁴ F Banda 'Blazing a Trail: The African Protocol on Women's Rights Comes into Force Author(s)' (2006) 50 *Journal of African Law* 73.

⁵ As above.

⁶ As above.

This was followed by a meeting held from 26 to 28 January 1998, in The Gambia, during which the African Commission, in collaboration with the International Commission of Jurists (ICJ), WILDAF and the African Centre for Democracy and Human Rights Studies (ACDHRS), made amendments to the Draft Protocol and developed the Terms of Reference (TOR) for the appointment of a Special Rapporteur on the Rights of Women in Africa (SRRWA).⁷ At its 23rd Ordinary Session held in April 1998 in The Gambia, the African Commission appointed Commissioner Julienne Ondziel Gnelenga as the first SRRWA with various mandates over women's rights in Africa,⁸ along with leading the completion of the Draft Protocol.⁹ During its 26th Ordinary Session held in November 1999, in Kigali, Rwanda, the African Commission approved the Draft Protocol.¹⁰ In the same year, it was forwarded to the OAU General Secretariat for the necessary actions to be taken.¹¹

During the period when the Draft Protocol was being developed, the Women's Units of the OAU, along with the Inter-African Committee on Traditional Practices Affecting the Health of Women and Children (IAC), were developing the OAU Convention on the Elimination of All Forms of Harmful Practices Affecting the Fundamental Human Rights of Women and Girls (OAU Convention).¹² To prevent redundancy, it was proposed to incorporate the content of the Draft OAU Convention into the Draft Protocol, resulting in the creation of a combined document that addressed the concerns outlined in both drafts.¹³

⁷ M Wandia, 'Rights of Women in Africa: Launch of a Petition to the African Union' in P Burnett and F Manji (eds) *African Voices on Development and Social Justice* (2004) 97.

⁸ As above.

⁹ Banda (n 7 above) 73; see also ACHPR Final Communique: The 23rd Ordinary Session of the African Commission on Human and Peoples' Rights, 20-29 April, 1998 <http://hrlibrary.umn.edu/africa/achpr23f.html> (accessed 6 September 2023).

¹⁰ Nsibirwa (n 3 above) 42; see also ACHPR 'Final Communique: The 26th Ordinary Session of the African Commission on Human and Peoples' Rights, 1-15 November, 1999' <http://hrlibrary.umn.edu/africa/achpr26f.html> (accessed 6 September 2023).

¹¹ As above.

¹² Nsibirwa (n 3 above) 42.

¹³ Nsibirwa (n 3 above) 42.

In November 2001, the first OAU Government Expert Meeting convened in Addis Ababa, Ethiopia, resulted in further amendments to the Draft Protocol.¹⁴ Although initially scheduled to hold a second meeting in 2002 to review the draft protocol, it was postponed twice due to a lack of quorum.¹⁵ This unfortunate delay resulted in a missed opportunity for the Protocol's adoption during the first AU Summit held in Durban, South Africa in July 2002. Observing the lack of commitment from the governments of African States, African women's organizations across the continent convened by Equality Now, FEMNET and the Ethiopian Women Lawyers Association (EWLA) met in January 2003 in Addis Ababa, Ethiopia to strategize and advocate for the Protocol's completion.¹⁶ Subsequently, in March 2003, a Ministerial Meeting on the Draft Protocol took place in Addis Ababa, leading to its further amendments, adoption as well referral to the Executive Council and Assembly of the AU for adoption.¹⁷

After eight years of continuous amendments and advocacy efforts, the Protocol to the African Charter on Human and Peoples' Rights, known as the Maputo Protocol, was finally adopted during the Second Ordinary Summit of the AU on 11 July 2003, in Maputo,

14 Wandia (n 10 above) 97.

15 Wandia (n above 10) 97.

16 J Geng 'The Maputo Protocol and the Reconciliation of Gender and Culture in Africa' in S Rimmer and K Ogg eds. Elgar 2009 11; see also Wandia (n 3 above) 97.

