



## SADC Protocol on Gender and Development: Overview

14 November 2011

### 1. Background and Overview

During the 24<sup>th</sup> Plenary Assembly of the Southern African Development Community-Parliamentary Forum (SADC-PF) held in Arusha, Tanzania, from 20 to 27 November 2008, the signing of the SADC Protocol on Gender and Development by the SADC Heads of State and Government in August 2008 served as a priority item on the agenda of the Regional Women's Parliamentary Caucus (RWPC). South Africa made key contributions to the meeting of the RWPC.

Member Parliaments to the SADC-PF were encouraged to ensure that the Protocol is ratified by June 2009, ahead of the 25<sup>th</sup> Plenary Assembly. The RWPC discussed public awareness raising strategies on the Protocol, and Hon. B.N. Dlulane, who represented the Parliament of South Africa, suggested the following strategies as strategies that were still before South Africa's National Women's Parliamentary Caucus (NWPC) for consideration. These strategies were:

- Invite the Office on the Status of Women in the Presidency to brief Parliament on the content of the Protocol.
- Invite non-governmental organisations and other civil society bodies working in the area of gender to engage with MPs about their views on the Protocol.
- Host public meetings on the Protocol after it has been adopted by the Heads of State. The purpose of these meetings would be to inform and educate the general public about the Protocol.
- Launch an extensive media campaign to inform South Africans of the rights of women and the coinciding targets set out in the Protocol.
- Encourage the programming of a debate on gender equality and the Protocol in the National Assembly and the National Council of Provinces.
- Organise Information sessions with other MPs to create awareness among all Parliamentarians about the content of the Protocol.

Following these suggestions, the RWPC encouraged all member countries to follow the same approach as South Africa to raise awareness about the Protocol in their respective countries. In light of this background, South Africa will most likely be requested to report on the progress made with regard to the above suggestions.

### 2. Gender Challenges in the SADC region

Over the past twenty years much has happened to enhance women's rights in Africa, including Southern Africa. Before 1997 there were no women in the top African leadership;

today, Mozambique has a woman prime minister, Zimbabwe has a woman deputy-president and in South Africa women hold key ministerial positions and Zimbabwe have women deputy presidents.<sup>1</sup>

However, despite progress made to date, gender inequality in the region has yet to be improved. An audit done by civil society organisations and the gender units of the SADC Secretariat and the SADC Parliamentary Forum in 2005 identified the following challenges:<sup>2</sup>

- The average representation of women in SADC parliaments currently stands at 20%. Only three countries, Mozambique, Tanzania and South Africa have achieved the 30% target of the SADC Declaration on Gender and Development in terms of women's representation in parliament.
- Laws, systems and services designed to address gender violence are still patchy and inadequate – this whilst new forms of gender violence, such as trafficking, are on the rise.
- Contradictions still remain between customary law and modern codified law when it comes to women's rights.
- Young women especially constitute the majority of those living with HIV and AIDS.
- Increasing poverty in the SADC-region increasingly has a feminine face.
- While there has been some progress in raising awareness and challenging gender stereotypes in the media and popular culture, as well as engaging men as partners, the battle to change mindsets is still far from won.<sup>3</sup>

These findings contributed to the need for a SADC protocol on gender that would legally bind all Member States to agreed-upon targets for the enhancement of gender equality.

Since the ratification of the Declaration on Gender and Development in 1997, Member States have encountered a number of general implementation challenges that might render the achievement of the above targets difficult.

The feminisation of poverty has been identified as a very common challenge in all SADC Member States. Although some measures have been implemented to overcome this problem, the lack of business skills and women's general burden of caring for their families continue to make it difficult for women to become successful entrepreneurs. Skills training must therefore be provided in order for women to fully utilise entrepreneurial opportunities.<sup>4</sup>

Furthermore, it appears that gender and development programmes mostly focus on women in urban areas; therefore marginalising those in rural areas. Rural women also tend to be

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<sup>1</sup> Fester, G. (2007).

<sup>2</sup> Gender Links. (2007a).

<sup>3</sup> Ibid.

