



# WOMEN IN **POST-CONFLICT** SOCIETIES IN AFRICA



United Nations Development Fund for Women



Working for Women's  
Empowerment and  
Gender Equality

POLICY SEMINAR REPORT

6 AND 7 NOVEMBER 2006, JOHANNESBURG, SOUTH AFRICA

# WOMEN IN POST-CONFLICT SOCIETIES IN AFRICA



CAPE TOWN • SOUTH AFRICA



## A POLICY SEMINAR HOSTED BY

THE CENTRE FOR CONFLICT RESOLUTION AND THE UNITED NATIONS DEVELOPMENT FUND FOR WOMEN

INDABA HOTEL, JOHANNESBURG, SOUTH AFRICA

6 AND 7 NOVEMBER 2006

SEMINAR REPORT

## RAPPORTEURS

LEE STONE AND MIREILLE AFFA'A MINDZIE



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DESIGN: KULT CREATIVE, CAPE TOWN, SOUTH AFRICA

EDITOR: YAZEED FAKIER, CENTRE FOR CONFLICT RESOLUTION, CAPE TOWN, SOUTH AFRICA

PHOTOGRAPHS: PETER GOODMAN, PHOTO MEDIA, JOHANNESBURG, SOUTH AFRICA



## Acknowledgements

The Centre for Conflict Resolution (CCR) Cape Town, South Africa, would like to thank the government of Denmark for supporting this policy seminar, which took place in Johannesburg, South Africa, on 6 and 7 November 2006. CCR would also like to thank the other funders of its Africa programme: the governments of the Netherlands and Sweden; the United Kingdom's (UK) Department for International Development (DFID); the Swiss Agency for Development and Co-operation (SDC); the Rockefeller Brothers Fund (RBF); TrustAfrica and the International Development Research Council (IDRC).

## About the Co-organisers

### The Centre for Conflict Resolution (CCR), Cape Town

The Centre for Conflict Resolution is based in Cape Town, South Africa. Established in 1968, the organisation has wide-ranging experience of conflict interventions in the Western Cape and southern Africa and is working increasingly on a pan-continental basis to strengthen the conflict management capacity of Africa's regional organisations, as well as on policy research on the United Nations' (UN) role in Africa; South Africa's role in Africa; African Union (AU)/New Partnership for Africa's Development (NEPAD) relations; and HIV/AIDS and Human Security.

### The United Nations Development Fund for Women

The United Nations Development Fund for Women (UNIFEM) was created in 1976 and provides financial and technical assistance to programmes and strategies that promote women's human rights, political participation and economic security. Within the UN system, the organisation promotes gender equality and links women's issues and concerns to national, regional and global agendas. UNIFEM fosters collaboration and provides technical expertise on gender mainstreaming and strategies for the empowerment of women. The organisation works in over 100 countries and has 14 Regional Programme Directors, as well as a growing network of affiliated gender advisers and specialists.

## About the Rapporteurs

Ms Lee Stone is an attorney of the High Court of South Africa and a lecturer in the Faculty of Law at the University of KwaZulu-Natal, Durban. Dr Mireille Affa'a Mindzie is a Senior Project Officer at the Centre for Conflict Resolution, Cape Town.

# Executive Summary

**The Centre for Conflict Resolution (CCR) in Cape Town, South Africa, and the United Nations Development Fund for Women's (UNIFEM) Southern and Central African regional offices co-hosted a policy seminar on "Implementing the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa in Emerging Post-Conflict Countries" in Johannesburg, South Africa, on 6 and 7 November 2006.**

The objective of the seminar was to discuss and identify concrete avenues for engendering reconstruction and peace processes in African societies emerging from conflict through a thorough and effective use of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Women's Protocol). Sixteen years after the adoption of the United Nations (UN) Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) of 1979, the African Commission on Human and Peoples' Rights and civil society organisations working on women's rights agreed to prioritise the adoption of a Protocol to the 1981 African Charter on Human and Peoples' Rights on the Rights of Women in Africa. Following several obstacles, the draft Protocol was put on the agenda of the second ordinary session of the African Union (AU) Assembly of Heads of State and Government and adopted in July 2003 in Maputo, Mozambique. The adoption of the Protocol was accompanied by intensive lobbying by women's groups and human rights activists for ratification and implementation. These efforts resulted in the Protocol's entry into force in November 2005.

The Protocol highlights prevalent discrimination against women and the negative impact of poverty; HIV/AIDS; harmful traditional practices; the persistence of violence against women in society; women's exclusion from politics and decision-making; illiteracy; and limited access of girls to education. A critical component of the Protocol is also its focus on the protection of women and girls in situations of armed conflicts and post-conflict reconstruction processes.

By proclaiming a range of civil and political rights, the 2003 Women's Protocol allows women living in societies emerging from conflict to engage as equal partners in activities such as political participation; access to, and management of, land and inherited properties; and protection from violence. In addition to civil and political rights, the Protocol provides for fundamental economic, social and cultural rights that are essential for engendering post-conflict reconstruction. The Protocol further calls for equal opportunity and access of women to education and training. This is relevant in post-conflict reconstruction processes in which young girls and women who have been deprived of education require quality education and training. Education and training are further needed for women to access employment, including in societies emerging from conflict where employers, who hire men because of economic pressure, often discriminate against women.

Demographic changes produced by conflicts include increased female-male ratios due to men dying in conflicts; migration; and increased numbers of orphans and elderly survivors. In many cases, unemployed women who become head of families turn to prostitution, which intensifies the threat and spread of HIV/AIDS in post-conflict settings. The 2003 Protocol states that parties are required to respect, protect, and promote the right of women to health, including sexual and reproductive rights. Such rights cover the right to be protected against sexually-transmitted diseases, including HIV/AIDS.

Female-headed households, especially in post-conflict environments, are usually among the poorest segments of populations in Africa. Rebuilding infrastructure and providing basic services that take into account gender-

sensitive programming are some of the important measures to be taken in these situations. Under Article 24 of the Protocol, African governments undertake to ensure the protection of poor women and female heads of families, and to provide them with an environment suitable to their condition and their special physical, economic and social needs. With regard to Demilitarisation, Demobilisation and Reintegration (DDR) programmes, post-conflict reconstruction requires a consideration of the specific needs of women during planning for DDR, and the involvement of women in DDR programmes. To fill the existing gender gap within DDR processes, and to design and deliver programmes that can equitably benefit women and men in the DDR phase of post-conflict peace-building, the Protocol requires states parties to take all appropriate measures to ensure the participation of women in the promotion and maintenance of peace, including with regard to the planning, formulation and implementation of post-conflict reconstruction and rehabilitation. African governments also commit themselves under the Protocol to ensuring that women are involved in programmes of education for peace and a culture of peace, as well as in conflict prevention structures and processes.

## The Ratification and Integrated Implementation of the Women's Protocol

Determined to ensure the promotion, realisation and protection of women's rights, African governments have undertaken to combat all forms of discrimination against women through appropriate legislative, institutional, and other measures such as public education, information, or communication strategies. The 2003 Protocol also encourages states parties to provide appropriate remedies, determined by competent judicial, administrative or legislative authorities, to any woman whose rights or freedoms have been violated.

By November 2006, the Women's Protocol had been ratified by only 20 of the 53 AU member states. One country, Niger, rejected its adoption in April 2006, raising consternation among women's rights activists. The 1979 Convention on the Elimination of all Forms of Discrimination against Women, the treaty protecting African women from discrimination, is also being ratified with a number of important reservations. There remains a need for constant mobilisation and monitoring of African governments to achieve a complete ratification of both Protocols.

Ratification is the entry point of states' accountability towards their conventional commitments. As an international treaty, the 2003 Protocol set forth legal obligations for all states parties, which should be implemented in good faith. Governments commit themselves under the Protocol to ensuring the implementation of the document at national level, specifically by adopting all necessary measures and by providing budgetary and other resources for the full and effective implementation of the rights recognised in the Protocol. For countries emerging from conflict, the ratification and implementation of the Protocol provides a unique opportunity to transform institutions, structures, and relationships within society, and to affirm gender equality through constitutional, judicial, legislative and electoral reform.

In addition to national efforts, the realisation of women's rights entails the existence of integrated programmes involving the AU but also the UN and Regional Economic Communities (RECs). Such programmes could ensure the implementation of the Protocol by linking it to other instruments, such as CEDAW; UN Security Council Resolution 1325 on Women, Peace and Security of 2000; the 2004 AU Solemn Declaration on Gender Equality in Africa; or gender equality incorporated into the 2001 New Partnership for Africa's Development (NEPAD); and the Millennium Development Goals (MDGs) of 2000. By auditing the existing legislative and political frameworks, disseminating, raising awareness of, and providing training on the Protocol, civil society



organisations also have a critical role to play in ensuring that the Protocol constitutes a priority within the programmes and policies of all African governments. This comprehensive approach aims to ensure that the Protocol is effectively linked to peacebuilding and development efforts on the continent.

## Women's Participation and the Revitalisation of the African Women's Movement

While gender equality is central to peace and development, gender inequality increases the risks of conflict and highlights the need for engendering peacebuilding processes and post-conflict reconstruction efforts. Demographic changes generated by conflict and post-conflict reconstruction efforts provide an opportunity for developing more equal gender roles and overcoming gender barriers. Political participation of women and their lobbying for mainstreaming gender into national programmes and resource allocation has led to the adoption of new gender-sensitive laws in post-conflict settings.

In order to develop gender-responsive approaches to policy formulation, budget allocations and monitoring; the capacity and resources of women to be informed and to pursue their rights need to be developed. Education and training of both women and men will help respond to the need for both quantitative and qualitative participation of women in decision-making processes. However, one challenge that has been identified is the need for all stakeholders – including male leaders and younger men – to accept gender equality. In addition, the African women's movement, which was actively involved in lobbying for the adoption of the Protocol, seems unable to gather the critical mass of capable women needed to ensure gender equality and women's participation in society beyond token numbers.

## Monitoring the Implementation of the Women's Protocol in Post-Conflict Societies

The African Commission on Human and Peoples' Rights created under the 1981 African Charter on Human and Peoples' Rights and the African Court on Human and Peoples' Rights established under the 1998 Protocol to the Charter are primarily charged with monitoring the implementation of the Women's Protocol. However, for the Commission and the Court to ensure an effective and comprehensive supervision of the measures adopted by African governments to implement the Protocol, states, including countries emerging from conflict, have to agree to be legally bound by its provisions.

Both the African Commission and the Court should thus engage more vigorously in promoting and protecting women's rights as enshrined in the Protocol. This calls for adequate gender representation within the two organs, especially the Court, which comprises only two women out of its first 11 judges. This also requires the Commission, the Court and mechanisms such as the Special Rapporteur on the Rights of Women in Africa to develop the necessary expertise in gender, conflict prevention and resolution, as well as peacebuilding issues, to ensure that governments take women's rights seriously, especially during post-conflict reconstruction processes. The long-established collaboration of civil society organisations with the Commission has contributed towards guaranteeing the rights enshrined in the 1981 Charter on Human and Peoples' Rights. By active participation in the various processes – such as bringing individual communications and submitting alternative reports to those presented by states parties – or by contributing to normative developments in the framework of the Charter,

African and international non-governmental organisations (NGOs) have assisted in strengthening and legitimising the Commission as the main human rights monitoring body on the continent. The collaboration between the Commission and civil society organisations could strengthen the monitoring of women's rights and engendering the protection of human rights by the Commission itself, as well as help to develop strong partnerships with other regional mechanisms of monitoring women's rights, including the African Court on Human and Peoples' Rights.

## Policy Recommendations

The presentations and discussions at the Johannesburg policy seminar on "Implementing the African Union Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Emerging Post-conflict Countries" raised eight key issues that need to be addressed by policymakers at the level of the AU, RECs, and national governments, as well as civil society organisations.

- First, the predominant message from the seminar was the importance of continuous monitoring of the Protocol's ratification process. Although the Protocol recorded the fastest entry into force of any African human rights treaty, its ratification process has slowed down and political will is waning. Thus, all relevant stakeholders should accelerate the process to achieve its complete ratification. Furthermore, the goal should be "clean ratifications" with states parties committing themselves to implementation without reservations.
- Second, implementing the Protocol and guaranteeing women's rights in post-conflict societies in Africa call for the document's harmonisation with, and domestication into, national laws. Specifically, African governments need to integrate the Protocol into national development plans and policies, while African civil society organisations have a role to play in ensuring that the Protocol is prioritised within relevant state programmes.
- Third, an effective realisation of women's rights also requires the existence of inclusive programmes involving the AU but also the UN, RECs and the African Peer Review Mechanism (APRM) of 2004. The APRM could be used to gauge the ratification and implementation of the Protocol. Implementation within states should serve as one of the APRM's criteria for assessing and monitoring the progress of African governments in promoting and protecting human rights. Such programmes should furthermore address the implementation of the Protocol in conjunction with UN Resolution 1325 and the AU Solemn Declaration.
- Fourth, the Protocol should be effectively linked to peacebuilding efforts and strategies for reintegration of victims of violence into African societies, while continued sensitisation and awareness-raising efforts should reach down to local communities.
- Fifth, strategic partnerships between government agencies and relevant actors should be broadened to involve parliamentary bodies, judiciary systems, and civil society actors. Moreover, good practices initiated by women's organisations and networks with regard to dissemination, monitoring and evaluation of the Protocol and of the AU Solemn Declaration should continuously be popularised with a view to their replication across the continent.
- Sixth, regarding the supervision of the Protocol, the African Commission and the African Court on Human and Peoples' Rights should engage more vigorously in promoting and protecting women's rights. At the level of the Court, judges should deliver strong and decisive judgments pushing for the respect and enforcement of women's rights in post-conflict countries in Africa. Mechanisms such as the African Commission Special Rapporteur on the Rights of Women should ensure that gender mainstreaming of post-conflict reconstruction processes is duly monitored by competent bodies.

- Seventh, African civil society organisations should continuously scrutinise national legislation to identify discriminatory laws and advocate for their amendment or abrogation. Civil society should also play a key role in contributing to regional monitoring, for example, by submitting “shadow” reports that deal with human and women’s rights to the African Commission on Human and Peoples’ Rights. NGOs can further advocate for adequate gender representation within regional bodies such as the African Court on Human and Peoples’ Rights.
- Finally, with regard to women and women’s groups, emphasis should be placed on quantitative and qualitative participation of women in decision-making processes. Women and men should be properly trained to advance their knowledge and the application of the Protocol. They should contribute to the effective engendering of peace processes. This would also require enhanced dynamism and revitalisation of women’s peace activism.



**TOP:** Ms Susan Sesay, Ministry of Social Welfare, Gender and Children’s Affairs, Sierra Leone.  
**ABOVE:** Mr Ahmed Motala, Centre for the Study of Violence and Reconciliation, South Africa.  
**RIGHT:** Ms Thelma Ekiyor, Centre for Conflict Resolution, South Africa, *left*; Ms Mona Osman Ali, Women Empowerment for Peace and Development, Sudan.

# 1. Introduction

**The Centre for Conflict Resolution (CCR) in Cape Town, South Africa, and the United Nations (UN) Development Fund for Women's (UNIFEM) Southern and Central Africa regional offices co-hosted a policy advisory group seminar on "Implementing the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa in Emerging Post-Conflict Countries" in Johannesburg, South Africa, on 6 and 7 November 2006.**

The objective of the seminar was to discuss and identify concrete avenues for engendering reconstruction and peace processes in African societies emerging from conflict through a thorough and effective use of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Women's Protocol). About 30 participants representing the UN, Regional Economic Communities (RECs), national gender mechanisms and a broad cross-section of civil society attended the seminar, which provided a forum to debate and analyse how the Women's Protocol can be applied as an advocacy tool. The seminar also investigated the Protocol as an instrument for filling normative, political and social gaps in societies emerging from conflict, and examined the role of stakeholders such as civil society, RECs, national gender machineries and the African Union (AU) in ensuring women's participation and women's rights in post-conflict processes.

Adopted by the Second Ordinary Session of the AU Assembly of Heads of State and Government in July 2003 in Maputo, Mozambique, the Protocol has the potential to mitigate and eventually to eradicate existing gender inequalities, as well as emancipate African women. Africa has experienced brutal armed conflicts and several countries, like Sierra Leone, Liberia, Guinea-Bissau, Angola, Burundi, Rwanda or the Democratic Republic of the Congo (DRC) continue to deal with the challenges of post-conflict reconstruction and peacebuilding, which negatively impact mostly women and children. The Protocol provides opportunities for African women to be protected against human rights violations that affect them as civilians, refugees and/or soldiers during armed conflicts. Moreover, the Protocol proclaims the right of women to peace, and calls on states to ensure the participation of women in all aspects of planning, formulation, and implementation of post-conflict reconstruction and rehabilitation.