17 Wandia (n above 10) 97.

ii. Maputo Protocol in thematic technicolour

Looking to the future: the potential for invoking the Maputo Protocol to end the criminalisation of women's poverty in Africa

Louise Edwards and Dr. Tarryn Bannister

African Policing Civilian Oversight Forum

The Maputo Protocol is clearly committed to fostering substantive gender equality, freedom from violence and access to socio-economic resources. In spite of these provisions, in the 20 years since the adoption of the Maputo Protocol, the feminisation of poverty has intersected with gender bias resulting in a significant rise in the number of incarcerated women. Conditions of detention for women in prisons across Africa is also a cause for concern, as the infrastructure and services provided are often not gender-sensitive or rights-compliant.

The incarceration of women is primarily driven by socio-economic circumstances. For example, in Sierra Leone, a 2020 study found that 34% of accused women had either been convicted of or charged with crimes related to poverty or drug use. In South Africa, empirical research into women's pathways to crime and incarceration by the Gender, Health and Justice Research Unit at the University of Cape Town, shows how poverty, indicated by the absence of food in their homes, relatively low educational and employment levels, influenced women's pathways to crime. In South African prisons, about 45% of women were convicted for economically related crimes.

The disproportionate impact of laws that criminalise poverty – and particularly women's poverty – across Africa requires urgent attention. One example is the offence of loitering, found in criminal laws across the continent. The enforcement of this law is often used by the police to target women who work as informal traders, sex workers, drug users, and women who perform life sustaining activities in public spaces. Loitering laws in Sierra Leone, and their specific impact on women, is currently the subject of the Economic Community of West African States ECOWAS Court of Justice challenge. These types of laws have been subject to successful legal challenges in Malawi and Uganda (where colonial era laws criminalising 'being a rogue and vagabond' were deemed unconstitutional). By-laws that criminalise homelessness are also currently

being challenged in South Africa, with the lead applicant being a woman experiencing homelessness. While being discriminatory on the basis of gender, there is clear evidence that these laws further marginalise women already experiencing social and economic exclusion on the basis of their status. These laws are furthermore, not a proportionate, evidence-based or effective response to issues of community safety.

Criminalising women's poverty has a devastatingly high cost. These vague, gender-blind laws, provide police with broad discretionary powers to target and arrest women. This increases the potential for abuse of power through, for example, bribes or sexual violence. Once women are arrested under these laws, gender stereotypes then inform the nature of the charges brought against women, while influencing the way in which they are treated during the court proceedings and during the sentencing stage. Once incarcerated – and this applies to women convicted under any criminal law – prisons are not designed to meet women's needs. This is evidenced in the lack of gender-sensitive hygiene, nutrition, sexual and reproductive health products, and psychosocial support. Research from South Africa also points to the lack of gender-sensitive rehabilitation programmes for women, who are bringing unaddressed trauma back to their own communities. While there are alternatives to prison in many countries, through a range of non-custodial measures, these options are underutilised and often fail to address women's specific needs.

In 2017, the African Commission adopted the Principles on the Decriminalisation of Petty Offences in Africa, which call on states to repeal or declassify petty or minor offences, and the performance of life sustaining activities in public spaces. In addition to this necessary law reform, a multi-layered and holistic approach is needed so as to address the underlying socio-economic causes of women's incarceration.

Applying the framework for substantive gender equality provided by the Maputo Protocol could serve as a transformative tool in ending the criminalisation of women on the basis of their poverty. The Protocol requires that Member States take corrective and positive action where discrimination against women is evident and persistent, including structural changes to underlying causes of gender inequality. The application of the Maputo Protocol to this issue provides an imperative for Member States to take holistic measures to address the causative factors of women's incarceration. Of

particular relevance is Article 24(a), which demands that Member States protect women who experience poverty by providing 'an environment suitable to their condition and their special physical, economic and social needs'. This article was invoked in an Advisory Opinion of the African Court on Human and Peoples' Rights (African Court) on vagrancy laws. The African Court affirmed the obligation of Member States under the Maputo Protocol to decriminalise laws that punish vagrancy and poverty as part of their overarching duty to protect women.