<sup>4</sup> SADC Gender Unit. (2007).

uninformed regarding their legal and human rights, and therefore do not know when these rights are being violated.<sup>5</sup>

The internalisation of sexism remains another challenge. Women tend to believe the male chauvinistic ideas often imposed on them, and therefore do not stand up for themselves against abuse of any kind by men or even other women. Consciousness raising and empowerment projects should aim to address this issue.<sup>6</sup>

The inadequate participation of women in decision-making still remains a challenge. One way of addressing this, as suggested by Zambia, would be to formulate legal frameworks that would compel political parties to put women in decision-making positions. A clear connection between women and poverty has emerged; women in poverty tend to be excluded from decision-making structures. However, women will also not find themselves out of poverty unless they are involved in decision making. This paradox therefore still needs to be addressed by SADC Member States.<sup>7</sup>

HIV and AIDS and its devastating impacts on the region present challenges that cannot be overemphasised. Member States are still faced with increasing HIV-infection rates, AIDS-related mortality and its consequent impact on families, and sexually transmitted diseases.<sup>8</sup>

Other key challenges include a lack of financial commitment to women's affairs, increasing levels of gender-based violence, lack of social workers, increasing numbers of orphans and other vulnerable children, under-representation of women in formal employment, lack of access to formal health facilities, patriarchal traditions and unequal power relations.<sup>9</sup>

### 3. Advantages of the Protocol

The Protocol has the following advantages:

- It has the power to legally bind Member States to its agreed-upon provisions, since SADC protocols are the most binding of all SADC documents. Or, as Botswana's Minister of Health Sheila Tlou put it, "the Protocol would move regional commitments on gender equality from a 'nice to do to a have to do'".<sup>10</sup>
- The Protocol brings all the existing commitments made to gender equality together into one sub-regional instrument. These include the commitments made in the Convention for the Elimination of All Forms of Discrimination Against Women, the Beijing Platform for Action, the African Charter on Human and Peoples Rights, and the Millennium Development Goals.<sup>11</sup>

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<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

<sup>10</sup> SADC Heads of State Summit. 2007.

<sup>11</sup> Ibid.

- The Protocol provides for time bound actions for the targets set. For instance, although many gender instruments advocate for the equal participation of women in decision-making, this Protocol is the only one that sets a time frame of 2015.<sup>12</sup>
- The Protocol focuses on best practice in the region and aims to use this for setting the standards that all countries should achieve. All countries, for example, should have Constitutions that make provision for gender equality and specify that these must take precedence over customary law. This must be done by 2015.<sup>13</sup>
- The Protocol provides for the establishment and strengthening of institutional mechanisms for implementation, resource allocation, and monitoring and evaluation. It draws on the understanding that peer pressure and accountability at sub-regional level is one of the most effective tools for ensuring accountability.<sup>14</sup>
- Finally, the Protocol addresses new challenges that were not explicitly addressed in the Declaration, including HIV and AIDS, sexual harassment and gender-based violence, and human trafficking.

#### 4. Progress in South Africa

Since signing the initial Declaration in 1997, the following steps have been taken in South Africa:

- South Africa has officially launched the national implementation plan for The Service Charter for Victims of Crime in South Africa. The implementation of this Charter is expected to give additional support to victims of crime and reduce the secondary victimisation that is frequently experienced, especially by women and children, which often leads to withdrawal of charges.<sup>15</sup>
- South Africa has reviewed and repealed all laws regarding access to land and credit to promote women's full access to productive resources. The country has initiated two poverty alleviation programmes in this regard, namely the Extended Public Works Programme and the Poverty Relief Programme. The Extended Public Works Programme aimed to alleviate unemployment for a minimum of one million people (at least of 40% women, 30% of youth and 2% of the disabled) by 2009. The Poverty Relief Programme funds projects with a public works focus in terms of the amount of temporary and permanent jobs created, and how many jobs created for women and the disabled.<sup>16</sup>
- South Africa developed a National Gender Policy that focus on education, health, violence against women and children, poverty, the girl child, economic empowerment, and women's equal participation in decision-making.<sup>17</sup>

<sup>12</sup> Ibid.

<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

<sup>15</sup> Department of Justice and Constitutional Development. (2007).

<sup>16</sup> SADC Gender Unit. (2007).