Unfortunately, not all African states have seized on the opportunities provided by the Protocol. Ratification has been slow and a majority of states are yet to ratify the document.<sup>1</sup> The implementation of the Protocol remains in question throughout the continent, and it is generally conceded that UN Security Council Resolution 1325 of 2000<sup>2</sup> receives more attention than the AU Protocol.

Ratification is a condition *sine qua non* for implementation of the Protocol. When states ratify an international or regional human rights instrument, they commit themselves to aligning their domestic law and practice with their conventional obligations to protect and promote human rights. The ratification of the Protocol should therefore be considered in light of the discussion concerning its implementation.

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1 The Women's Protocol was ratified by 20 of the 53 member states of the AU in November 2006. More countries claim to have ratified the Protocol, but have yet to deposit their instruments of ratification to the Chairperson of the Commission of the AU.

2 See "Women and Peacebuilding in Africa", CCR/UNIFEM Seminar Report, 27 and 28 October 2005, Cape Town, South Africa (available at <http://ccrweb.ccr.uct.ac.za>; accessed 16 August 2007).

Resistance to women's rights found in the cultural and socio-economic realities in which women conduct their everyday lives is often identified to be the most serious barrier to gender equality in Africa. Close to the will to preserve one's own culture, the notion of human rights as being "western human rights" has given birth to a form of resistance against what is often perceived as "cultural imperialism" or "neo-colonialism". Furthermore, the deterioration of the socio-economic situation of African women, which is commonly referred to as the "feminisation of poverty", has a negative impact on an effective implementation of the Protocol. In 1992, a UN report found that the number of women living in poverty in developing countries had increased by almost 50% over the past 20 years to 129 million in sub-Saharan Africa, while poverty among rural men had increased by 30 per cent during the same period.<sup>3</sup> And in 1995, women constituted an estimated 70 per cent of the 1.3 billion people then living in poverty.<sup>4</sup>

These realities are amplified in post-conflict settings, in which women are excluded from formal peace negotiations and from Disarmament, Demobilisation and Reintegration (DDR) processes, and are confronted with increased domestic violence from male ex-combatants who are uncertain about their new role and place in society. Considering the potential of the Protocol to serve as a tool for filling normative, political, and social gaps in societies emerging from conflict, the policy seminar sought to analyse and debate the opportunities offered by the Protocol to ensure the quantitative and qualitative participation of women in post-conflict reconstruction processes, as well as the best ways of engendering these processes. Integrated strategies for implementing the Protocol were debated, which involve state parties and national gender machineries, but also Regional Economic Communities (RECs), namely the Economic Community for Central African States (ECCAS), the Economic Community of West-African States (ECOWAS), the Intergovernmental Authority on Development (IGAD) and the Southern African Development Community (SADC), regional and international institutions, and civil society. The role of formal regional human rights organs was also analysed, as well as their adequate monitoring of the enforcement of the Protocol.

## 1.1 Objectives

The over-arching objective of the Johannesburg seminar was to develop key strategies for ensuring the promotion and effective realisation of gender equality and women's rights in post-conflict reconstruction processes. The seminar thus analysed the contribution of the Protocol as an instrument of peace in implementing gender-focused approaches for building peaceful and equitable post-conflict societies. Country-specific cases such as Côte d'Ivoire, the Democratic Republic of the Congo, Rwanda, Sierra Leone and Sudan were examined to assess national progress on implementing the Protocol.

Monitoring of the ratification and implementation of the Protocol was emphasised as one of the fundamental aspects in the process of the effective realisation of women's rights across the continent, and the report contains recommendations for strengthening women's rights in emerging post-conflict societies in Africa. These recommendations, which address the relevant AU organs and UN agencies, RECs, national gender mechanisms, as well as civil society organisations, responded to three key aims of the meeting:

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3 See Valentine M. Moghadam, "The Feminization of Poverty and Women's Human Rights", UNESCO, Social and Human Sciences Sector, Papers in Women's Studies/Gender Research, 2 July 2005 (available at [http://portal.unesco.org/shs/en/file\\_download.php/al7be9f8eefc8e5235f8c4814bd684fdFeminization+of+Poverty.pdf](http://portal.unesco.org/shs/en/file_download.php/al7be9f8eefc8e5235f8c4814bd684fdFeminization+of+Poverty.pdf); accessed 16 August 2007).

4 See Briefing Paper on the "Feminisation of Poverty", prepared by BRIDGE for the Swedish International Development Cooperation Agency (Sida), April 2001 (available at <http://www.bridge.ids.ac.uk/reports/femofpov.pdf>; accessed 16 August 2007).

- Assessing the specific needs of women in societies emerging from war and identifying the best responses to meet these needs;
- Analysing the contribution of the Protocol in implementing gender-focused approaches for building peaceful and equitable post-conflict societies, especially with regard to women's participation and involvement; and
- Examining the role of women's rights mechanisms within the AU and the UN in monitoring and evaluating the implementation of the Protocol in post-conflict African societies.

## 1.2 Background

In 1981, the members of the Organisation of African Unity (OAU) adopted the African Charter on Human and Peoples' Rights (the Charter), whose provisions on women's rights were considered largely deficient. The Charter,<sup>5</sup> which came into force in October 1986, recognises the importance of women's rights, expressly through four key articles:

- Article 2, the non-discrimination clause;
- Article 3, which states that every individual will be equal before the law and be entitled to the equal protection of the law;
- Article 18(3), which talks specifically about the protection of the family and promises to ensure the elimination of discrimination against women and the protection of their rights; and
- Article 60, which states that the African Commission on Human and Peoples' Rights (the Commission) will draw inspiration from international human rights instruments such as the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW).

Despite these provisions, the Charter was widely acknowledged to be inadequate on the areas of women's protection and gender equality. Thus, in 1995, an historical agreement between the Commission and civil society organisations working on women's rights resolved to consider as a priority the adoption of a Protocol to the 1981 African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

Subsequently, the Commission was mandated by the OAU Conference of Heads of State and Government to initiate and co-ordinate the development process of the draft protocol. A Special Rapporteur of the African Commission on the Rights of Women was designated, whose efforts were bolstered by an increased mobilisation of African civil society throughout the process. The Protocol was finally adopted in July 2003 in Maputo, Mozambique, at the Second Ordinary Session of the AU Assembly of Heads of State and Government. It entered into force in November 2005. The uniqueness of the Protocol lies in the activism of African women, and the Protocol – which reflects on specific violations of the rights of women on the continent – provides a legal framework of reference enabling various stakeholders and populations to work towards the respect of women's rights in both the private and public spheres.

Of strategic importance for shifting negative power relations, gender inequality and the disempowerment and impoverishment of women in Africa, the Protocol determines a wide-ranging array of rights, including the right

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<sup>5</sup> Adopted by the 18th Assembly of OAU Heads of State and Government, June 1981, Nairobi, Kenya (available at [http://www.achpr.org/english/\\_info/charter\\_en.html](http://www.achpr.org/english/_info/charter_en.html) ; accessed 25 January 2007).

to life, integrity and security of the person; protection from harmful traditional practices; and prohibition on discrimination. The document epitomises women’s participation in politics and decision-making, and specifically provides for a comprehensive framework to put an end to human rights violations that affect women and children in times of conflict. The Protocol further tackles the challenges of building durable peace in Africa, which is an indispensable condition for development.

More specifically, the 2003 AU Protocol provides for the right of women to a peaceful existence, and their right to participate in the promotion and maintenance of peace. States parties undertake to ensure the increased participation of women in all aspects of planning, formulation, and implementation of post-conflict reconstruction and rehabilitation policies. Under monitoring of both the African Commission and the newly-established African Court on Human and Peoples’ Rights, state parties to the Protocol are expected to implement and monitor the actualisation of the rights provided therein and, in particular, to provide budgetary and other resources for the full and effective implementation of the rights recognised in the Protocol.<sup>6</sup>

At the outset of armed violence, the opportunities of post-conflict reconstruction for setting new norms, drafting new rules, building new institutions, and identifying and empowering new leaders have been highlighted. The Protocol therefore offers African women, civil society groups, researchers, policymakers and regional and intergovernmental organisations an appropriate tool to ensure women’s participation and to measure gender mainstreaming in post-conflict reconstruction processes across the continent.



**ABOVE:** From left: Ms Thokozile Ruzvidzo, African Centre for Gender and Development, Ethiopia; Ms Mona Osman Ali, Women Empowerment for Peace and Development, Sudan; Ms Susan Sesay, Ministry of Social Welfare, Gender and Children’s Affairs, Sierra Leone.

**RIGHT:** Dr Mohamed Mabassa Fall, African Centre for Democracy and Human Rights Studies, Senegal.

**FAR RIGHT:** Ms Esmie Tamanda Kainja, Women Empowerment, Malawi.



6 Article 26 of the Protocol.

## 2. Seminar Themes and Debates

**The AU Protocol on the Rights of Women has the potential to impact significantly on the lives of African women and to contribute towards putting an end to the human rights violations that affect women and children during conflicts.**

However, without the clear will of African states to enforce their commitment to the eradication of discrimination against women and to ensure gender equality, the rights of women as recognised in the Protocol will remain unenforceable. Although states parties remain primarily responsible for implementing the Protocol, the realisation of women's rights in Africa also calls for an active contribution of all relevant stakeholders: national gender machineries, sub-regional, regional and international organisations, and civil society groups.

The policy seminar therefore included government officials, representatives from Africa's RECs, UN agencies, academics and civil society.

The seminar discussions focused mainly on the following five key themes:

- The AU Women's Protocol and Peacebuilding in Africa;
- The Opportunities and Challenges for Implementing the Protocol in Post-Conflict societies;
- AU Conventional Mechanisms for Monitoring Women's Rights;
- Civil Society Perspectives on Implementing the Women's Protocol; and
- Strategies for Strengthening Women's Rights in Post-Conflict Societies in Africa.

### 2.1 Overview of the African Union Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa

The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women offers a weapon against discrimination. It governs all aspects of women's life such as education and training, marriage, protection against harmful traditional practices, and the rights to peace and security. The document can therefore be described as a complete instrument, if correctly applied. Furthermore, it provides various actors with a formidable tool with which to advocate the realisation of women's rights in Africa. The 1981 African Charter on Human and Peoples' Rights recognises the importance of women's rights through three main provisions:

#### Article 2:

The "non-discrimination clause", provides that the rights and freedoms enshrined in the African Charter shall be enjoyed by all, irrespective of race; ethnic group; colour; sex; language; religion; political or any other opinion; national and social origin; fortune; birth; or other status;

#### Article 3:

The "equal protection clause", states that every individual shall be equal before the law and shall be entitled to the equal protection of the law; and



### Article 18(3):

Covering the protection of the family, and promising to ensure the elimination of all discrimination against women and also to ensure the protection of the rights of women. However, the above provisions have proved to be ineffective in addressing the rights of women. For example, while Article 18 prohibits discrimination against women, it does so only in the context of the family. In addition, explicit provisions guaranteeing the right of consent to marriage and equality of spouses during and after marriage are absent. These omissions are compounded by the fact that the African Charter of 1981 stresses traditional African values and traditions without addressing concerns that many customary practices, such as female genital mutilation, forced marriage, and inheritance rights, can be harmful or life-threatening to women. By ignoring these critical issues, the African Charter inadequately defends the human rights of women.<sup>7</sup>

The Vienna Declaration and Programme of Action of the World Conference on Human Rights of 1993<sup>8</sup> had emphasised the human rights of women and girls as an inalienable, integral and indivisible part of the universal human rights system. However, human rights guarantees in the legally binding human rights conventions such as those on the right to life, to bodily integrity, and to be free from torture and cruel and degrading treatment, did not include such acts as domestic violence; rape; female genital mutilation; forced sterilisation; forced childbirth; and numerous other forms of abuse in which violence against women and girls is prevalent in Africa. The African Commission on Human and Peoples' Rights admitted the inadequacies of the African Charter in protecting the rights of women as well as the insufficient progress that had been made with regard to the situation of women in Africa. As a result, the OAU Assembly of Heads of State and Government at its 31st Summit in Addis Ababa, Ethiopia, in 1995 mandated the Commission to elaborate a Protocol on the Rights of Women in Africa.<sup>9</sup> The Protocol was eventually adopted by the AU eight years later in Maputo, Mozambique, in July 2003.<sup>10</sup> The document entered into force in November 2005.

Through the adoption of the Protocol and the appointment of a Special Rapporteur on the Rights of Women in Africa,<sup>11</sup> the desire of the AU was to send a strong message to member states that discrimination and inequalities based on sex is intolerable within the AU and should therefore be eliminated. The AU agreed that half of its ten Commissioners would be women and also has a functioning gender department. Moreover, the new emphasis of the AU, at least rhetorically, on human and peoples' rights and popular participation has given rise to an increased focus on the situation of women in Africa and the need to involve them in the social, economic, political and cultural spheres of life. The AU's Constitutive Act of 2000, consequently, addressed the importance of eradicating the existing gender disparities by stating as one of its principles the "promotion of gender equality".<sup>12</sup> The AU was thus signalling its intent to move from "non-intervention" in the affairs of states to a policy of "non-indifference".<sup>13</sup>

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7 Women and Law in Development in Africa (WILDAF) was the main African co-ordinating organisation for the campaign for the recognition of women's rights as human rights for the African Preparatory Conference in Dakar in 1994, and for the Fourth World Conference for Women in Beijing, 1995. In 1997, WILDAF was involved in the drafting of the additional protocol on women to the African Charter.

8 UN Doc A/CONF/157/23, 12 July 1993.

9 Resolution AHG/Res 240 (xxx); OAU Doc. CAB/LEG/66.6 (2000).

10 Assembly/AU/Dec.19 (II).

11 Commissioner Julienne Ondziel-Gnelenga from Congo-Brazzaville was appointed as the first Special Rapporteur of the African Commission on Human and Peoples' Rights on the Rights of Women from 1998-2001. She was replaced by Commissioner Angela Melo in October 2001 (available at [http://www.achpr.org/english/\\_info/index\\_women\\_en.html](http://www.achpr.org/english/_info/index_women_en.html); accessed 16 August 2007).

12 Article 4 (I) CAB/LEG/23.15.

13 Musifiky Mwanasali, "Africa's Responsibility to Protect", in Adekeye Adebajo and Helen Scanlon (eds.), *A Dialogue of the Deaf: Essays on Africa and the United Nations* (Johannesburg: Jacana, 2006), pp. 89-110.

The Protocol on the Rights of Women complements the African Charter on Human and Peoples' Rights in ensuring the promotion and protection of the human rights of women in Africa. The document acknowledges that women are a tremendous source of untapped potential, making them a key to Africa's future. Women comprise more than half of the population of Africa, yet remain subject to arbitrary violation of their rights. More precisely, over 60 per cent of the two million victims of conflict in the 1990s were women and children, while 50 per cent of the six million refugees and 17 million Internally Displaced Persons (IDPs) on the continent are women.<sup>14</sup>

The composition of the AU Women's Protocol provides for three sections. The first section covers the rationale behind the document's elaboration, making reference to both regional and international commitments regarding the human rights of women. The second section outlines the rights to be upheld by the Protocol, while the third and final section covers implementation by addressing the manner in which the Protocol is to be adopted and monitored, as well as the process through which it may be amended. The Protocol affirms four broad categories of rights: civil and political rights; economic, social, and cultural rights; the rights to development and peace; and reproductive and sexual rights. Under Article 10, the right of women to a peaceful existence and their right to participate in the promotion and maintenance of peace are enshrined. Signatory governments also undertake to ensure the increased participation of women in all aspects of planning, formulation and implementation of post-conflict reconstruction and rehabilitation.

Yet, women and gender issues remain sidelined in many contemporary peace processes on the continent. In different conflict areas, a culture of "hegemonic masculinity" prevails among the major political actors, be they the occupiers, the resistance, or the state. In the DRC, Uganda and other countries, women have experienced human rights violations on a massive scale. In most cases, women are neither adequately represented at decision-making levels nor involved in peace negotiations and peace agreements. Moreover, women's grassroots organisations and peace initiatives are marginalised or ignored, and in most post-conflict reconstruction efforts, gender perspectives are generally absent.