The Maputo Protocol and its subordinate instruments, such as those which address gender-based violence and women's socio-economic marginalisation provide the foundational elements of a framework for addressing the underlying causes of women's incarceration. Further guidance to Member States by the African Commission under the framework of the Maputo Protocol should be considered. This would aid in effectuating the necessary paradigmatic shift, from viewing women's incarceration as a criminal justice issue entailing negative duties, to recognising the over-incarceration of women as a broader developmental and socio-economic issue requiring positive state action.

The Maputo Protocol: empowering African women through progressive labour mobility rights

Christiana Essie Sagay

University of Ottawa

The Maputo Protocol was born out of a profound need to address all the nuances of gender-based discrimination and violations encountered by African women and girls. It, therefore, holds considerable significance, as it provides the roadmap and the foundation upon which to progressively build the economic, civil, and social rights of African women. Over the past twenty years, since its inception in 2003, the Maputo Protocol has contributed and continues to advance and protect women's human rights in Africa. By challenging stereotypes about women in society, the Maputo Protocol places women on an equal footing with men and obliges Member States to take measures that breathe life to its provisions. It goes beyond mere lip service by recognising women's rights and addressing the unique social, economic, and political challenges they face. A notable advantage of the Protocol is the promise it holds when effectively implemented in empowering women to achieve progressive labour mobility rights.¹⁸

Amidst evolving labour migration trends is the feminisation of migration.¹⁹ Consequently, a growing number of African women are now seeking work opportunities across borders within the continent. While acknowledging the Maputo Protocol's role to the advancement of the feminisation of migration, propelled by agency, it is also imperative to note that socio-economic perceptions of gender roles and norms continue to influence the way African women enter and negotiate with the labour market, especially with respect to transnational labour mobility. This underscores the necessity for targeted interventions that address the unique obstacles experienced

18 African Union, "Migration Policy Framework for Africa and Plan of Action (2018-2030)" (2018), online (pdf): Violence Against Children <https://violenceagainstchildren.un.org/sites/violenceagainstchildren.un.org/files/documents/other_documents/35316-doc-au-mpfa_2018-eng.pdf>.

19 Christiana Essie Sagay, "Twists & Swirls: Caregiving & Sexualization – Femininity Construct in Gendered Migration from Nigeria to Italy" (2021) 28:2 *Ind J Global Legal Stud* 81; Caritas Internationalis, "The Female Face of Migration" online (pdf); caritas.org. <<https://www.caritas.org/wordpress/wp-content/uploads/2017/06/FFMEnglores-1.pdf>>.

by female migrant workers. In this regard, the Maputo Protocol holds the promise of effectively tackling gender-specific issues within the realm of labour mobility by challenging the deep-rooted stereotypes that have hindered women's full participation in the labour market. Its provisions lay the groundwork for dismantling the barriers that restrict women's choices and opportunities, fostering a more inclusive labour mobility landscape.

The transformative impact of the Protocol extends across various dimensions of gender equality. By addressing areas of concerns such as unpaid domestic work,²⁰ and social insurance,²¹ and guaranteeing women's rights in the informal sectors,²² such as street vendors, domestic workers, subsistence farmers and agriculture workers, which make up 89% in Africa of the total workforce,²³ the Protocol promotes inclusivity. Furthermore, it emphasises gender-responsive approaches to mitigate specific risks and hurdles women face, such as those that attach to paid pre- and post-natal leave.²⁴ This becomes particularly important across state borders, where migrant workers may not have the opportunity to rely on family, as they would in their home country.

The concept of migrant vulnerabilities²⁵ has seen increased attention in law and policy debate regarding movement for various reasons, including for work. The Protocol also lends itself to addressing vulnerabilities in labour mobility that women might face in recruitment²⁶ and incorporates by broad reference international conventions that seek to protect the rights of women migrating for work within and outside Africa.²⁷ These provisions within the Protocol have the potential to empower women to pursue

20 Maputo Protocol, supra note 1 at art. XIII (h).

21 Ibid at art. XIII (f).

22 Ibid at art. XIII (e).

23 UN Women, "Women in Informal Economy", online: UN Women < <https://www.unwomen.org/en/news/in-focus/csw61/women-in-informal-economy> >