<sup>17</sup> Ibid.

- The South African Constitution is widely regarded as one of the most progressive in the world. In terms of equality, it asserts that the democratic state is founded on values of human dignity, achievement of equality and advancement of human rights and freedom, non-racism and non-sexism.<sup>18</sup>
- South Africa passed the Criminal Law (Sexual Offences and Related Matters) Amendment Act in 2007 which is a legislative endeavour to end sex crimes by expanding the definition of sexual crime and by putting in place much improved systems of follow-up and care for survivors.<sup>19</sup> In addition, South Africa already has a Maintenance Act (1998), as well as a Recognition of Customary Marriages Act (1998). South Africa is also one of only two Member States that have a Domestic Violence Act.<sup>20</sup> The country has also made history with the passing of the Civil Union Bill in November 2006 that allows for same-sex marriages.<sup>21</sup>
- South Africa is the only Member State that has legalised the termination of pregnancy under the Choice on Termination of Pregnancy Act.<sup>22</sup>
- South Africa adopted the South African Comprehensive HIV and AIDS Prevention, Care, Management and Treatment Plan in 2003 that provides for progressive initiatives for women such as the introduction of a policy providing for post exposure prophylaxis for women who are survivors of rape. In addition, the South African Femidoms (female condoms) has expanded considerably to provide more protection for women.
- Several programmes have been launched to combat violence against women and children. These include the National Crime Prevention Strategy (1996), the Justice Crime Prevention Strategy (1999), and the Anti-rape strategy.<sup>23</sup>

South Africa has clearly gone through great efforts to initiate and establish programmes and projects that aim to implement the provisions and targets set out in the Declaration. Its progress and meeting of targets have been admirable and proof of the government's commitment to gender equality. However, a lot still remains to be achieved, both in South African and the region.

It was always envisaged that the 1997 SADC Declaration on Gender and Development would need to be elevated into a Protocol. A sub-regional protocol would enhance all existing

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<sup>18</sup> SADC Gender Unit. (2007).

<sup>19</sup> Mail & Guardian. (2007).

<sup>20</sup> SADC Gender Unit. (2007).

<sup>21</sup> Bamford, H. (2007).

<sup>22</sup> SADC Gender Unit. (2007).

<sup>23</sup> The National Crime Prevention Strategy addresses the fragmented approach of crime prevention by the Criminal Justice System Departments. It provides a coordinated and integrated approach to the administration of Justice while placing violence against women and children amongst the national priority crimes. The Justice Crime Prevention Strategy was established to broaden the focus of the National Crime Prevention Strategy to include issues beyond the criminal justice system. It focuses on government efforts and resources that jointly address incidents of crime, public disorder, inefficiencies in the justice system and all those aspects of society that have the most negative effects on development.

commitments to gender equality in addition to providing accountability and monitoring mechanisms, such as one standard reporting framework for the region, at least one agreed strategic target and indicator in the ten critical areas identified, and monitoring and evaluation tools, such as annual reports.<sup>24</sup>

Although the SADC Council of Ministers approved the draft Protocol on Gender and Development in August 2005, the SADC Summit, while endorsing the decision in principle, directed the SADC Secretariat to ensure further consultations with a wider level of stakeholders. The SADC Gender Unit therefore initiated a consultation process with Member States and other stakeholders in order to develop a strategy in that regard, coinciding with the Secretariat's development of processes to the drafting of the Protocol. Following a number of consultative processes between 2006 and 2007, the draft protocol was reviewed by the SADC Heads of State in Zambia in August 2007.<sup>25</sup> In December 2007 the Protocol was amended by senior officials from the respective Member States responsible for Gender and Women Affairs. Following this, the Protocol was deferred to the annual Summit of the SADC Heads of State in South Africa in August 2008, where it was finally signed and adopted.