For the Protocol to adequately serve as an instrument for engendering peacebuilding processes on the continent, it must be ratified by all AU member states. Even though the required 15 instruments of ratification were received by the AU in order to ensure the entry into force of the Protocol, there remains an overwhelming sense of despair because of the various reservations that governments have made in ratifying the Protocol. Controversy abounds over Niger's outright rejection of the instrument. Closely related to the reluctance on governments to ratify instruments, the notion of "instrument fatigue" is also important. The concept refers to the multiplicity of international instruments often dealing with similar concepts and problems, resulting in governments becoming "bored" with the process of ratifying more treaties. One critical question was therefore raised: How much have similar instruments made a difference to the lives of African populations in the past? Real political will was perceived to be the foundation for obtaining ratification of the AU Women's Protocol.

Furthermore, since the decision to sign and ratify the Protocol is not sufficient in itself to protect women against violations of their rights, an appropriate follow-up of how women's rights are guaranteed is necessary.<sup>15</sup> In order

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14 "Gender: Reviewing the Protocol on the Rights of Women in Africa" (available at [http://www.newsfromafrica.org/newsfromafrica/articles/art\\_10688.html](http://www.newsfromafrica.org/newsfromafrica/articles/art_10688.html); accessed 17 January 2007). Also see Francis Deng, "The International Challenge of State Failure and Internal Displacement", in Adebajo and Scanlon (eds.), *A Dialogue of the Deaf*, pp. 111-130.

15 Angela Melo, "Monitoring the Protocol on the Rights of Women: Introduction to the African Commission on Human and Peoples' Rights", paper prepared for the policy seminar on "Implementing the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Post-conflict Situations", Johannesburg, 6 and 7 November 2006.

to implement the provisions of the Protocol, signatory government undertake to integrate a gender perspective into their policy decisions, development plans, and activities, as well as to include the fundamental principles enshrined in the Protocol in their national constitutions and legislative instruments to ensure their effective implementation.<sup>16</sup>

Furthermore, states parties undertake to submit periodic reports to the African Commission on Human and Peoples' Rights on the legislative and other measures taken to ensure the full realisation of the rights recognised in the Protocol. Finally, the African Court on Human and Peoples' Rights created in 1998 to complement and reinforce the Commission, which is competent to hear any case concerning the interpretation of African human rights instruments, including the Protocol, has the potential to strengthen the protection of women's rights on the continent.

## 2.2 The African Union's Conventional Mechanisms for Monitoring Women's Rights

The African regional human rights system is subordinate to the African Union. Established in 2002, the objectives of the AU incorporate specific reference to human rights principles as well as concepts such as democratic principles and good governance.<sup>17</sup> The African regional human rights system comprises five main treaties, including the 1981 African Charter on Human and Peoples' Rights; the 1998 Protocol to the above-mentioned Charter on the establishment of an African Court on Human and Peoples' Rights; and the 2003 Protocol on the Rights of Women in Africa. Of the three human rights monitoring organs established by the AU, the African Commission and the African Court on Human and Peoples' Rights are primarily charged with the supervision of the Women's Protocol.<sup>18</sup>

### The African Commission on Human and Peoples' Rights

The African Commission on Human and Peoples' Rights was established in November 1987 and is based in Banjul, Gambia. The African Commission is the enforcement mechanism established under the African Charter, with the specific mandate to "promote and protect human and peoples' rights in Africa".<sup>19</sup> The body comprises 11 Commissioners and, until 1993, did not have any female representation.<sup>20</sup>

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16 Judith Oder, "Reclaiming Women's Social and Economic Rights in Africa: The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa", Community Law Centre, Socio-economic Rights Project, *ESR Review*, Vol. 5, No. 4, September 2004 (available at <http://www.communitylawcentre.org.za/Projects/Socio-Economic-Rights/esr-review/esr-previous-editions/esrreviewsept2004.pdf>; accessed 18 November 2006).

17 International Service for Human Rights, "The African Human Rights System" (available at <http://www.ishr.ch/About%20UN/UN%20System/InfoPack/AfricanHRSystem.pdf>; accessed 16 January 2007). Also see "Building an African Union for the 21st Century: Relations with Regional Economic Communities (RECS), NEPAD and Civil Society", CCR Seminar Report, 20-22 August 2005, Cape Town, South Africa (available at <http://ccrweb.ccr.uct.ac.za/index.php?id=9>; accessed 17 August 2007).

18 The third human rights organ of the AU is the African Committee of Experts on the Rights and Welfare of the Child, established under the 1990 Charter on the Rights and Welfare of the Child, OAU Doc. CAB/LEG/24.9/49 (1990). It entered into force on 29 November 1999.

19 Article 45 of the Charter.

20 In November 2006, Commissioners of the African Commission on Human and Peoples' Rights included: Salamata Sawadogo (Burkina Faso); Yassir Sid Ahmed El Hassan (Sudan); Kamel Rezag-Bara (Algeria); Musa Ngary Bitaye (Gambia); Reine Alapini-Gansou (Benin); Mumba Malila (Zambia); Angela Melo (Mozambique); Sanji Mmasenono Monageng (Botswana); Bahame Tom Mukirya Nyanduga (Tanzania); and Faith Pansy Tlakula (South Africa). Mohammed Abdellahi Ould Babana (Mauritania) had ceased to exercise the functions of Commissioner before the end of his term. In July 2007, the term of the four Commissioners from Algeria, Burkina Faso, Mozambique and Sudan came to an end. Commissioner Melo was re-elected by the AU Executive Council and the three others, as well as Commissioner Ould Babana, were replaced by Yeung Kam John Yeung Sik Yuen (Mauritius); Catherine Dupe Atoki (Nigeria); Soyata Maiga (Mali); and Zainabu Sylvie Kayitesi (Rwanda).



ABOVE: Ms Rachel Gogoua Kouly, Organisation for the Child, Woman and the Family, Côte d'Ivoire.

LEFT: Dr Mireille Affa'a Mindzie, Centre for Conflict Resolution, South Africa, left; Ms Thelma Ekiyor, Centre for Conflict Resolution, South Africa.

The members of the Commission are elected by the Assembly of Heads of State who are parties to the African Charter. The principles of equality in geographic representation and gender balance are supposed to be respected, yet since its establishment, only 11 women out of a total of 33 Commissioners have been elected. With regard to linguistic representation, francophone and Arabophone countries seem to have been favoured from the outset. This situation has, however, changed and the Commission presently is equally represented linguistically.<sup>21</sup>

Article 31 of the African Charter requires that members of the Commission are "African personalities of the highest reputation, known for their high morality, integrity, impartiality and competence in matters of human and peoples' rights".<sup>22</sup> Though each Commissioner serves in her or his individual capacity, the Charter falls short of requiring the Commissioners to be independent. This has negatively impacted on the effectiveness and credibility of the Commission, as some of its members are perceived not to be impartial. For example, it is not uncommon for serving Commissioners simultaneously to hold positions as Attorney-General, Minister of Interior, or Ambassador in their countries of origin. These conflicts of interest have been widely recognised, including by members of the Commission.<sup>23</sup>

The African Commission elects a Chairperson and Vice-Chairperson from among its members for a two-year renewable period. The Commission meets twice a year, usually in April and November, for Ordinary Sessions of 15 days. The body also has the discretion to hold extraordinary sessions where required. Ordinary sessions consist of both private and public sessions. Public sessions are open to NGOs granted observer status to make substantive proposals on country-specific situations.<sup>24</sup> Proposals have also been made on mechanisms that the Commission could establish to deal with thematic issues. The Commission's sessions provide the ideal opportunity for NGOs to share their information with members of the Commission, other NGOs, and government representatives.

21 See Institute for Human Rights and Development in Africa, "The African Commission on Human and Peoples' Rights" (available at <http://212.60.76.30/modules/news/index.php?storytopic=15>; accessed 18 November 2006).

22 Article 31 of the Charter.

23 Read Amnesty International, "Organization of African Unity: Making Human Rights a Reality for Africans", quoting former Commissioner Isaac Nguema (available at <http://web.amnesty.org/library/Index/ENGIOR630011998?open&of=ENG-312>; accessed 28 November 2006).

24 About 360 NGOs have been granted observer status before the African Commission according to the criteria set out in the Resolution on the Granting of Observer Status (available at [http://www.achpr.org/english/\\_info/observer\\_en.html](http://www.achpr.org/english/_info/observer_en.html); accessed 28 November 2006).

The African Charter gives pre-eminence to the promotion of human rights and vests a wide range of responsibilities in the Commission.<sup>25</sup> This is motivated by the fact that, as Evelyn Ankumah put it, “the promotion of human rights is a fundamental requirement for the respect and recognition of the rights provided for in the Charter. If people are not aware of their rights they cannot ensure that they are protected”.<sup>26</sup> Several functions are provided for the Commission to undertake its promotional mandate. These functions include information and education through the collection of documents, studies, or the organisation of seminars;<sup>27</sup> quasi-legislative functions aimed at formulating principles and rules to solve legal problems relating to human and peoples’ rights and fundamental freedoms; or co-operative functions that engage the Commission in co-operation with African and international institutions concerned with the promotion and protection of human and peoples’ rights.

The Commission also considers periodic reports of states on the legislative or other measures adopted to give effect to the rights and freedoms recognised and guaranteed in the African Charter. It is significant to note that, under Article 26 of the Women’s Protocol, signatory governments undertake, within the periodic reports submitted to the Commission, to indicate the legislative and other measures that they have undertaken to achieve the full realisation of the rights recognised in the Charter. Government reports are generally complemented by NGO (or “shadow”) reports. The work of civil society organisations remains important in the development of an effective scheme of human rights enforcement in Africa,<sup>28</sup> and the Commission has often used the information contained in NGO reports to effect a thorough examination of the reports submitted by governments. This collaboration needs to be strengthened with women’s organisations to ensure that women’s rights and concerns remain a priority on the agenda of the Commission.

To reinforce its promotional activities, the African Commission has formalised the position of Special Rapporteurs and Working Groups. The mandate of Special Rapporteurs and Working Groups is to conduct in-depth studies on cases and thematic issues, and to submit a report accompanied by their findings and recommendations to the Commission in accordance with the provisions of the Charter.<sup>29</sup>

To date, the Commission has appointed six Special Rapporteurs:

- The Special Rapporteur on the Rights of Women in Africa (Commissioner Angela Melo);
- The Special Rapporteur on Prisons and Conditions of Detention (Commissioner Mumba Malila);
- The Special Rapporteur on Refugees, Asylum-seekers and Internally Displaced Persons in Africa (Commissioner Bahame Tom Nyanduga);
- The Special Rapporteur on Freedom of Expression (Commissioner Pansy Tlakula);
- The Special Rapporteur on Human Rights Defenders in Africa (Commissioner Reine Alapini-Gansou); and
- The Special Rapporteur on Summary, Extrajudicial and Arbitrary Executions (the first Special Rapporteur ever appointed by the African Commission was Commissioner Hatem Ben Salem, until he resigned in 2001).

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25 U. Oji Umzurike, *The African Charter on Human and Peoples’ Rights* (The Hague: Martinus Nijhoff Publishers, 1997), p.71.

26 Evelyn A. Ankumah, ‘The African Commission on Human and Peoples’ Rights’ (The Hague: Martinus Nijhoff Publishers, 1996), p.21.

27 Article 45(1)(a) of the African Charter.

28 Centre for Human Rights, University of Pretoria, ‘African Human Rights System’ (available at [http://www.chr.up.ac.za/centre\\_publications/ahrs/afr\\_comm.html#ngo](http://www.chr.up.ac.za/centre_publications/ahrs/afr_comm.html#ngo); accessed 22 January 2007).

29 Rule 120(3) of the Rules of Procedure of the African Commission, relating to communications examined by the Commission.

Issues of women in post-conflict societies and peacebuilding are part of the portfolio of the Special Rapporteur on the Rights of Women in Africa. Major shortcomings of the Special Rapporteur mechanism were identified to be: a lack of resources; limited skill or expertise; and a lack of initiative on the part of some Special Rapporteurs in implementing their mandate. Adequate support is therefore essential to the effective functioning of the Special Rapporteur mechanism. It was recommended that the agenda of the African Commission sessions includes a permanent item on the protection of women's rights, and that the Commission should unequivocally denounce all violations of women's rights.

In keeping with the protective mandate of the African Commission, Articles 55 to 59 of the African Charter authorise the African Commission to consider communications or complaints brought against state parties by individuals, NGOs, or other governments alleging violations of human rights. Although the Commission has decided cases involving women as family or community members<sup>30</sup>, few cases have dealt with specific gender issues. These include a complaint brought by the London-based International Centre for the Legal Protection of Human Rights (Interights), together with the Egyptian Initiative for Personal Rights, which deals with assault and sexual harassment of female demonstrators in Egypt and declared to be admissible in 2006.<sup>31</sup>

Another case, submitted by the DRC against Burundi, Rwanda and Uganda, and decided in 2003 dealt with the protection to be provided to women in situations of armed conflict.<sup>32</sup> The entry into force of the Women's Protocol provides a new opportunity to develop the protection of women's rights under the quasi-jurisdictional power of the Commission. With most of the communications decided on by the Commission being introduced by NGOs, civil society has a critical responsibility in ensuring women's rights by bringing complaints to the Commission.

While examining these communications, the African Commission generally seeks an amicable resolution and, should that fail, makes non-binding recommendations that have to be adopted by the Assembly of Heads of State and Government.<sup>33</sup> Concerns were raised about the disconnect that occurs due to inadequate knowledge of the existence and functioning of the African Commission. Key role-players who are mandated to inform the public of the work of the African Commission, such as National Human Rights Institutions (NHRIs),<sup>34</sup> are not even aware of the structure and mandate of the African Commission and thus miss the opportunity to interact effectively with the African Commission.

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30 See, for example, *Malawi African Association and Others v Mauritania* (2000), *African Human Rights Law Report*, p.149.

31 Case introduced before the Commission by Interights and considered admissible by the Commission at its 40th Ordinary Session held in November 2006 in Banjul, Gambia (available at <http://www.interights.org/page.php?dir=News#alkheir> ; accessed 16 January 2007).

32 Communication 227/99, *DR Congo v Burundi, Rwanda and Uganda*, paragraph 86, decided at the 33rd ordinary session, May 2003, 20th Activity Report, in *African Human Rights Law Reports* (2003), p.19.

33 The African Commission's findings are merely "recommendations" to the political body that had given rise to the African Commission: the OAU/AU Assembly. These findings become "final" only when they are contained in the African Commission's Annual Activity Report and approved by the Assembly. See Frans Viljoen and Lirette Louw, 'The Status of the Findings of the African Commission: From Moral Persuasion to Legal Obligation', *Journal of African Law* Vol.48, No.1 (2004), pp.1-22.

34 See 'National Human Rights Institutions, Conflict Management and Peacebuilding in Africa', CCR Seminar Report, 29 November to 3 December 2004, Cape Town, South Africa. Also read Michelle Parlevliet, Guy Lamb and Victoria Maloka (eds.), *National Human Rights Institutions in Africa: Defenders of Human Rights, Managers of Conflict, Builders of Peace?* (Cape Town: Centre for Conflict Resolution, University of Cape Town, 2005), (available at <http://ccrweb.ccr.uct.ac.za/?id=400> ; accessed 17 August 2007).

## The African Court on Human and Peoples' Rights

The viability of the African Charter (and by inference, the African regional human rights system) was seen to be severely impaired as a result of the absence of a continental court on human rights.<sup>35</sup> This gap was discussed and a decision was made during the summit of OAU Heads of State and Government held in Tunis, Tunisia, in June 1994,<sup>36</sup> to give more "teeth" to the African human rights system in the form of a court. The Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights was finally adopted in June 1998 at the OAU summit in Ouagadougou, Burkina Faso.<sup>37</sup> The requisite 15 instruments of ratification or accession were deposited and the Protocol on the African Court on Human and Peoples' Rights entered into force in January 2004.

The African Court complements the protective mandate of the Commission, although the relationship between the Commission and the Court is not clearly defined. This raises several unanswered questions: Will the Commission operate as a clearing ground to the Court, so that it will preside only over cases that are admissible or significant for human rights jurisprudence? Will the Court be an appeal body for the African Commission? And will the Commission forward to the Court cases in which states have failed to respect its recommendations? The expectation is that some of these questions will be addressed by the Court's Rules of Procedure.