24 Ibid at art. XIII (i).

25 Delphine Nakache & Christiana Sagay, "Migrants in Situations of Vulnerability" (Forthcoming 2023) Elgar Encyclopedia

26 Maputo Protocol, supra note 1 at art. XIII (c).

27 Ibid at art. XIII (d); examples of such conventions include international labour migration conventions and standards such as the International Labour Organization's Convention on Decent Work for Domestic Workers and Convention on Violence and Harassment, as well as the International Convention on the Elimination of Discrimination Against Women

opportunities beyond geographical boundaries without the fear of discrimination or unequal treatment. This shift benefits individual women and contributes to the overall socio-economic growth of African nations.

The Maputo Protocol is a testament to African nations' commitment to elevate women's status and challenge systemic gender-based discrimination. It has and continues to propel the development of labour laws, policies, and institutional mechanisms at regional and national levels to advance the discourse and participation of women in labour economies within and across borders. Undoubtedly, its innovative provisions demonstrate a forward-thinking approach that recognizes women's agency and contribution to the workforce. As we celebrate the progress made, it is also important to recognise that the road ahead, which involves full implementation and widespread awareness, will be pivotal in ensuring that the Maputo Protocol continues to serve as a beacon of hope and change for women across the African continent.

iii. Maputo Protocol on the ground

Strengthening the resolve to end child marriage in Malawi: The role of the Maputo Protocol

Yumba B Kakhobwe

Centre for Human Rights, University of Pretoria

Following the objective to establish women's and girls' rights as human rights, the Maputo Protocol²⁸ continues to shepherd African states towards a commitment to realising the sexual and reproductive health and rights (SRHR) of girls. Eliminating harmful practices such as child marriage is one of the ways for achieving this. In this regard, Article 6(b) of the Maputo Protocol is a milestone as it sets 18 as the minimum marriageable age, without any exceptions that would allow for its deprivation, thereby explicitly prohibiting child marriage.

Since Malawi's ratification of the Maputo Protocol in 2005, notable measures have been put in place, albeit slowly. The Child Care, Protection and Justice Act of 2011²⁹ criminalises forced marriage of children, the Gender Equality Act of 2014³⁰ and the Marriage, Divorce and Family Relations Act of 2015³¹ set 18 years as the minimum age for marriage, which was subsequently reflected in the Constitution in 2017.³²

Without taking credit away from other mechanisms that have sought to elevate the status of girls long before the materialisation of the Maputo Protocol, such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW),³³ or the Convention on the Rights of the Child (CRC),³⁴ the Maputo Protocol's effort to create guidelines that are founded on African lived experiences adds to its authority due to contextual relatability. By placing girls as a priority, it demonstrates sensitivity towards their historical and social disadvantage based on gender in regional

28 Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (Maputo Protocol).

29 Child Care, Protection and Justice Act of 2011, Malawi.

30 Gender Equality Act of 2014, Malawi.

31 Marriage, Divorce and Family Relations Act of 2015, Malawi.

32 The Constitution of the Republic of Malawi, 1994.

33 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

34 Convention on the Rights of the Child (CRC).

terms. This awareness continues to be crucial in shaping the development of child marriage eradication approaches in Malawi.

Diverse perceptions of the point at which childhood ends and preparedness for marriage begins,³⁵ socio-economic circumstances and poverty contribute to the complexity of ending child marriage. It is, therefore, imperative to consider girls' particular vulnerability due to their age and dependence on the choices made by their parents or guardians. Despite ongoing challenges, efforts to eradicate child marriage and frame it as a SRHR issue, linked to gender-based violence, has made some headway.

In Malawi, efforts continue to go towards preventing child marriages and creating sustainable pathways after their dissolution, for example, through the introduction of school re-entry programmes.³⁶ With 42% of girls married before the age of 18, and 9% before the age of 15,³⁷ there continues to be a shortcoming with regards to programming that targets girls who remain in child marriages. Their domestic status as wife (and yet still a child) places them in a peculiarly vulnerable position. Not old enough to be amongst or relate to other women, but their standing isolates them from their peers. The imaginable insecurity and health implications such as prolonged exposure to conception, and even violence beg for special attention to this particular population of girls.