## **5. Actions for the Parliament of South Africa**

In light of the challenges discussed above, Member States clearly have a lot of obstacles to overcome. One of the most important steps to take now would be to develop coherent and sustainable policies and programs that would address the changing needs of Member States. Implementation of these policies and programmes must also enjoy priority and be enhanced through networking with multiple partners.<sup>26</sup>

As mentioned before, the equal representation of women in all decision-making structures has not yet been achieved in the region. MPs, in their respective countries, are therefore encouraged to influence policies, procedures and candidate selection systems on political party level. MPs can therefore, by means of this influence, ensure the putting into place of special measures such as quotas, as well as more transparent and inclusive electoral systems.<sup>27</sup> Clear measures for affirmative action, for instance, would contribute to the equal representation of women.<sup>28</sup> This strategy should also apply at constituency level, where MPs can play a critical role of sensitising their constituents to the fact that gender equality is a human right and democratic imperative. Women could therefore, for example, be included in local community committees where decisions are made.<sup>29</sup>

MPs must also, as part of their oversight role, monitor the implementation of national, regional and global commitments regarding gender equality in their respective countries. They must then make a point of keeping the Executive accountable to these commitments.<sup>30</sup> In particular, a strong focus should be on the development, implementation, monitoring and evaluation of programmes that aim to eliminate the negative aspects of customary and

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<sup>24</sup> Ibid.

<sup>25</sup> Gender Links. (2007b).

<sup>26</sup> Ibid.

<sup>27</sup> SADC Parliamentary Forum. (2002).

<sup>28</sup> SADC Gender Unit. (2007).

<sup>29</sup> SADC Parliamentary Forum. (2002).

<sup>30</sup> Ibid.

statutory laws and practices that infringe on the rights of women. Progress regarding this matter has been made in the region, but more work needs to be done to truly create a safe environment for the women and children of SADC.<sup>31</sup>

As the elected representatives of the people, Parliament is strategically positioned to advance gender equality, as it has direct access and is accountable to the electorate. Parliament should therefore, as part of its accountability, oversight and public participation endeavours, use its position to sensitise and educate the electorate about gender-related issues.

According to Section 231(2) of the Constitution of the Republic of South Africa (Act 108 of 1996), "an international agreement binds the Republic only after it has been approved by resolution in both the National Assembly and the National Council of Provinces..." Parliament should therefore prioritise the approval of this agreement in order for the Protocol to carry any weight in South Africa.

Parliament should also put pressure on the Executive to ensure that all government programmes and policies are gender-sensitive and in line with the targets as it stands in the draft Protocol. This would particularly be important once both Houses of Parliament approved the Protocol, and can be done through measures such as parliamentary question-sessions and committee meetings.

In light of Parliament's role and powers, the following recommendations could be considered by the Portfolio Committee on Women, Youth, Children and Persons with Disabilities, the Select Committee on Women, Children and Persons with Disabilities and the National Multi-Party Women's Caucus:

- Invite the Chief-Directorate International Cooperation within the department of Women, Children and Persons with Disabilities to brief Parliament on the content of the Protocol, as well as highlight key obligations that need to be met.
- Invite non-governmental organisations and other civil society bodies working in the area of gender to engage with MPs about their views on the Protocol.
- Host public meetings on the Protocol after it has been adopted by the Heads of State. The purpose of these meetings would be to inform and educate the general public about the Protocol.
- Launch an extensive media campaign to inform South Africans of the rights of women and the coinciding targets set out in the Protocol.
- Encourage the programming of a debate on gender equality and the Protocol in the National Assembly and the National Council of Provinces.
- Organise Information sessions with other MPs to create awareness among all Parliamentarians about the content of the Protocol.

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<sup>31</sup> SADC Gender Unit. (2007).

## 6. Concluding Comments

It is important that government strengthens its commitment to national, regional and international legislative measures aimed at addressing gender inequality and empowerment of women. In this regard, South Africa's ratification of the SADC Protocol on Gender and Development is a key matter for Parliament as a whole and the Portfolio Committee on Women, Youth, Children and Persons with Disabilities, the Select Committee on Women, Children and Persons with Disabilities and the National Multi-Party Women's Caucus in particular, to engage with. As a dynamic and progressive regional gender instrument, it will, if effectively implemented, provide for the empowerment of women, elimination of discrimination, and the achievement of gender equality and equity through the development and implementation of gender responsive legislation, policies, programmes and projects, as well as addressing emerging gender issues and concerns, such as the issues of domestic violence and abuse of women and the girl-child.

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