The Court will act in an adjudicatory and advisory capacity. Both the Court's substantive jurisdiction and its advisory capacity cover the African Charter on Human and Peoples' Rights as well as any other relevant human rights instrument ratified by the states concerned, including the Women's Protocol. Parties that are in a position to submit cases before the court (*locus standi*) include signatory governments, African inter-governmental organisations, individuals and NGOs with observer status at the African Commission. However, for the Court to receive individual petitions, the state against which the complaint has been lodged must previously have recognised the competence of the Court to receive such communications. The right of individuals to seek redress is gravely affected by this provision, and so far, only Burkina Faso and Mali have recognised such competence.

The African Court has a definitive role to play in the protection of human and women's rights on the continent, since it has the capacity to pass final and binding Court judgments against states found guilty of human rights violations.<sup>38</sup> In this regard, governments will be required not only "to comply with the judgment in any case to which they are parties", but also to "guarantee its execution".<sup>39</sup> The African Court is also able to make awards for compensation.

As earlier noted, the Court comprises 11 judges who are elected in their individual capacities from among jurists of high moral character and of recognised practical, judicial and academic experience in the field of human rights. The nomination of judges is supposed to take into account gender and geographical balance. However, only two of the 11 judges are women – nominated from Ghana and Lesotho – who were elected by member states of the AU in January 2006 for a six-year term of office. The weak representation of women judges in the

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35 F. N. Adjetey, 'Religious and Cultural Rights: Reclaiming the African Woman's Individuality; The Struggle between Women's Reproductive Autonomy and African Society and Culture', *American University Law Review* 44 (1995), pp.1375-76.

36 Ben Kioko, 'The Road to the African Court on Human and Peoples' Rights', *African Society of International and Comparative Law, Tenth Annual Conference* 70 (1998). During the summit, the Assembly adopted a resolution in which the OAU Secretary-General was called upon to summon experts to meet in order to deliberate on the establishment of an African Court on Human Rights.

37 OAU/LEG/MIN/AFCHRP/PROT (III).

38 Article 28(2) of the Protocol to the African Charter on the Establishment of an African Court.

39 Article 30 of the Protocol.



**ABOVE:** Ms Florence Mularika Boloko, Synergie 1325, Democratic Republic of the Congo.

**RIGHT:** Dr Mireille Affa'a Mindzie, Centre for Conflict Resolution, South Africa, *left*; Ms Lee Stone, Legal Resources Centre, South Africa.

Court is likely to result in women's issues being neglected in its work. It is therefore imperative that the Court has women's rights activists as judges and lawyers of its registry. The seats of four of the judges come to an end in January 2008, and the seminar recommended that these four seats should be filled by women.

During the Third Ordinary Session of the Assembly of Heads of State and Government of the AU, held in July 2004, a resolution was adopted that the African Court on Human and Peoples' Rights and the Court of Justice be integrated into one Court.<sup>40</sup> One argument advanced for the merged Court was the concern over the inadequate financial and personnel resources for two courts. In addition, the merger would have the advantage of preventing the two courts from working at cross-purposes or of inadvertently encroaching on each other's jurisdiction.

The decision taken by the Assembly of Heads of State and Government raised important legal and practical issues that could have significantly affected the establishment of the African Court on Human and Peoples' Rights, since the Protocol had already entered into force. Strong lobbying was therefore conducted and as a result, the decision of the Assembly of Heads of State and Government did not suspend the obligations of states already party to the Protocol establishing the Human and Peoples' Rights Court. A draft Protocol on the African Court of Justice and Human Rights was prepared,<sup>41</sup> while the necessary measures for the functioning of the Human Rights Court were taken.

Subsequently, the judges for the Court were sworn in at the Seventh AU Summit in Banjul, Gambia, in July 2006. During the summit, it was also resolved that the Court would be based in Arusha, Tanzania, using the facilities developed for the International Criminal Tribunal for Rwanda.<sup>42</sup> One of the poignant features of the Protocol on the merged Court is that the requirement of a state having agreed to provide for access to the Court is no longer a necessity. Furthermore, there is support for the proposition that there should be an increase in the number of judges from 11 to 15. The merger Protocol is yet to be adopted by the AU Assembly of Heads of State and Government.

<sup>40</sup> Assembly of the African Union, Third Ordinary Session, 6-8 July 2004, Addis Ababa, Ethiopia, Decision on the seats of the organs of the AU, Assembly/AU/Dec. 45(III), (available at <http://www.africa-union.org/AU%20summit%202004/Assm/Assembly%20Decisions%20-Final.pdf>; accessed 17 August 2007).

<sup>41</sup> See Assembly/AU/Dec.83 (V), Decision on the Merger of the African Court on Human and Peoples' Rights and the Court of Justice of the AU (Assembly/AU/6 [V]).

<sup>42</sup> Coalition for an Effective African Court on Human and Peoples Rights, 'The 11 Judges of the African Court of Justice finally took oath of office', 30 July 2006 (available at [http://www.africancourtcoalition.org/editorial.asp?page\\_id=46](http://www.africancourtcoalition.org/editorial.asp?page_id=46); accessed 25 January 2007).



Despite these obstacles, many opportunities exist for the sustenance of a culture of promotion and protection of women's rights. However, for the Court of Human and Peoples' Rights actively to address women's concerns and to guarantee the rights enshrined in the Women's Protocol, AU member states should ratify the Court Protocol as soon as possible and commit to the provisions of Article 34 (6) of the Protocol. This will subsequently allow NGOs to bring issues affecting women, including women in post-conflict settings, before the Court.

## 2.3 Civil Society Perspectives on Implementing the AU Protocol on the Rights of Women in Africa

Civil society has played, and continues to play, a very significant role with respect to lobbying states to ratify international instruments. Despite these pressures, African governments remain reluctant to ratify the Women's Protocol. This slow ratification has been attributed to a lack of political will, which is also one of the main obstacles to the implementation of the Protocol. A further impediment to effective implementation of the Women's Protocol is the doctrine of "state sovereignty". Even in cases where states agree to ratify instruments, they retain the right to make reservations on certain provisions. This freedom often seriously undermines the commitment made in the first place.

Nevertheless, the role of African civil society in the ratification and implementation of the Protocol is four-fold: Lobbying states to ratify the Protocol;

- Lobbying states to ratify the Protocol;
- Assisting states in their domestication of the Protocol (by, for example, revising domestic legislation and national constitutions and sensitising civil society for the effective implementation of the Protocol);
- Monitoring the implementation of the Protocol by governments and reporting to the African Commission through shadow reports on progress; and
- Making women aware of the protection afforded to them by the Protocol and the recourse available for violations of the Protocol, as well as assisting women in their choice of action.

An innovative tactic of "naming and shaming", which was developed by civil society to monitor the ratification of the Protocol through a colour-coded card system, has proved to be highly effective. Under the banner of "Solidarity for African Women's Rights" (SOAWR), a coalition of 19 women's rights groups from across Africa joined forces in order to campaign for the speedy ratification of the Protocol.<sup>43</sup> Green, orange, and red cards are attributed to states and honour countries that have ratified the Protocol, or fingered governments that have signed without ratifying, as well as those that have neither signed nor ratified the Protocol. It is encouraging to note that, as a direct result of the card system, the Protocol is one of the instruments that have come into force in the shortest time.

African civil society also occupies a critically important space within countries to facilitate the implementation of the Protocol. Civil society operates at all levels of society, including at the grassroots level, providing states with an established link with the large majority of the population who have no alternative means of obtaining information concerning the content and effect of the Protocol. In that regard, collaboration between

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<sup>43</sup> Rochelle Jones. "The Protracted Campaign for Women's Human Rights in Africa: An interview with Faiza Jama Mohamed. Africa Regional Director. Equality Now. about the ongoing campaign for full ratification of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (ACHPR)". AWID. 27 October 2006 (available at [http://www.peacewomen.org/resources/Human\\_Rights/AWIDinterview\\_WomensHR.html](http://www.peacewomen.org/resources/Human_Rights/AWIDinterview_WomensHR.html) : accessed 26 January 2007).

government and civil society organisations was identified as an effective strategy in the implementation of women's rights. In Kenya, where the Protocol is yet to be ratified, the government recently started to involve the Federation of Women Lawyers (FIDA) in the preparation of reports to be submitted to regional or international human rights bodies. The significance of the partnership between government and civil society is the opportunity for the sensitisation of governments of the obligations they have undertaken by ratifying international instruments. Alarming, many government representatives are unaware of the existence of the African Charter on Human and Peoples' Rights and of the Protocol on the Rights of Women.

Another way of collaborating with governments to achieve the enforcement of women's rights is by actively participating in government training initiatives. This has proved to be exceptionally useful in Kenya, where civil society assists by training law enforcement officers, especially the police, in recognition of the fact that victims of gender-based violence report their cases to the police and the police thus needs to be sensitised on how to handle such cases.<sup>44</sup> A Police Training Manual on Gender and Human Rights was incorporated into the police curriculum, while gender desks were established in most police stations, which should ultimately reflect the principles enshrined in the Protocol. A process of judicial sensitisation is continuing, and some judges are beginning to deliver judgments demonstrating judicial activism in favour of women.<sup>45</sup>

Political participation of women and their lobbying for mainstreaming gender permits the adoption of gender-aware laws that can increase new gains for women, especially in post-conflict settings. In Rwanda, where there was a pressing need to rebuild human capital after the 1994 genocide, the country's post-conflict legal framework provided women with considerable opportunities. The Rwandan government has made women more visible and has the largest female parliamentary representation worldwide.<sup>46</sup> Rwanda's Ministry of Gender and Women in Development is the institution charged with the responsibility for co-ordinating the government's efforts on gender and women issues. Mechanisms such as the Gender Desk in the Law Ministry have also been instituted to address women's rights and gender concerns. This has resulted in various legislative reforms such as new inheritance and marriage laws.<sup>47</sup>

A connection exists between women in government and broader society, as most women occupying ministerial positions are drawn from civil society and often retain their activist ideals. Rwanda has a Minister of Gender and Women Promotion, Ms Valérie Nyirahabineza, who has acted as a liaison officer with the country's development partners. This was illustrated with the creation of the National Women's Council in 2003, a platform to air the views of rural women and to empower them to undertake their own advocacy and mobilise their fellow women to contribute to the country's national development process. In addition, a law concerning gender-based violence was introduced by the Forum for Women Parliamentarians, the first cross-party caucus in the Rwandan Parliament.

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44 Federation of Women Lawyers (FIDA), "Fida Kenya's Achievements Since the 1985 UN Nairobi Conference" (available at [http://www.nairobi21.org/index.php?option=com\\_content&task=view&id=66&Itemid=65](http://www.nairobi21.org/index.php?option=com_content&task=view&id=66&Itemid=65); accessed 22 January 2007).

45 In a remarkable judgment, it was held that a man explicitly requires the permission of his spouse in order to dispose of her property. See Anne Atieno Amadi, "Strategies for an integrated approach by civil society for advocating and monitoring women's rights in post-conflict situations in Africa", seminar on Implementing the AU Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa in Emerging Post-conflict Situations, Johannesburg, South Africa, 6 and 7 November 2006.

46 John Mutamba Mba, "Strategies for increasing women's participation in government: Case study of Rwanda", Expert Group Meeting on Democratic Governance in Africa, 6 - 8 December 2005, Nairobi, Kenya (available at <http://www.un.org/africa/osaa/reports/Democratic%20Governance%20Case%20study%20RWANDA.pdf>; accessed 22 January 2007).

47 US Council on Foreign Relations, "The Role of Women in Peacebuilding and Reconstruction: Lessons from Rwanda, East Timor, and Afghanistan", 6 March 2003 (available at [http://www.cfr.org/publication/5729/role\\_of\\_women\\_in\\_peacebuilding\\_and\\_reconstruction.html](http://www.cfr.org/publication/5729/role_of_women_in_peacebuilding_and_reconstruction.html); accessed 22 January 2007).



**ABOVE:** Ms Ini Onuk, Gender Consultant, Ethiopia.  
**RIGHT:** Dr Nana Pratt, Mano River Women's Peace Network, Sierra Leone.  
**FAR RIGHT:** Ms Rachel Annie-Laure Bilo, Economic Community of Central African States, Gabon.



The Johannesburg seminar reached consensus that, in order for states parties effectively to implement the Protocol, indicators are required to monitor the implementation process. In Kenya, where the Protocol is yet to be ratified, the Federation of Women Lawyers (FIDA) has developed a number of strategies to monitor the government's compliance with international instruments. One of the strategies found to be useful is through community leaders, who are trained on human rights instruments with the aim of identifying human rights violations in their different areas. Noting the types of violations that are prevalent, community leaders are able to prepare fact-sheets with useful statistics on a quarterly basis. The statistical and empirical information obtained from the monitoring process, which includes conducting surveys, are used to gain a deeper understanding of the extent of government's compliance with CEDAW and the Women's Protocol.

Another monitoring strategy to implement the Protocol has been public interest litigation. In Kenya, public interest litigation has been conducted in cases such as family law cases, succession and inheritance, or sex discrimination and gender-based violence. Often highlighting the inadequacy of the law, public interest litigation has resulted in precedent-setting judgements, or in calling attention to the concerns of women in the protection of their rights. Public interest litigation was successfully invoked in the case of the recent Sexual

Offences Bill,<sup>48</sup> which contains a controversial provision setting the liability for prosecution with any complainant whose charges are not successful, and in the event that the accused is not convicted.

Besides public interest litigation, civil society can play an instrumental role in access to justice by assisting women who are unable to access the courts to claim their rights due to poverty and illiteracy. Organisations such as FIDA Kenya therefore provide legal services to poor women to enable them to access justice. FIDA has further developed a self-representation system whereby literate women are taught how to represent themselves in court, which has both an empowering and a multiplier effect.<sup>49</sup>

The development of a political accountability manifesto was presented as another civil society monitoring strategy for enforcing women's rights. This initiative was spearheaded by FIDA Kenya in response to the unfulfilled promises made by political leaders during electoral campaigns. The manifesto is essentially a contract between leaders and citizens on the enforcement of their political programme. In that regard, a potentially good strategy for implementing women's rights and the Protocol is to ensure that its provisions are included within the national budget in terms of sectoral mandates, and that this budget is implemented according to clear guidelines.

Lack of awareness was identified as another obstacle to effective implementation of the Protocol. Therefore, a strategy of disseminating and raising awareness on women's rights and processes of enforcement will facilitate implementation. As a result of the 1994 genocide, Rwanda had already domesticated and implemented parts of the Protocol before the government had even ratified it.<sup>50</sup> Nevertheless, few Rwandan citizens are aware of the Protocol. Civil society organisations therefore play a strategic role in disseminating and raising awareness on women's rights. Rwandan organisations such as Pro-Femme and Haguruka (the Association for the Defence of Woman and Child Rights) advocate women's rights and seek to ensure that all domestic laws conform to international and regional instruments. In terms of popularising and advocating of the Protocol, Haguruka presented a plan of action to translate the Protocol from English into Kinyarwanda, the main local language.

On a continental level, inadequate human and financial resources have hindered civil society engagement with governments. Liberia was cited as a good example of a country enjoying an influx of funding for civil society, but civil society organisations are plagued by lack of capacity and co-ordination in seeming to have an impact in this area. A further impediment to any effective role that African civil society can play in implementing the Protocol is the reality of widespread non-ratification. Non-ratification of the Protocol by governments stalls any action from civil society, which cannot then proceed with its own implementation plans and programmes. Civil society organisations have consequently developed alternative ways of advocating the implementation of the rights contained in the instruments while working within the parameters of existing national laws. The potential of advocating ratification and implementation does not, however, negate the responsibilities of governments to abide by legal commitments that they have willingly undertaken.

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48 The Sexual Offences Bill was passed in July 2006 (available at <http://www.sexualoffencesbill.co.ke/>; accessed 22 January 2007).

49 FIDA, Report on Public Interest Cases: FIDA Kenya's Experience (available at [www.fidakenya.org/reports/r\\_public\\_int\\_cases.pdf](http://www.fidakenya.org/reports/r_public_int_cases.pdf); accessed 22 January 2007).

50 For example, the rights to inheritance both from biological family and marital family had been concretised in the domestic legislation to counteract the negative and prejudicial effects on the numerous widowed Rwandan women. Additionally, Rwanda had legislated on children's rights and protection from violence against women long before the Protocol had been ratified in Rwanda.

## 2.4 The Protocol on the Rights of Women and Peacebuilding in Africa

Human rights violations constitute both a significant cause and a consequence of conflicts. At the end of conflicts, reconstruction processes present an opportunity and space for society to re-examine itself, institute a new way of life, and redefine societal values, norms, and practices. For that purpose, the Women's Protocol may appropriately be described as having as one of its major objectives the consolidation of peace through the participation of women in peacebuilding and conflict prevention efforts. Peacebuilding is a long-term process that commences once conflict has ended and involves the identification and support of structures, which tend to strengthen and solidify peace in order to avoid a relapse into conflict.<sup>51</sup> Because equality constitutes a central element of peace and development, the participation of women in peacebuilding processes, as well as in conflict prevention mechanisms, is essential to ensuring sustainable peace and development.