Besides rationale related to perceptions concerning womanhood, poverty remains one of the major drivers of child marriage. Until girls, their families and communities believe there are viable and sustainable alternatives, this custom may realistically never cease, regardless of its criminalisation. This is particularly the case in communities that are poor, hard-to-reach and able to avoid enforcement of the law.

In the absence of workable socio-economic endeavours, strengthening community engagement and community policing may require greater investment. The sense

35 EK Naphambo '(Re)constructing the African notion of girls' readiness for marriage: insights from rural Malawi' PhD thesis, University of Cape Town, 2020 at 4.

36 C McConnell 'A push for keeping adolescent girls in school in Malawi and Zambia' 27 July 2016 <https://blogs.worldbank.org/education/push-keeping-adolescent-girls-school-malawi-and-zambia> (accessed 7 September 2023).

37 UNICEF 'Budget scoping on programmes and interventions to end child marriage in Malawi' <https://www.unicef.org/esa/media/7446/file/UNICEF-Malawi-End-Child-Marriage-Budget-Scoping-2020.pdf> (accessed 6 September 2023).

of ownership at community level is especially significant in a country that relies heavily on donor contributions for programmes targeting girls, which includes child marriage eradication interventions. Unfortunately, the impact of many interventions is compromised due to not being context-specific, the brevity of project cycles and funding limitations.

20 years after the enactment of the Maputo Protocol, States, including Malawi must continue to align their priorities with its aspirations. It remains a meaningful reference for the continent's development challenges, particularly those that are gendered.

Celebrating 20 years of the Maputo Protocol in Nigeria

Kabir Aliyu Elayo and Olanrewaju Musa Murtala

Nigeria National Human Rights Commission

The commemoration of the 20th anniversary of the Maputo Protocol provides an opportunity to reflect on the progress made globally, but specifically across the African continent and Nigeria. It offers insight into the role of the Maputo Protocol as a crucial document on gender equality. It is also a veritable tool for the attainment of the Agenda 2030 and 2063 Sustainable Development Goals and African Union blue print, respectively.

The Maputo Protocol as well as other instruments for the advancement of women's rights in Africa built upon the principles and goals of the Beijing Declaration and expanded the frontiers of protection for the rights of women in Africa. It recognizes civil and political rights including the right to dignity, equality and non-discrimination as well as economic, social and cultural rights. This protocol is a strong pillar for combatting harmful practices such as female genital mutilation, child marriage and gender-based

violence.³⁸ It is significant that Nigeria is a party to the Maputo Protocol and has taken steps towards its implementation to advance women's rights and gender equality. The country has taken steps to address issues such as gender-based violence, political participation, access to education and economic empowerment.

Conversely, the 20th anniversary provides an occasion to assess progress, identify gaps and renew commitments to further women's rights in Nigeria. For instance, implementation of gender-sensitive policies in Nigeria is insufficient despite existing legal frameworks. Also, inadequate measures to address gender disparities in politics, elections, and governance have contributed to marginalization of women in the electoral process in the country. The involvement of women in peace building and conflict resolution is limited, denying them a key role in shaping peace agendas and hindering development and social cohesion.

It is worth mentioning that in the year 2019, the Gender and Equal Opportunities Bill was reintroduced in the Nigerian Senate. This bill sought to address gender discrimination and promote women's rights through various provisions, including equal access to education, employment and political participation. However, it faced similar challenges as its predecessor and ultimately failed to pass into law.

Notwithstanding these challenges, the Violence Against Persons (Prohibition) Act (VAPP) 2015 has been enacted to address violence against persons including women in Nigeria.³⁹ It criminalizes various forms of violence such as rape, domestic violence, female genital mutilation and economic abuse. This criminalisation is one of the steps in safeguarding women's rights, yet it falls short in actively promoting gender equality. This is because it does not task the government on the advancement of gender equality beyond addressing violence. This narrow focus restricts its effectiveness to comprehensively protect women's rights. Challenges persist in implementing the VAPP due to public awareness gaps, law enforcement capacity issues, and inadequate

38 Abridged Version and Policy Brief for Implementation, (Women's Rights Advancement and Protection Alternative(WRAPA) Nigeria)

39 National Human Rights Commission, Nigeria available online at <<https://www.nigeriarights.gov.ng/files/vapp.pdf>> accessed on 31 August 2023

resources. As a result, violence against women persists and the impact of the VAPP Act on improving women's status remains limited in Nigeria.

To achieve better protection for women, transformative leadership is critical to the realization of the African Union and Member States' objectives in ratifying and implementing the Maputo Protocol. In this regard, State parties will send a powerful message of commitment to women's rights and gender equality.⁴⁰ This will amplify the voices of women within their respective countries and demonstrate leadership as it will encourage other countries to follow suit and strengthen efforts towards a continent-wide culture of gender equality.

In addition to the legislative framework, the National Human Rights Commission plays a crucial role in advancing women's rights in Nigeria. It marked the 20th anniversary of the Maputo Protocol on 15 August 2023, where it convened a National Dialogue involving international partners and Civil Society Organizations to amplify Nigerian women's voices and concerns. In the words of the Executive Secretary of the Commission, Chief Tony Ojukwu OFR, SAN, FCIMC, "The Commission reflects upon the significant milestone and acknowledges the strides made towards gender equality in the African Continent."⁴¹ It collaborates closely with civil society, women's rights groups and stakeholders to boost effectiveness and expand impact. These partnerships promote synergy, best practice sharing and a coordinated approach to advance women's rights in Nigeria.

40 The Africans Governance Report available on <https://au.int/sites/default/files/documents/36418-doc-eng-_the_africa_governance_report_2019_final-1.pdf> accessed on 31 August 2023

41 National Human Rights Commission (n)



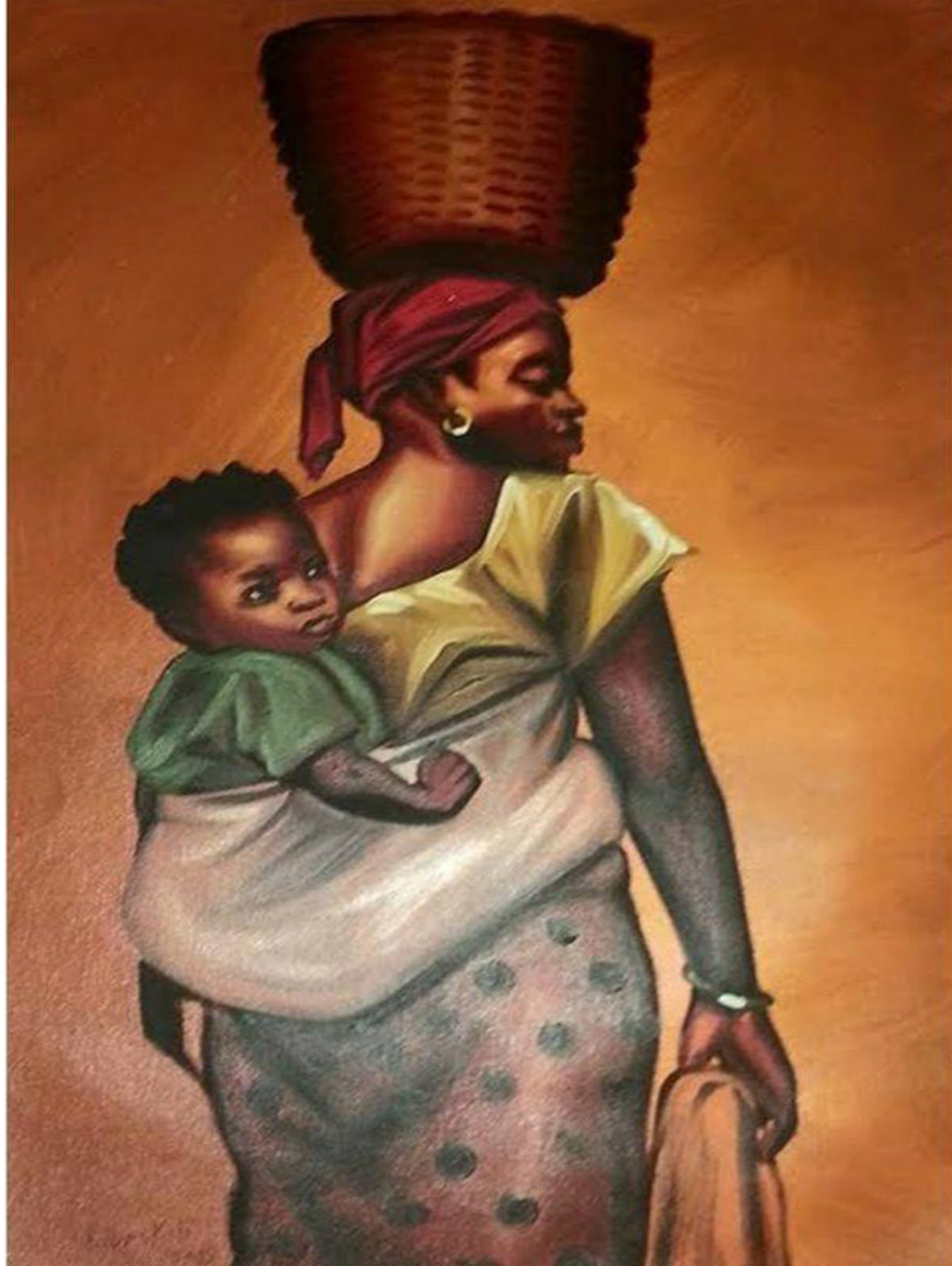
From vision to reality: Two Decades of the Maputo Protocol Enhancing Women's Lives in Uganda.