Experiences from Somalia, Sudan, and Sierra Leone have revealed women as victims, actors, and perpetrators in conflict. Women have also been actively involved in informal and community-based peace efforts. Moreover, women's participation in, and their support to, inclusive peace initiatives cutting across communitarian, national, religious and/or social barriers, have sometimes led to the adoption of sustainable peace agreements.<sup>52</sup> However, formal peace processes taking place at the international level often ignore and sometimes discourage the contributions and expressions of women.<sup>53</sup> For example, during the Arusha negotiations for a peace settlement in Burundi in 2000, only two of the 126 delegates were women.<sup>54</sup>

Building on regional efforts to promote the participation of women in decision-making and gender equity such as the 2004 AU Solemn Declaration on Gender Equality in Africa,<sup>55</sup> the Women's Protocol recognises the right of women to a peaceful existence and commits governments to ensuring the increased participation of women in all aspects of planning, formulation, and implementation of post-conflict reconstruction and rehabilitation programmes.

To ensure women's participation in peacemaking and peacebuilding processes, emphasis should be placed not only on the participation of a significant number of women in peace processes and reconstruction, but also on the quality of their participation. However, poverty, lack of confidence, practical peacebuilding skills, and illiteracy, exacerbated by patriarchal cultural practices, have often hindered women's participation in these initiatives. By committing African governments to the elimination all forms of discrimination against women and by guaranteeing them equal opportunity and access in the sphere of education and training,<sup>56</sup> the Protocol takes

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51 Boutros Boutros-Ghali, *An Agenda for Peace: Preventive Diplomacy, Peacemaking and Peacekeeping*, New York, United Nations, 1992 (available at <http://www.un.org/Docs/SG/agpeace.html> ; accessed 26 January 2007). Also see "African Perspectives on the UN Peacebuilding Commission", CCR Seminar Report, 3 and 4 August 2006, Maputo, Mozambique (available at <http://ccrweb.ccr.uct.ac.za/index.php?id=9> ; accessed 17 August 2007).

52 "Beyond Victimhood: Women's Peacebuilding in Sudan, Congo and Uganda", International Crisis Group, Africa Report No.112, 28 June 2006 (available at [http://www.crisisgroup.org/library/documents/africa/112\\_beyond\\_victimhood\\_women\\_peacebuilding\\_in\\_sudan\\_drc\\_and\\_uganda.pdf](http://www.crisisgroup.org/library/documents/africa/112_beyond_victimhood_women_peacebuilding_in_sudan_drc_and_uganda.pdf) ; accessed 22 January 2007).

53 See "United Nations Mediation Experience in Africa", CCR Seminar Report, 16 and 17 October 2006, Cape Town, South Africa (available at <http://ccrweb.ccr.uct.ac.za/index.php?id=9> ; accessed 17 August 2007).

54 Lisa Schirch and Manjrika Sewak, "The Role of Women in Peacebuilding" (available at [www.gppac.net/./Research/Role\\_of\\_CS\\_in\\_CP/Issue\\_paper\\_on\\_the\\_Role\\_of\\_Women\\_in\\_Peacebuilding\\_Jan2005.doc](http://www.gppac.net/./Research/Role_of_CS_in_CP/Issue_paper_on_the_Role_of_Women_in_Peacebuilding_Jan2005.doc) ; accessed 26 January 2007).

55 See Centre for Conflict Resolution, Women and Peacebuilding in Africa.

56 Article 12 of the Women's Protocol.

up the challenge of illiteracy in Africa. It is estimated that only 37 per cent of African women are literate and only 41 per cent of girls between the ages of 15 and 19 are in primary and secondary schools.<sup>57</sup> For the promotion of the social development of women and the full implementation of the rights and objectives enumerated in the Protocol, it is essential that women take their rightful place in decision-making functions and in peace processes.

In order to ensure gender equality and gender mainstreaming in post-conflict settings, the root causes, and not merely the symptoms, of the lack of implementation of the Protocol must be addressed. Specifically, these include cultural practices which often result in gender discrimination and contribute to fuelling violations of women's rights during armed conflict and post-conflict reconstruction programmes.

To fulfil the peacebuilding potential of the Protocol, its accessibility must be improved. This could be achieved through mass media instruments such as radio, newspapers, and community-based information channels. The Johannesburg seminar further called for national sectoral plans to develop an integrated approach to implementing the Protocol. With the technical and financial support of the United Nations Development Programme (UNDP), Côte d'Ivoire has recently prepared a policy document on national equity and equality. The document has as its aim, the integration of the Protocol with other regional and international instruments. The plan involves the participation of 15 national ministries to table various documents so that each ministry can take a share in its responsibility. Each ministerial department is mandated to implement the specific aspect of the Protocol concerning the ministry.



**ABOVE:** Ms Anne Atieno Amadi, Federation of Women Lawyers, Kenya.  
**TOP RIGHT:** Ms Nomcebo Manzini, United Nations Development Fund for Women, South Africa.  
**BOTTOM RIGHT:** Mr Alfred Carew, National Forum for Human Rights, Sierra Leone.

57 Janet M. Sawaya, "Rights Education as a Means of Economic Empowerment for Women in Sub-Saharan Africa", in Adrien Katherine Wing and Tyler Murray Smith, "The New African Union and Women's Rights", *Transnational Law and Contemporary Problems*, Vol.13 (2003), pp.33-81.

## 2.5 Opportunities and Challenges for Implementing the AU Protocol on the Rights of Women in Post-Conflict Situations

Women's experiences of conflict and of peacemaking in Côte d'Ivoire, the DRC, Sudan and Sierra Leone have provided concrete illustrations of the opportunities and challenges of the AU Protocol to ensure gender equality and the participation of women in conflict prevention and post-conflict reconstruction processes in Africa.

Among the primary elements that are susceptible to impeding the implementation of the Women's Protocol in African post-conflict settings, the non-ratification of the Protocol is crucial. Seven countries, namely Botswana, the Central Africa Republic, Egypt, Eritrea, São Tomé and Príncipe, Sudan and Tunisia, have neither signed nor ratified the Protocol.<sup>58</sup> Sierra Leone, like Côte d'Ivoire and the DRC, signed but did not ratify the Protocol. Lack of awareness has been the main reason for non-ratification of the Protocol. Furthermore, resistance to the document has also been attributed to religious and cultural beliefs and practices such as the acceptance of polygamy by many women, or religious practices that are prevalent in some countries and result in perpetuating gender insensitivity. For example, in post-conflict Sierra Leone, men are reluctant to hand over power to women and it appears imperative that women demand the right to participate as full members in society. In addition, old attitudes of violence against women have resurfaced. As a direct result of the conflict, many women have become heads of households, and this regular pattern of armed conflicts has particularly disturbed men who have sometimes resorted to manifesting their frustration through violence.

Sierra Leone is attempting to consolidate peace. Nevertheless, this peace remains fragile due to the fact that many of the causes of the armed conflict, such as gender imbalance, still exist. The lack of a culture of respect for the right of women to have a voice in political leadership is evident. There has been little change in negative power relations, despite the pivotal role that women have played in peace processes in Sierra Leone.<sup>59</sup> International and regional instruments were used to justify the position taken by women during the conflict and have therefore opened the channels of power at the international level. For example, Sierra Leonean women were able to strategise across political and ideological spheres and, ultimately, ensured that the Lomé Peace Accord entered into force. International instruments have also been effectively used by civil society groups, for example, the Mano River Women's Peace Network (MARWOPNET) working across Guinea, Liberia, and Sierra Leone, to remind local communities to uphold the commitments they had made during the peace negotiations, as well as to support and assist women to make a difference.

In Côte d'Ivoire, about 50 per cent of the country's estimated 15 million inhabitants are female. Although socio-cultural attitudes of both women and men tend to limit the participation of women in political and social life, Ivorian women are often used as political instruments to destabilise the peace process. For example, they have been fragmented into groups which either support constitutional legality, or are members of opposition political parties. In addition, civil society is often polarised in favour of some political parties, thereby negating any credibility that civil society organisations may have had. The greatest challenge for women in this context is

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58 State of ratification as of August 2007 (available at <http://www.africaunion.org/root/au/Documents/Treaties/List/Protocol%20on%20the%20Rights%20of%20Women.pdf>; accessed 17 August 2007).

59 See Nana Pratt, 'Reflecting on implementing the Protocol in emerging post-conflict countries: The case of Sierra Leone', *Implementing the AU Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa in Emerging Post-conflict Situations*, Johannesburg, South Africa, 6 and 7 November 2006. Also see Yasmin Jusu-Sheriff, 'Civil Society', in Adekeye Adebajo and Ismail Rashid (eds.), *West Africa's Security Challenges: Building Peace In A Troubled Region* (London: Boulder and Lynne Rienner Publishers, 2004), pp.265-290.

their ability to remain neutral.<sup>60</sup> Women in Côte d'Ivoire have also paid a high price during the country's civil war that started in 2002. Women have been subjected to psychological, economic, and sexual abuse. With an illiteracy rate as high as 71 per cent, Ivorian women have been adversely affected by the lack of a democratic culture and of adequate legal knowledge.

Despite many difficulties, opportunities exist for supporting women in post-conflict countries through an effective use of the Protocol. In Côte d'Ivoire, the representation of women at decision-making level has marginally improved, although much work still remains to be done to attain the 30 per cent rate of the government's strategic plan. Women in Côte d'Ivoire have played a significant role with regard to their participation in decision-making and peace processes. Women took the lead in ensuring the implementation of local and international instruments and created numerous organisations dealing specifically with issues relating to women's rights. These organisations function closely with citizens at community level. They do, however, need to consolidate and campaign for the ratification and implementation of the Protocol.

A similar situation exists in the DRC, where women have borne the brunt of a decade-long conflict in which an estimated three million people have perished.<sup>61</sup> They have suffered major violations of their rights such as torture, rape, and gender-based crimes. They have been used as weapons of war and ended up being the main targets in a war that was caused by power struggles and dictatorship involving the predominant male elite. Despite all that women have suffered during the Congo's civil war, impunity persists. While the burden on women is increased with HIV/AIDS and stigmatisation resulting from rape and other sexual violence,<sup>62</sup> the perpetrators of the war seem to have been rewarded rather than punished.

The DRC is eight times bigger than Belgium (its former colonial power), covering a land mass of 2 million square meters, with a total population of 60 million inhabitants. Though 46 per cent of Congolese women are illiterate, they have utilised means such as negotiations to end the country's decade-long civil war. Women were involved in the inter-Congolese dialogue of 2002 as well as in the International Conference for the Great Lakes region of 2004. Congolese women were also mobilised for the establishment of the rule of law, and this has resulted in their involvement in the 2006 elections as both candidates and voters.

Congolese women have also been associated with armed groups, and were therefore susceptible to manipulation. Marginalised for the past 32 years, women remained under-represented politically until recently, despite their activism which eventually culminated in women achieving 52 per cent representation in government and parity under the new Constitution.

In Sudan, the civil war has a long history dating back to 1955, which has thus far claimed the lives of at least two million people and a further two-and-a-half-million have been forced to flee their homes.<sup>63</sup> The prospect of an

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60 See Suzanne Traoré, "Assessing Women's Needs in Post-conflict Countries: The Case of Côte d'Ivoire", Implementing the AU Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa in Emerging Post-conflict Situations, Johannesburg, South Africa, 6 and 7 November 2006.

61 UNICEF, "The impact of conflict on women and girls in West and Central Africa and the UNICEF response", February 2005 (available at [http://www.unicef.org/publications/files/Impact\\_final.pdf](http://www.unicef.org/publications/files/Impact_final.pdf); accessed 22 January 2007).

62 "HIV/AIDS and Human Security in South Africa", CCR Seminar Report, 26 and 27 June 2006, Cape Town, South Africa (available at <http://ccrweb.ccr.uct.ac.za/index.php?id=9>; accessed 17 August 2007).

63 "South Sudan Within A New Sudan", CCR Seminar Report, 20 and 21 April 2006, Franschoek, South Africa (available at <http://ccrweb.ccr.uct.ac.za/index.php?id=9>; accessed 17 August 2007).



imminent end to the conflict is bleak and the number of internally displaced persons increases daily, along with the constant danger that women and girls face being raped. Although the international community is yet to provide women with an official platform, Sudanese women have made landmark contributions towards the attainment of peace and security in the country. They have been involved in peacebuilding processes through the “*Hakamat*” (meaning “judging”): groups of highly-respected women whose leadership role has traditionally been acknowledged in Sudan for provoking war and encouraging kinsfolk to seek revenge and keep the honour of the ethnic group. Also involved in peacebuilding and forgiveness,<sup>64</sup> the “*Hakamat*” have used their status as a force for peace and encouraged women to speak about their rights through interaction with neighbouring villages.

Lobbying, advocacy, and capacity-building represent additional opportunities for implementing the Protocol in post-conflict settings. This is the case in Sierra Leone, where the women’s movement has been extremely proactive with regard to the popularisation of the Protocol. Advocacy and lobbying have been undertaken in combination with the sharing of best practices with neighbouring countries such as Gambia, where earlier reservations on substantial provisions of the Protocol were successfully withdrawn. Women have also worked extensively with the national Department of Gender Affairs, and this successful collaboration has resulted in the implementation of some aspects of the Protocol concerning – by virtue of a policy of “affirmative action” – the right to education. Article 7 of the Protocol dealing with separation and divorce has also been domesticated into national laws and important advances have been made with regard to Article 8 (access to justice), as well as Article 5, which essentially deals with sexual and reproductive rights.

In Sudan, women’s groups have undertaken capacity-building programmes aimed at raising awareness, among other themes, of conflict resolution mechanisms. Issues affecting the safety and security of women, such as the existence of landmines, have also been highlighted. These training initiatives have been extended to community-based organisations. In addition, Sudanese women have translated UN Security Council Resolution 1325 on Women, Peace and Security in Africa into some indigenous languages, and the Resolution is being used as an advocacy tool to facilitate networking and the incorporation of women in peace processes. Radio programmes have also been used to assist in raising awareness in the context of Sudan’s efforts towards the promotion of women’s rights.



**FAR LEFT:** Ms Donna Kamashazi,  
United Nations Development  
Fund for Women, Rwanda.  
**LEFT:** Ms Jana Ncube, African Centre  
for the Constructive  
Resolution of Disputes, Kenya.

64 Balghis Badri, “Feminist Perspectives in the Sudan: An analytical overview”, A paper presented at the workshop, “Feminist Perspectives”, Free University Berlin, 26 and 27 May 2005 (available at [http://web.fu-berlin.de/gpo/pdf/tagungen/balghis\\_badri.pdf](http://web.fu-berlin.de/gpo/pdf/tagungen/balghis_badri.pdf); accessed 22 January 2007).

## 2.6 Strategies for Strengthening Women's Rights in Emerging Post-Conflict Countries in Africa

Among the reasons why effective strategies are required for strengthening women's rights in emerging post-conflict societies in Africa are the lack of ratification of the Protocol, combined with limited implementation and insufficient accessibility of women to mechanisms that promote justice and due process. Reflecting on their role in strengthening women's rights in post-conflict countries, representatives from civil society, national gender machineries, and Africa's RECs and UN agencies agreed on various strategies for accelerating the ratification process and ensuring the implementation of the Protocol.

Civil society organisations in Africa play an important role in popularising and advocating women's rights, including at grassroots level. Considering that the state remains the primary enforcement body of women's rights – though its means of action can be limited especially in post-conflict settings – it is important to enhance the relationship between states and civil society organisations (CSOs). To develop and strengthen that collaboration, one important strategy lies in identifying allies within national parliaments to lobby for the inclusion of women's rights within national budgets, and to support gender ministries and other national gender machineries actively. Civil society also has an essential role to play in monitoring government's implementation of regional and international instruments. In that sense, an audit of each AU member state to define the status of its ratification of the Protocol, complemented by the identification of national legislations that are already in support of the Protocol and those that need to be modified, will help in defining effective advocacy and lobbying strategies. Furthermore, NGOs are encouraged to set up technical structures that can engage in the development of sectoral plans and policies aimed at monitoring performance in all relevant sectors.