Judith Suzan Nakalembe

Center for Health Human Rights and Development

Twenty years ago, the African Union took a momentous stride towards safeguarding the rights and well-being of women and girls across the continent. In 2003, Maputo Protocol). This landmark instrument was specifically designed to address the distinctive challenges encountered by women and girls on the continent, aiming to comprehensively uphold and safeguard their rights. Uganda endorsed the Maputo Protocol on 22 March 2010, signifying the nation's commitment to champion and foster women's rights in alignment with the Protocol's principles. The endeavours of the Center for Health Human Rights and Development (CEHURD) in advocating for sexual and reproductive health and rights (SRHR) in Uganda resonate harmoniously with the principles and goals outlined in the Maputo Protocol.

Article 14: A Catalyst for Change: Article 14 of the Protocol highlights the importance of preserving and advancing women's SRHR in Uganda. It emphasises the need for accessible family planning education, comprehensive health information, and improved healthcare services to reduce maternal mortality rates and protect women's reproductive rights, including permitting medical abortion in specific circumstances.



Dignity Empowered: A Woman's Journey to Fulfilling Her Family Planning Needs and Gender Roles.

Article 14 of the Maputo Protocol imposes a significant responsibility on the Ugandan government to enhance healthcare services for pregnant and breastfeeding women, focusing on prenatal, delivery, and post-natal care, aiming to reduce maternal mortality and improve the well-being of both mothers and children. Furthermore, the article underscores the importance of safeguarding women's reproductive rights in Uganda by permitting medical abortion in specific situations, acknowledging the complexity of women's circumstances and prioritising their overall well-being and reproductive autonomy in the country.

Uganda faces high maternal mortality rates, largely driven by unsafe abortions due to restrictive abortion laws. Despite the Maputo Protocol's provision allowing safe and legal abortion in specific circumstances like sexual assault, rape, incest, or threats to a woman's mental or physical health, Uganda's reservation to this provision results in a legal landscape that forces many women to seek unsafe procedures, contributing to maternal mortality.



Silent Suffering: The Untold Story of a Woman's Struggle with SRHR Neglect

The Maputo Protocol is a ground-breaking treaty in Uganda. It uniquely links women's rights with their health, emphasising the importance of accessible and comprehensive healthcare services, including maternal care and family planning (Article 14(1)). Furthermore, it addresses harmful practices like female genital mutilation and forced

sterilization, underscoring the Protocol's commitment to safeguarding women's health and rights (Article 5).