Many organisations are involved in training and awareness-raising. The effective implementation of women's rights and of the AU Protocol can be advocated by, for example, explaining the provisions of the Protocol to identified stakeholders – such as judges and traditional and religious leaders – who can facilitate its enforcement by adapting the document to local contexts.

Networking among civil society organisations remains an effective way of reaching diverse groups such as women in local communities or women's coalitions, to work towards ratification of the Protocol and to raise awareness about their rights. In addition, women's rights movements are encouraged to work closely with the media, which can disseminate their views to a broader public.

At the level of national gender machineries, one key strategy that was identified is to build the capacity of existing institutions to articulate women's rights issues. Training of parliamentarians and of channels for implementation of the AU Protocol such as women's forums, could help to incorporate women's rights in national legislative agendas, as well as to mobilise women and funding, and create awareness for the Protocol's implementation.

In order to reach all levels of society and engage the various stakeholders in fulfilling the state's conventional obligations, the collaboration between gender machineries and local governments must also be developed. The establishment of a multi-disciplinary and multi-sectoral task force could help identify discriminatory laws that work against the Protocol, especially by setting the proposed task force at the level of decision-makers in order to help mobilise funds and identify priorities that should be tackled.

Most of Africa's RECs and the AU have developed gender frameworks. These frameworks must serve as avenues for implementation of the Women's Protocol. In addition, the marginalisation of existing gender desks must be corrected by involving the AU's and RECs' gender units at all levels of decision-making, particularly in meetings involving trade, HIV/AIDS, and issues of human security. The work of the AU and RECs on gender issues should also be integrated into the peace and security agenda of these organisations.

Another strategy to reinforce subregional gender units is to develop linkages with gender machineries at the national level, while strengthening the collaboration between these units and civil society organisations that have contact with community-based organisations. Gender desks set up at the level of the AU and RECs should effectively engage other organs such as the AU Women's Commission and the newly-created AU Network on Peace and Development, as well as the UN's gender-related bodies. These institutions could then serve as a bridge between the regional, international and national levels, for both the implementation and monitoring of women's rights and of the Protocol.

With regard to regional and international institutions, complete ratification and effective implementation of the AU Women's Protocol require strong lobbying, including at the highest levels of the AU, and the establishment of close links between the Protocol and relevant instruments such as the AU Solemn Declaration on Gender Equality of 2004, UN Resolution 1325 of 2000, the Millennium Development Goals of 2000, and the NEPAD Declaration on Democracy, Political, Economic and Corporate Governance of 2002. More generally, strengthened synergy between the AU and UN can contribute to the promotion and advancement of women's rights at the regional level.

Enhancing gender equality within regional monitoring organs such as the newly-established African Court on Human and Peoples' Rights, or strengthening the African Commission Special Rapporteur on the Rights of Women, will also help to keep women's rights high on the agenda of AU member states. With regard to conflict-ridden and post-conflict countries, the collaboration of continental women's rights mechanisms with the AU's Department of Peace and Security and the AU's 15-member Peace and Security Council – as well as other AU departments dealing with peace such as Political Affairs and Economic and Social Affairs – will contribute to gender issues being considered seriously during conflict interventions and peacebuilding processes.



**ABOVE:** Ms Thokozile Ruzvidzo, African Centre for Gender and Development, Ethiopia.  
**RIGHT:** Ms Justine Uvuza, Association for the Defence of Woman and Child Rights, Rwanda.



### 3. Policy Recommendations

The presentations and discussions at the Johannesburg policy seminar on “Implementing the African Union Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Emerging Post-conflict Countries” raised eight key issues that need to be addressed by policymakers at the level of the AU, RECs, and national governments, as well as civil society organisations.

- First, the predominant message from the seminar was the importance of continuous monitoring of the Protocol’s ratification process. Although the Protocol recorded the fastest entry into force of any African human rights treaty, its ratification process has slowed down and political will is waning. Thus, all relevant stakeholders should accelerate the process to achieve its complete ratification. Furthermore, the goal should be “clean ratifications” with states parties committing themselves to implementation without reservations.
- Second, implementing the Protocol and guaranteeing women’s rights in post-conflict societies in Africa call for the document’s harmonisation with, and domestication into, national laws. Specifically, African governments need to integrate the Protocol into national development plans and policies, while African civil society organisations have a role to play in ensuring that the Protocol is prioritised within relevant state programmes.
- Third, an effective realisation of women’s rights also requires the existence of inclusive programmes involving the AU but also the UN, RECs and the African Peer Review Mechanism (APRM) of 2004. The APRM could be used to gauge the ratification and implementation of the Protocol. Implementation within states should serve as one of the APRM’s criteria for assessing and monitoring the progress of African governments in promoting and protecting human rights. Such programmes should furthermore address the implementation of the Protocol in conjunction with UN Resolution 1325 and the AU Solemn Declaration.
- Fourth, the Protocol should be effectively linked to peacebuilding efforts and strategies for reintegration of victims of violence into African societies, while continued sensitisation and awareness-raising efforts should reach down to local communities.
- Fifth, strategic partnerships between government agencies and relevant actors should be broadened to involve parliamentary bodies, judiciary systems, and civil society actors. Moreover, good practices initiated by women’s organisations and networks with regard to dissemination, monitoring and evaluation of the Protocol and of the AU Solemn Declaration should continuously be popularised with a view to their replication across the continent.
- Sixth, regarding the supervision of the Protocol, the African Commission and the African Court on Human and Peoples’ Rights should engage more vigorously in promoting and protecting women’s rights. At the level of the Court, judges should deliver strong and decisive judgments pushing for the respect and enforcement of women’s rights in post-conflict countries in Africa. Mechanisms such as the African Commission Special Rapporteur on the Rights of Women should ensure that gender mainstreaming of post-conflict reconstruction processes is duly monitored by competent bodies.
- Seventh, African civil society organisations should continuously scrutinise national legislation to identify discriminatory laws and advocate for their amendment or abrogation. Civil society should also play a key role in contributing to regional monitoring, for example, by submitting “shadow” reports that deal with human and women’s rights to the African Commission on Human and Peoples’ Rights. NGOs can further advocate for adequate gender representation within regional bodies such as the African Court on Human and Peoples’ Rights.

- Finally, with regard to women and women's groups, emphasis should be placed on quantitative and qualitative participation of women in decision-making processes. Women and men should be properly trained to advance their knowledge and the application of the Protocol. They should contribute to the effective engendering of peace processes. This would also require enhanced dynamism and revitalisation of women's peace activism.



Participants in the seminar, *“Implementing the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa in Emerging Post-Conflict Countries”*, held in Johannesburg, South Africa, on 6 and 7 November 2006.

# Annex I

## Agenda

Sunday 5 November 2006

**19h00: Welcome Cocktail/Dinner**

Day One Monday 6 November 2006

8h30 – 9h00: Registration and Seating of Participants

9h00 – 9h30: Welcome Remarks

**Ms Thelma Ekiyor**, Senior Manager, Conflict Intervention and Peacebuilding Support Project, Centre for Conflict Resolution, Cape Town

**Ms Nomcebo Manzini**, Regional Director, Southern Africa, United Nations Development Fund for Women, Johannesburg

**9h30 – 10h00: Preliminary Session**

Introduction of Participants

Objectives and Expected Outputs of the Seminar

**10h00 – 11h00: Session I: Overview of the African Union Framework for Women's Protection**

**Chair: Ms Thokozile Ruzvidzo**, Acting Director, African Centre for Gender and Development, United Nations Economic Commission for Africa, Addis Ababa

**Ms Rachel Gogoua Kouly**, President, Organisation for the Child, Woman and the Family, Abidjan, "Overview of the AU Women's Protocol: Rights Enshrined in the Protocol, Ratification Process and Prospects for Implementation"

Discussion

11h00 – 11h30 Coffee Break

**11h30 – 12h30: Session II: The AU Conventional Mechanisms for Monitoring Women’s Rights**

Chair: **Ms Donnah Kamashazi**, United Nations Development Fund for Women, Kigali, “Monitoring the Women’s Protocol: Introduction to the African Commission on Human and Peoples’ Rights”

**Mr Ahmed Motala**, Executive Director, Centre for the Study of Violence and Reconciliation, Johannesburg, “The Protocol to the African Charter on Human and Peoples’ Rights on the African Court for Human and Peoples’ Rights: Opportunities and Challenges for Monitoring Women’s Rights on the Continent”

12h30 – 14h00: Lunch

**14h00 – 15h00: Session III: Civil Society’s Perspective on Implementing the AU Women’s Protocol**

Chair: **Mr Alfred Carew**, Executive Secretary, National Forum for Human Rights, Freetown,

**Ms Anne Atieno Amadi**, Deputy Executive Director, Federation of Women Lawyers, Nairobi, “Strategies for an Integrated Approach by Civil Society for Advocating and Monitoring Women’s Rights in Post-Conflict Situations in Africa”

**Ms Justine Uvuza**, Association for the Defence of Woman and Child Rights, Kigali, “Challenges to Implementing the Protocol in Post-Conflict Situations”

**15h00 – 16h00: Session IV: The AU Women’s Protocol and Peacebuilding in Africa**

Chair: **Mr Mohamed Mabassa Fall**, African Centre for Democracy and Human Rights Studies, Dakar

**Dr Mireille Affa’a Mindzie**, Senior Project Officer, Centre for Conflict Resolution, Cape Town, “Possibilities for the AU Women’s Protocol as an Instrument for Peacebuilding”

**Ms Jana Ncube**, Gender Thematic Manager, African Centre for the Constructive Resolution of Disputes, Nairobi, “Linkages between Implementing UN Resolution 1325 and the AU Protocol”

16h00 – 16h30: Coffee Break

16h30 – 17h00: Synthesis of the Day

Ms Ini Onuk, Independent Gender Consultant, Addis Ababa, “Highlights of key points from each session”

Day Two: Tuesday 7 November 2006

**8h30 – 9h30: Session V: Opportunities and Challenges for Implementing the Protocol in Post-conflict Situations**

Chair: Ms Rachel Annie-Laure Bilo, Head of Office of the Gender Unit, Economic Community of Central African States, Libreville

Ms Suzanne Traoré, Communication Officer, West African Civil Society Forum, Abuja, “Assessing Women’s Needs in Post-Conflict Countries: Sharing of Experiences: Côte d’Ivoire”

Ms Florence Mularika Boloko, Synergie 1325, Kinshasa, “Assessing Women’s Needs in Post-Conflict Countries: Sharing of Experiences: Democratic Republic of the Congo”

**9h30 – 10h30: Session VI: Reflecting on Implementing the Protocol in Emerging Post-Conflict Countries: Sharing of Experiences**

Ms Mona Osman Ali, Women Empowerment for Peace and Development, Khartoum, “Reflecting on Implementing the Protocol in Emerging Post-Conflict Countries: Sharing of Experiences: Sudan”

Dr Nana Pratt, Mano River Women’s Peace Network, Freetown, “Reflecting on Implementing the Protocol in Emerging Post-Conflict Countries: Sharing of Experiences: Sierra Leone”

10h30 – 11h00: Tea Break



**11h00 – 12h30: Session VII: Strategies for Strengthening Women’s Rights in Emerging Post-Conflict Countries in Africa: Group Work**

Chair: Ms Esmie Tamanda Kainja, Women Empowerment, Malawi

Group work: “The Role of Civil Society, National Gender Mechanisms, Regional Economic Communities, and the African Union”

12h30 – 14h00: Lunch Break

14h00 – 15h00 **Ms Ini Onuk**, Gender Consultant, Addis Ababa, “Consolidating Key Points and Drafting of Recommendations”

15h00 – 15h30 Tea Break

15h30 – 16h30 Presentation and Adoption of Recommendations

19h00 Closing Cocktail/Dinner

# Annex II

## List of Participants

1. Ms Mona Osman Ali  
Women Empowerment for Peace and Development  
Sudan
2. Ms Anne Atieno Amadi  
Federation of Women Lawyers  
Kenya
3. Ms Rachel Annie-Laure Bilo  
Economic Community of Central African States  
Gabon
4. Ms Florence Mularika Boloko  
Synergie I325  
Democratic Republic of the Congo
5. Mr Alfred Carew  
National Forum for Human Rights  
Sierra Leone
6. Ms Lindora Diawara  
Women in Peace Network  
Liberia
7. Ms Thelma Ekiyor  
Centre for Conflict Resolution  
South Africa
8. Dr Mohamed Mabassa Fall  
African Centre for Democracy and Human Rights Studies  
Senegal
9. Ms Lisa Faye  
Southern African Development Community  
Botswana
10. Ms Esmie Tamanda Kainja  
Women Empowerment  
Malawi
11. Ms Rachel Gogoua Kouly  
Organisation for the Child, Woman and the Family  
Côte d'Ivoire
12. Ms Lysette Banza Hemedi  
Dignity of the Voiceless  
Democratic Republic of the Congo
13. Ms Donnah Kamashazi  
United Nations Development Fund for Women  
Rwanda
14. Ms Nomcebo Manzini  
United Nations Development Fund for Women  
South Africa
15. Ms Noria Mashumba  
Centre for Conflict Resolution  
South Africa
16. Dr Mireille Affa'a Mindzie  
Centre for Conflict Resolution  
South Africa
17. Ms Anna Christina Monteiro  
Women and Law in Southern Africa  
Mozambique
18. Mr Ahmed Motala  
Centre for the Study of Violence and Reconciliation  
South Africa

19. Ms Jana Ncube  
African Centre for the Constructive  
Resolution of Disputes  
Kenya
20. Ms Ini Onuk  
Gender Consultant  
Ethiopia
21. Dr Nana Pratt  
Mano River Women's Peace Network  
Sierra Leone
22. Ms Thokozile Ruzvidzo  
African Centre for Gender and Development  
Ethiopia
23. Ms Susan Sesay  
Ministry of Social Welfare Gender and  
Children's Affairs  
Sierra Leone
24. Ms Lee Stone  
Legal Resources Centre  
South Africa
25. Ms Suzanne Traoré  
West African Civil Society Forum  
Nigeria
26. Ms Justine Uvuza  
Association for the Defence of Woman  
and Child Rights  
Rwanda

#### **Conference Team**

27. Ms Fiona Lunda  
Centre for Conflict Resolution  
South Africa

## Annex III

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

The States Parties to this Protocol.

*Considering* that Article 66 of the African Charter on Human and Peoples' Rights provides for special protocols or agreements, if necessary, to supplement the provisions of the African Charter, and that the Assembly of Heads of State and Government of the Organization of African Unity meeting in its Thirty-first Ordinary Session in Addis Ababa, Ethiopia, in June 1995, endorsed by resolution AHG/Res.240 (XXXI) the recommendation of the African Commission on Human and Peoples' Rights to elaborate a Protocol on the Rights of Women in Africa;

*Considering* that Article 2 of the African Charter on Human and Peoples' Rights enshrines the principle of non-discrimination on the grounds of race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status;

*Further Considering* that Article 18 of the African Charter on Human and Peoples' Rights calls on all States Parties to eliminate every discrimination against women and to ensure the protection of the rights of women as stipulated in international declarations and conventions;

*Noting* that Articles 60 and 61 of the African Charter on Human and Peoples' Rights recognise regional and international human rights instruments and African practices consistent with international norms on human and peoples' rights as being important reference points for the application and interpretation of the African Charter;

*Recalling* that women's rights have been recognised and guaranteed in all international human rights instruments, notably the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination Against Women and its Optional Protocol, the African Charter on the Rights and Welfare of the Child, and all other international and regional conventions and covenants relating to the rights of women as being inalienable, interdependent and indivisible human rights;

*Noting* that women's rights and women's essential role in development have been reaffirmed in the United Nations Plans of Action on the Environment and Development in 1992, on Human Rights in 1993, on Population and Development in 1994 and on Social Development in 1995;

*Recalling Also* United Nations Security Council's Resolution 1325 (2000) on the role of Women in promoting peace and security;

*Reaffirming* the principle of promoting gender equality as enshrined in the Constitutive Act of the African Union as well as the New Partnership for Africa's Development, relevant Declarations, Resolutions and Decisions, which underline the commitment of the African States to ensure the full participation of African women as equal partners in Africa's development;

*Further Noting* that the African Platform for Action and the Dakar Declaration of 1994 and the Beijing Platform for Action of 1995 call on all Member States of the United Nations, which have made a solemn commitment to

implement them, to take concrete steps to give greater attention to the human rights of women in order to eliminate all forms of discrimination and of gender-based violence against women;

*Recognising* the crucial role of women in the preservation of African values based on the principles of equality, peace, freedom, dignity, justice, solidarity and democracy;

*Bearing in Mind* related Resolutions, Declarations, Recommendations, Decisions, Conventions and other Regional and Sub-Regional Instruments aimed at eliminating all forms of discrimination and at promoting equality between women and men;

*Concerned* that despite the ratification of the African Charter on Human and Peoples' Rights and other international human rights instruments by the majority of States Parties, and their solemn commitment to eliminate all forms of discrimination and harmful practices against women, women in Africa still continue to be victims of discrimination and harmful practices;

*Firmly Convinced* that any practice that hinders or endangers the normal growth and affects the physical and psychological development of women and girls should be condemned and eliminated;

*Determined* to ensure that the rights of women are promoted, realised and protected in order to enable them to enjoy fully all their human rights;

Have agreed as follows:

## Article 1: Definitions

For the purpose of the present Protocol:

- a. "African Charter" means the African Charter on Human and Peoples' Rights;
- b. "African Commission" means the African Commission on Human and Peoples' Rights;
- c. "Assembly" means the Assembly of Heads of State and Government of the African Union;
- d. "AU" means the African Union;
- e. "Constitutive Act" means the Constitutive Act of the African Union;
- f. "Discrimination against women" means any distinction, exclusion or restriction or any differential treatment based on sex and whose objectives or effects compromise or destroy the recognition, enjoyment or the exercise by women, regardless of their marital status, of human rights and fundamental freedoms in all spheres of life;
- g. "Harmful Practices" means all behaviour, attitudes and/or practices which negatively affect the fundamental rights of women and girls, such as their right to life, health, dignity, education and physical integrity;
- h. "NEPAD" means the New Partnership for Africa's Development established by the Assembly;
- i. "States Parties" means the States Parties to this Protocol;
- j. "Violence against women" means all acts perpetrated against women which cause or could cause them physical, sexual, psychological, and economic harm, including the threat to take such acts; or to undertake the imposition of arbitrary restrictions on or deprivation of fundamental freedoms in private or public life in peace time and during situations of armed conflicts or of war;
- k. "Women" means persons of female gender, including girls;

## Article 2: Elimination of Discrimination Against Women

1. States Parties shall combat all forms of discrimination against women through appropriate legislative, institutional and other measures. In this regard they shall:
  - a. include in their national constitutions and other legislative instruments, if not already done, the principle of equality between women and men and ensure its effective application;
  - b. enact and effectively implement appropriate legislative or regulatory measures, including those prohibiting and curbing all forms of discrimination particularly those harmful practices which endanger the health and general well-being of women;
  - c. integrate a gender perspective in their policy decisions, legislation, development plans, programmes and activities and in all other spheres of life;
  - d. take corrective and positive action in those areas where discrimination against women in law and in fact continues to exist;
  - e. support the local, national, regional and continental initiatives directed at eradicating all forms of discrimination against women.
2. States Parties shall commit themselves to modify the social and cultural patterns of conduct of women and men through public education, information, education and communication strategies, with a view to achieving the elimination of harmful cultural and traditional practices and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes, or on stereotyped roles for women and men.

## Article 3: Right to Dignity

1. Every woman shall have the right to dignity inherent in a human being and to the recognition and protection of her human and legal rights;
2. Every woman shall have the right to respect as a person and to the free development of her personality;
3. States Parties shall adopt and implement appropriate measures to prohibit any exploitation or degradation of women;
4. States Parties shall adopt and implement appropriate measures to ensure the protection of every woman's right to respect for her dignity and protection of women from all forms of violence, particularly sexual and verbal violence.

## Article 4: The Rights to Life, Integrity and Security of the Person

1. Every woman shall be entitled to respect for her life and the integrity and security of her person. All forms of exploitation, cruel, inhuman or degrading punishment and treatment shall be prohibited.
2. States Parties shall take appropriate and effective measures to:
  - a. enact and enforce laws to prohibit all forms of violence against women including unwanted or forced sex whether the violence takes place in private or public;
  - b. adopt such other legislative, administrative, social and economic measures as may be necessary to ensure the prevention, punishment and eradication of all forms of violence against women;
  - c. identify the causes and consequences of violence against women and take appropriate measures to prevent and eliminate such violence;

- d. actively promote peace education through curricula and social communication in order to eradicate elements in traditional and cultural beliefs, practices and stereotypes which legitimise and exacerbate the persistence and tolerance of violence against women;
- e. punish the perpetrators of violence against women and implement programmes for the rehabilitation of women victims;
- f. establish mechanisms and accessible services for effective information, rehabilitation and reparation for victims of violence against women;
- g. prevent and condemn trafficking in women, prosecute the perpetrators of such trafficking and protect those women most at risk;
- h. prohibit all medical or scientific experiments on women without their informed consent;
- i. provide adequate budgetary and other resources for the implementation and monitoring of actions aimed at preventing and eradicating violence against women;
- j. ensure that, in those countries where the death penalty still exists, not to carry out death sentences on pregnant or nursing women.
- k. ensure that women and men enjoy equal rights in terms of access to refugee status, determination procedures and that women refugees are accorded the full protection and benefits guaranteed under international refugee law, including their own identity and other documents.

## Article 5: Elimination of Harmful Practices

States Parties shall prohibit and condemn all forms of harmful practices which negatively affect the human rights of women and which are contrary to recognised international standards. States Parties shall take all necessary legislative and other measures to eliminate such practices, including:

- a. creation of public awareness in all sectors of society regarding harmful practices through information, formal and informal education and outreach programmes;
- b. prohibition, through legislative measures backed by sanctions, of all forms of female genital mutilation, scarification, medicalisation and para-medicalisation of female genital mutilation and all other practices in order to eradicate them;
- c. provision of necessary support to victims of harmful practices through basic services such as health services, legal and judicial support, emotional and psychological counselling as well as vocational training to make them self-supporting;
- d. protection of women who are at risk of being subjected to harmful practices or all other forms of violence, abuse and intolerance.

## Article 6: Marriage

States Parties shall ensure that women and men enjoy equal rights and are regarded as equal partners in marriage. They shall enact appropriate national legislative measures to guarantee that:

- a. no marriage shall take place without the free and full consent of both parties;
- b. the minimum age of marriage for women shall be 18 years;
- c. monogamy is encouraged as the preferred form of marriage and that the rights of women in marriage and family, including in polygamous marital relationships are promoted and protected;

- d. every marriage shall be recorded in writing and registered in accordance with national laws, in order to be legally recognised;
- e. the husband and wife shall, by mutual agreement, choose their matrimonial regime and place of residence;
- f. a married woman shall have the right to retain her maiden name, to use it as she pleases, jointly or separately with her husband's surname;
- g. a woman shall have the right to retain her nationality or to acquire the nationality of her husband;
- h. a woman and a man shall have equal rights, with respect to the nationality of their children except where this is contrary to a provision in national legislation or is contrary to national security interests;
- i. a woman and a man shall jointly contribute to safeguarding the interests of the family, protecting and educating their children;
- j. during her marriage, a woman shall have the right to acquire her own property and to administer and manage it freely.

### **Article 7: Separation, Divorce and Annulment of Marriage**

States Parties shall enact appropriate legislation to ensure that women and men enjoy the same rights in case of separation, divorce or annulment of marriage. In this regard, they shall ensure that:

- a. separation, divorce or annulment of a marriage shall be effected by judicial order;
- b. women and men shall have the same rights to seek separation, divorce or annulment of a marriage;
- c. in case of separation, divorce or annulment of marriage, women and men shall have reciprocal rights and responsibilities towards their children. In any case, the interests of the children shall be given paramount importance;
- d. in case of separation, divorce or annulment of marriage, women and men shall have the right to an equitable sharing of the joint property deriving from the marriage.

### **Article 8: Access to Justice and Equal Protection before the Law**

Women and men are equal before the law and shall have the right to equal protection and benefit of the law.

States Parties shall take all appropriate measures to ensure:

- a. effective access by women to judicial and legal services, including legal aid;
- b. support to local, national, regional and continental initiatives directed at providing women access to legal services, including legal aid;
- c. the establishment of adequate educational and other appropriate structures with particular attention to women and to sensitise everyone to the rights of women;
- d. that law enforcement organs at all levels are equipped to effectively interpret and enforce gender equality rights;
- e. that women are represented equally in the judiciary and law enforcement organs;
- f. reform of existing discriminatory laws and practices in order to promote and protect the rights of women.

### **Article 9: Right to Participation in the Political and Decision-Making Process**

- 1. States Parties shall take specific positive action to promote participative governance and the equal participation of women in the political life of their countries through affirmative action, enabling national legislation and other measures to ensure that:
  - a. women participate without any discrimination in all elections;



- b. women are represented equally at all levels with men in all electoral processes;
  - c. women are equal partners with men at all levels of development and implementation of State policies and development programmes.
2. States Parties shall ensure increased and effective representation and participation of women at all levels of decision-making.

## Article 10: Right to Peace

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.

## Article 11: Protection of Women in Armed Conflicts

1. States Parties undertake to respect and ensure respect for the rules of international humanitarian law applicable in armed conflict situations which affect the population, particularly women.
2. States Parties shall, in accordance with the obligations incumbent upon them under the international humanitarian law, protect civilians including women, irrespective of the population to which they belong, in the event of armed conflict.
3. States Parties undertake to protect asylum seeking women, refugees, returnees and internally displaced persons, against all forms of violence, rape and other forms of sexual exploitation, and to ensure that such acts are considered war crimes, genocide and/or crimes against humanity and that their perpetrators are brought to justice before a competent criminal jurisdiction.
4. States Parties shall take all necessary measures to ensure that no child, especially girls under 18 years of age, take a direct part in hostilities and that no child is recruited as a soldier.

## Article 12: Right to Education and Training

1. States Parties shall take all appropriate measures to:
  - a. eliminate all forms of discrimination against women and guarantee equal opportunity and access in the sphere of education and training;
  - b. eliminate all stereotypes in textbooks, syllabuses and the media, that perpetuate such discrimination;
  - c. protect women, especially the girl-child from all forms of abuse, including sexual harassment in schools and other educational institutions and provide for sanctions against the perpetrators of such practices;
  - d. provide access to counselling and rehabilitation services to women who suffer abuses and sexual harassment;
  - e. integrate gender sensitisation and human rights education at all levels of education curricula including teacher training.
2. States Parties shall take specific positive action to:
  - a. promote literacy among women;
  - b. promote education and training for women at all levels and in all disciplines, particularly in the fields of science and technology;
  - c. promote the enrolment and retention of girls in schools and other training institutions and the organisation of programmes for women who leave school prematurely.

## Article 13: Economic and Social Welfare Rights

States Parties shall adopt and enforce legislative and other measures to guarantee women equal opportunities in work and career advancement and other economic opportunities. In this respect, they shall:

- a. promote equality of access to employment;
- b. promote the right to equal remuneration for jobs of equal value for women and men;
- c. ensure transparency in recruitment, promotion and dismissal of women and combat and punish sexual harassment in the workplace;
- d. guarantee women the freedom to choose their occupation, and protect them from exploitation by their employers violating and exploiting their fundamental rights as recognised and guaranteed by conventions, laws and regulations in force;
- e. create conditions to promote and support the occupations and economic activities of women, in particular, within the informal sector;
- f. establish a system of protection and social insurance for women working in the informal sector and sensitise them to adhere to it;
- g. introduce a minimum age for work and prohibit the employment of children below that age, and prohibit, combat and punish all forms of exploitation of children, especially the girl-child;
- h. take the necessary measures to recognise the economic value of the work of women in the home;
- i. guarantee adequate and paid pre and post-natal maternity leave in both the private and public sectors;
- j. ensure the equal application of taxation laws to women and men;
- k. recognise and enforce the right of salaried women to the same allowances and entitlements as those granted to salaried men for their spouses and children;
- l. recognise that both parents bear the primary responsibility for the upbringing and development of children and that this is a social function for which the State and the private sector have secondary responsibility;
- m. take effective legislative and administrative measures to prevent the exploitation and abuse of women in advertising and pornography.

## Article 14: Health and Reproductive Rights

1. States Parties shall ensure that the right to health of women, including sexual and reproductive health is respected and promoted. This includes:
  - a. the right to control their fertility;
  - b. the right to decide whether to have children, the number of children and the spacing of children;
  - c. the right to choose any method of contraception;
  - 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 recognised standards and best practices;
  - f. the right to have family planning education.
2. States Parties shall take all appropriate measures to:
  - a. provide adequate, affordable and accessible health services, including information, education and communication programmes to women especially those in rural areas;
  - b. establish and strengthen existing pre-natal, delivery and post-natal health and nutritional services for women during pregnancy and while they are breast-feeding;
  - c. protect the reproductive rights of women by authorising medical abortion in cases of sexual assault, rape, incest, and where the continued pregnancy endangers the mental and physical health of the mother or the life of the mother or the foetus.

## Article 15: Right to Food Security

States Parties shall ensure that women have the right to nutritious and adequate food. In this regard, they shall take appropriate measures to:

- a. provide women with access to clean drinking water, sources of domestic fuel, land, and the means of producing nutritious food;
- b. establish adequate systems of supply and storage to ensure food security.

## Article 16: Right to Adequate Housing

Women shall have the right to equal access to housing and to acceptable living conditions in a healthy environment. To ensure this right, States Parties shall grant to women, whatever their marital status, access to adequate housing.

## Article 17: Right to Positive Cultural Context

1. Women shall have the right to live in a positive cultural context and to participate at all levels in the determination of cultural policies.
2. States Parties shall take all appropriate measures to enhance the participation of women in the formulation of cultural policies at all levels.

## Article 18: Right to a Healthy and Sustainable Environment

1. Women shall have the right to live in a healthy and sustainable environment.
2. States Parties shall take all appropriate measures to:
  - a. ensure greater participation of women in the planning, management and preservation of the environment and the sustainable use of natural resources at all levels;
  - b. promote research and investment in new and renewable energy sources and appropriate technologies, including information technologies and facilitate women's access to, and participation in their control;
  - c. protect and enable the development of women's indigenous knowledge systems;
  - d. regulate the management, processing, storage and disposal of domestic waste;
  - e. ensure that proper standards are followed for the storage, transportation and disposal of toxic waste.

## Article 19: Right to Sustainable Development

Women shall have the right to fully enjoy their right to sustainable development. In this connection, the States Parties shall take all appropriate measures to:

- a. introduce the gender perspective in the national development planning procedures;
- b. ensure participation of women at all levels in the conceptualisation, decision-making, implementation and evaluation of development policies and programmes;
- c. promote women's access to and control over productive resources such as land and guarantee their right to property;
- d. promote women's access to credit, training, skills development and extension services at rural and urban levels in order to provide women with a higher quality of life and reduce the level of poverty among women;
- e. take into account indicators of human development specifically relating to women in the elaboration of development policies and programmes; and
- f. ensure that the negative effects of globalisation and any adverse effects of the implementation of trade and economic policies and programmes are reduced to the minimum for women.

## Article 20: Widows' Rights

States Parties shall take appropriate legal measures to ensure that widows enjoy all human rights through the implementation of the following provisions:

- a. that widows are not subjected to inhuman, humiliating or degrading treatment;
- b. a widow shall automatically become the guardian and custodian of her children, after the death of her husband, unless this is contrary to the interests and the welfare of the children;
- c. a widow shall have the right to remarry, and in that event, to marry the person of her choice.

## Article 21: Right to Inheritance

1. A widow shall have the right to an equitable share in the inheritance of the property of her husband. A widow shall have the right to continue to live in the matrimonial house. In case of remarriage, she shall retain this right if the house belongs to her or she has inherited it.
2. Women and men shall have the right to inherit, in equitable shares, their parents' properties.

## Article 22: Special Protection of Elderly Women

The States Parties undertake to:

- a. provide protection to elderly women and take specific measures commensurate with their physical, economic and social needs as well as their access to employment and professional training;
- b. ensure the right of elderly women to freedom from violence, including sexual abuse, discrimination based on age and the right to be treated with dignity.

## Article 23: Special Protection of Women with Disabilities

The States Parties undertake to:

- a. ensure the protection of women with disabilities and take specific measures commensurate with their physical, economic and social needs to facilitate their access to employment, professional and vocational training as well as their participation in decision-making;
- b. ensure the right of women with disabilities to freedom from violence, including sexual abuse, discrimination based on disability and the right to be treated with dignity.

## Article 24: Special Protection of Women in Distress

The States Parties undertake to:

- a. ensure the protection of poor women and women heads of families including women from marginalized population groups and provide them an environment suitable to their condition and their special physical, economic and social needs;
- b. ensure the right of pregnant or nursing women or women in detention by providing them with an environment which is suitable to their condition and the right to be treated with dignity.