CEHURD's proactive role in championing for SRHR in Uganda via advocacy and legal actions impeccably aligns with the Maputo Protocol's emphasis on women's rights and gender parity in Africa. Several salient instances and references underscore the alignment of CEHURD's work with the Protocol's principles:

- **Advocacy for policy and legal reforms:** CEHURD has been at the forefront of advocating for the amendment of Uganda's stringent abortion laws to harmonise with the Maputo Protocol's call for access to safe abortion services. The organisation has fervently campaigned for amendments to the Penal Code, ensuring that women possess the prerogative to make decisions regarding their reproductive health.
- **Legal action to challenge rights violations:** In 2011, CEHURD instigated a landmark case against the Ugandan government, contesting the absence of maternal health services that led to the demise of a pregnant woman. This legal action mirrors the Maputo Protocol's emphasis on obtaining access to quality healthcare services and holding entities accountable for rights transgressions.
- **Propagation of health services:** CEHURD's advocacy endeavours have significantly contributed to advancing access to sexual and reproductive health services. For instance, the organisation has actively participated in campaigns aimed at augmenting awareness about family planning and maternal health services in underserved communities, aligning harmoniously with the Maputo Protocol's focus on women's health rights.
- **Education and awareness:** CEHURD has conducted workshops, webinars and seminars to enlighten communities and policymakers about SRHR. The "Know Your Rights" workshops empower women by disseminating information about their entitlements, encompassing those linked to reproductive health and gender-based violence, in resonance with the Maputo Protocol's plea for sexuality education and awareness.
- **Monitoring and reporting:** CEHURD's annual reports and publications chronicle instances of rights violations and disparities in Uganda's SRHR policies and

practices. These reports contribute to the monitoring and reporting mechanisms recommended by the Maputo Protocol to gauge progress in women's rights.

- As we commemorate two decades of the Maputo Protocol, its enduring influence, marking two decades of progress, continues to drive positive changes in women's rights and healthcare in Africa, with its impact on Uganda's SRHR policies serving as a testament to its transformative potential.

iv. Maputo Protocol in art

In a Parade of Pride

Eliseus Bamporineza

Kitenge wrapped around
Their pearled chests and beaded waist,
They are boldly marching,
Waving banners of their bravery.
Those we seem to recognize on March 8,
Yet without them we would cease to exist,
Their crowned heads stand firm to remind us
Of their sanctified and irreplaceable role for the Nation.
Look, their shiny faces reflect their sacred devotion!

African women, they are pillars of our rich cultural heritage that builds our identity.

Their glory oozes out of the wounds of their sons and daughters
Who stood up and fought for Africa our cherished home.
It flows from their blessed wombs that bore humanity.
It unfolds in the ingenious minds of their children who are engineering
Megaprojects to unite hearts, connect cities and villages
For all their descendants to intra-trade and flourish.
Their glory shines in the sky like Africa's sunlight that warms homes
Allow plants to grow, and power factories.
Roots of life's genesis, they reify beauties

That adorn the first world we live in.
Blessings heavens gifted us,
They conceive us, birth us, suckle us
And lead our steps in the universe.
Zealous, they confront arctic mornings
In search of bread for the family.
Their steel-like arms plough bushy lands
To fill barns up with harvests.
Their unflagging legs cross rivers,
A baby in the back, a hoe in the hand,
A jar of water on the head.

Versatile doves, they teach, they preach,
They mediate, they comfort, they govern,
They portray splendours of our Homeland,
They battle to preserve its sovereignty.
From grocery sellers under scorching sun,
Hairdressers, masseuses, farmers, engineers,
Nurses, teachers...to the WTO patron,
They all are warriors for dignity of the society.

Dressed in a cloak of pride, they parade.
They don't grow in irrelevance;
They yield power to flourish,
And they will not relinquish it.

Beacons of resilience,
They are temples for reverence
Not commodities to advertise and purchase.
They are talented souls to appreciate,
Not beasts to mutilate.
They are heroes to celebrate every day.

v.Maputo@20 Celebrations in Nairobi July 2023