## Article 25: Remedies

States Parties shall undertake to:

- a. provide for appropriate remedies to any woman whose rights or freedoms, as herein recognised, have been violated;
- b. ensure that such remedies are determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by law.

## Article 26: Implementation and Monitoring

1. States Parties shall ensure the implementation of this Protocol at national level, and in their periodic reports submitted in accordance with Article 62 of the African Charter, indicate the legislative and other measures undertaken for the full realisation of the rights herein recognised.
2. States Parties undertake to adopt all necessary measures and in particular shall provide budgetary and other resources for the full and effective implementation of the rights herein recognised.

## Article 27: Interpretation

The African Court on Human and Peoples' Rights shall be seized with matters of interpretation arising from the application or implementation of this Protocol.

## **Article 28: Signature, Ratification and Accession**

1. This Protocol shall be open for signature, ratification and accession by the States Parties, in accordance with their respective constitutional procedures.
2. The instruments of ratification or accession shall be deposited with the Chairperson of the Commission of the AU.

## **Article 29: Entry into Force**

1. This Protocol shall enter into force thirty (30) days after the deposit of the fifteenth (15) instrument of ratification.
2. For each State Party that accedes to this Protocol after its coming into force, the Protocol shall come into force on the date of deposit of the instrument of accession.
3. The Chairperson of the Commission of the AU shall notify all Member States of the coming into force of this Protocol.

## **Article 30: Amendment and Revision**

1. Any State Party may submit proposals for the amendment or revision of this Protocol.
2. Proposals for amendment or revision shall be submitted, in writing, to the Chairperson of the Commission of the AU who shall transmit the same to the States Parties within thirty (30) days of receipt thereof.
3. The Assembly, upon advice of the African Commission, shall examine these proposals within a period of one (1) year following notification of States Parties, in accordance with the provisions of paragraph 2 of this article.
4. Amendments or revision shall be adopted by the Assembly by a simple majority.
5. The amendment shall come into force for each State Party, which has accepted it thirty (30) days after the Chairperson of the Commission of the AU has received notice of the acceptance.

## **Article 31: Status of the Present Protocol**

None of the provisions of the present Protocol shall affect more favourable provisions for the realisation of the rights of women contained in the national legislation of States Parties or in any other regional, continental or international conventions, treaties or agreements applicable in these States Parties.

## **Article 32: Transitional Provisions**

Pending the establishment of the African Court on Human and Peoples' Rights, the African Commission on Human and Peoples' Rights shall be seized with matters of interpretation arising from the application and implementation of this Protocol.

Adopted by the 2nd Ordinary Session of the Assembly of the Union Maputo, 11 July 2003

## Annex IV

### State of ratification of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (as of November 2006)

No.	Country	Date of signature	Date of ratification	Date of deposit of instrument of ratification
1	Algeria	29/12/2003	-	-
2	Angola	-	-	-
3	Benin	11/12/2004	30/09/2005	13/10/2005
4	Botswana	-	-	-
5	Burkina Faso	26/02/2004	06/09/2006	08/09/2006
6	Burundi	03/12/2003	-	-
7	Cameroon	25/07/2006	-	-
8	Central African Republic	-	-	-
9	Cape Verde	-	21/06/2005	22/07/2005
10	Chad	06/12/2004	-	-
11	Côte d'Ivoire	27/02/2004	-	-
12	Comoros	26/02/2004	18/03/2004	16/04/2004
13	Congo	27/02/2004	-	-
14	Djibouti	18/12/2003	02/02/2005	04/02/2005
15	Democratic Republic of the Congo	05/12/2003	-	-
16	Egypt	-	-	-
17	Equatorial Guinea	30/01/2005	-	-
18	Eritrea	-	-	-
19	Ethiopia	01/06/2004	-	-
20	Gabon	27/01/2005	-	-
21	Gambia	11/09/2003	25/05/2005	06/09/2005
22	Ghana	31/10/2003	-	-
23	Guinea-Bissau	08/03/2005	-	-
24	Guinea	16/12/2003	-	-
25	Kenya	17/12/2003	-	-
26	Libya	05/11/2003	23/05/2004	30/06/2004
27	Lesotho	27/02/2004	26/10/2004	05/11/2004
28	Liberia	16/12/2003	-	-
29	Madagascar	28/02/2004	-	-
30	Mali	09/12/2003	13/01/2005	03/02/2005
31	Malawi	-	20/05/2005	29/06/2005
32	Mozambique	15/12/2003	09/12/2005	30/12/2005

No.	Country	Date of signature	Date of ratification	Date of deposit of instrument of ratification
33	Mauritania	-	21/09/2005	14/12/2005
34	Mauritius	29/01/2005	-	-
35	Namibia	09/12/2003	11/08/2004	26/08/2004
36	Niger	06/07/2004	-	-
37	Nigeria	16/12/2003	16/12/2004	18/02/2005
38	Rwanda	19/12/2003	25/06/2004	01/07/2004
39	Sahrawi Arab Democratic Republic	20/06/2006	-	-
40	São Tomé and Príncipe	-	-	-
41	Senegal	26/12/2003	27/12/2004	30/01/2005
42	Seychelles	24/01/2006	09/03/2006	25/04/2006
43	Sierra Leone	09/12/2003	-	-
44	Somalia	3/02/2006	-	-
45	South Africa	16/03/2004	17/12/2004	14/01/2005
46	Sudan	-	-	-
47	Swaziland	07/12/2004	-	-
48	Tanzania	05/11/2003	-	-
49	Togo	30/12/2003	12/10/2005	26/10/2005
50	Tunisia	-	-	-
51	Uganda	18/12/2003	-	-
52	Zambia	03/08/2005	02/05/2006	07/06/2006
53	Zimbabwe	18/11/2003	-	-



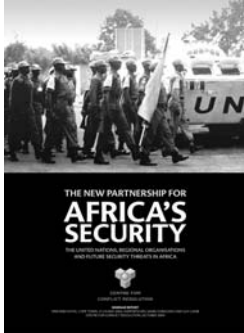
# Annex V

## List of Acronyms

ACCORD	African Centre for the Constructive Resolution of Disputes
APRM	African Peer Review Mechanism
AU	African Union
CCR	Centre for Conflict Resolution
CEDAW	Convention on the Elimination of all Forms of Discrimination against Women
CSOs	Civil Society Organisations
DDR	Disarmament, Demobilisation and Reintegration
DRC	Democratic Republic of the Congo
ECCAS	Economic Community of Central African States
ECOWAS	Economic Community of West-African States
FIDA	Federation of Women Lawyers
HAGURUKA	Association for the Defence of Woman and Child Rights
IGAD	Intergovernmental Authority on Development
MARWOPNET	Mano River Women's Peace Network
MDGs	Millennium Development Goals
NEPAD	New Partnership for Africa's Development
NGOs	Non-governmental organisations
NHRIs	National Human Rights Institutions
OAU	Organisation of African Unity
ONEF	Organisation for the Child, Woman and the Family
RECs	Regional Economic Communities
SADC	Southern African Development Community
SOAWR	Solidarity for African Women's Rights
UN	United Nations
UNDP	United Nations Development Programme
UNIFEM	United Nations Development Fund for Women
WACSOFF	West African Civil Society Forum

# Other publications in this series

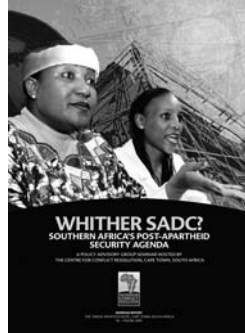
(available at <http://ccrweb.ccr.uct.ac.za>)



## VOLUME 1 THE NEW PARTNERSHIP FOR AFRICA'S SECURITY

THE UNITED NATIONS, REGIONAL ORGANISATIONS AND FUTURE SECURITY THREATS IN AFRICA

The inter-related and vexing issues of political instability in Africa and international security within the framework of UN reform were specifically focused on at this policy seminar, held from 21 - 23 May 2004 in Claremont, Cape Town.



## VOLUME 5 WHITHER SADC?

SOUTHERN AFRICA'S POST-APARTHEID SECURITY AGENDA

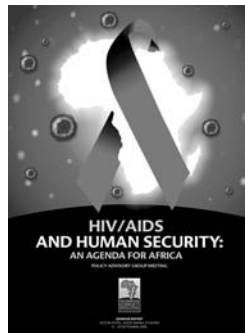
The role and capacity of the Southern African Development Community's (SADC) Organ on Politics, Defence and Security (OPDS) were focused on at this meeting in Oudekraal, Cape Town, on 18 and 19 June 2005.



## VOLUME 2 SOUTH AFRICA IN AFRICA

THE POST-APARTHEID DECADE

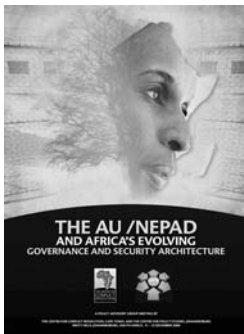
The role that South Africa has played on the African continent and the challenges that persist in South Africa's domestic transformation 10 years into democracy were assessed at this meeting in Stellenbosch, Cape Town, from 29 July - 1 August 2004.



## VOLUME 6 HIV/AIDS AND HUMAN SECURITY:

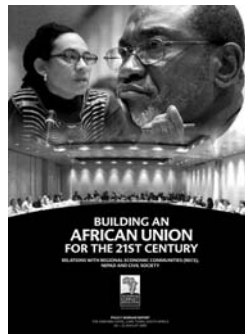
AN AGENDA FOR AFRICA

The links between human security and the HIV/AIDS pandemic in Africa, and the potential role of African leadership and the African Union in addressing this crisis were analysed at this policy advisory group meeting in Addis Ababa, Ethiopia, on 9 and 10 September 2005.



## VOLUME 3 THE AU/NEPAD AND AFRICA'S EVOLVING GOVERNANCE AND SECURITY ARCHITECTURE

The state of governance and security in Africa under the AU and NEPAD were analysed and assessed at this policy advisory group meeting in Misty Hills, Johannesburg, on 11 and 12 December 2004.



## VOLUME 7 BUILDING AN AFRICAN UNION FOR THE 21ST CENTURY

RELATIONS WITH REGIONAL ECONOMIC COMMUNITIES (RECS), NEPAD AND CIVIL SOCIETY

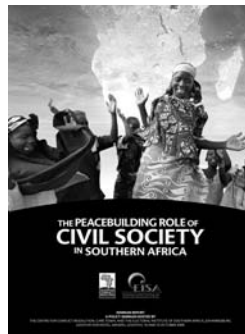
This seminar in Cape Town from 20 - 22 August 2005 made policy recommendations on how the AU's institutions, including NEPAD, could achieve their aims and objectives.



## VOLUME 4 A MORE SECURE CONTINENT

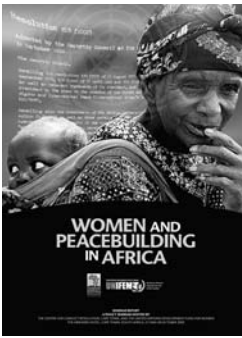
AFRICAN PERSPECTIVES ON THE UN HIGH-LEVEL PANEL REPORT, A MORE SECURE WORLD: OUR SHARED RESPONSIBILITY

African perspectives on the United Nations' (UN) High-Level Panel report on Threats, Challenges and Change were considered at this policy advisory group meeting in Somerset West, Cape Town, on 23 and 24 April 2005.



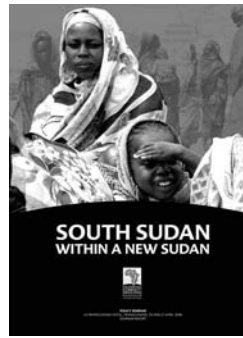
## VOLUME 8 THE PEACEBUILDING ROLE OF CIVIL SOCIETY IN SOUTHERN AFRICA

This meeting, held in Maseru, Lesotho, on 14 and 15 October 2005, explores civil society's role in relation to southern Africa, democratic governance, its nexus with government, and draws on comparative experiences in peacebuilding.



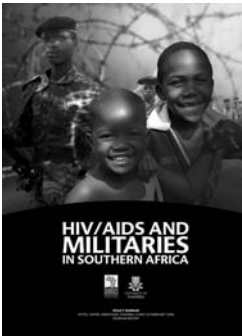
**VOLUME 9  
WOMEN AND  
PEACEBUILDING IN  
AFRICA**

This meeting, held in Cape Town on 27 and 28 October 2005, reviewed the progress of the implementation of UN Security Council Resolution 1325 on Women and Peacebuilding in Africa in the five years since its adoption by the United Nations in 2000.



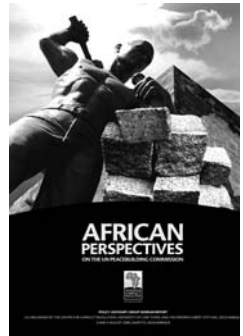
**VOLUME 13  
SOUTH SUDAN WITHIN  
A NEW SUDAN**

This policy advisory group seminar on 20 and 21 April 2006 in Franschhoek, Western Cape, assessed the implementation of the Comprehensive Peace Agreement (CPA) signed in January 2005 by the Government of the Republic of the Sudan (GOS) and the Sudan People's Liberation Movement/Sudan People's Liberation Army (SPLM/A).



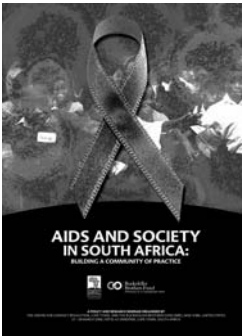
**VOLUME 10  
HIV/AIDS AND  
MILITARIES IN  
SOUTHERN AFRICA**

This two-day policy advisory group seminar in Windhoek, Namibia, on 9 and 10 February 2006 examined issues of HIV/AIDS and militaries in southern Africa.



**VOLUME 14  
AFRICAN PERSPECTIVES  
ON THE UN  
PEACEBUILDING  
COMMISSION**

This meeting, in Maputo, Mozambique, on 3 and 4 August 2006, analysed the relevance for Africa of the creation, in December 2005, of the UN Peacebuilding Commission, and examined how countries emerging from conflict could benefit from its establishment.



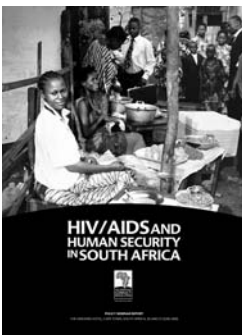
**VOLUME 11  
AIDS AND SOCIETY  
IN SOUTH AFRICA:  
BUILDING A COMMUNITY OF PRACTICE**

This policy and research seminar, held in Cape Town on 27 and 28 March 2006, developed and disseminated new knowledge on the impact of HIV/AIDS in South Africa in the three key areas of: democratic practice; sustainable development; and peace and security.



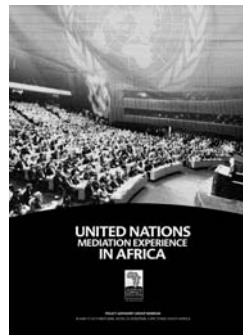
**VOLUME 15  
THE PEACEBUILDING  
ROLE OF CIVIL SOCIETY  
IN CENTRAL AFRICA**

This sub-regional seminar, held from 10 to 12 April 2006 in Douala, Cameroon, provided an opportunity for civil society actors, representatives of the Economic Community of Central African States (ECCAS), the United Nations (UN) and other relevant players to analyse and understand the causes and consequences of conflict in central Africa.



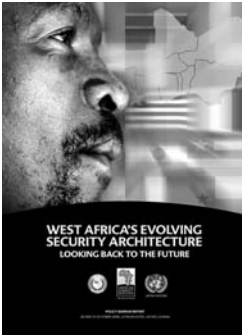
**VOLUME 12  
HIV/AIDS AND HUMAN  
SECURITY IN SOUTH  
AFRICA**

This two-day policy seminar on 26 and 27 June 2006 took place in Cape Town and examined the scope and response to HIV/AIDS in South Africa and southern Africa from a human security perspective.



**VOLUME 16  
UNITED NATIONS  
MEDIATION EXPERIENCE  
IN AFRICA**

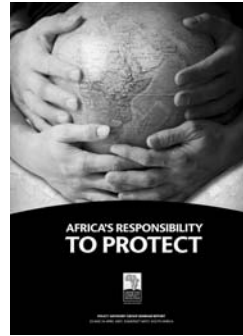
This seminar, held in Cape Town on 16 and 17 October 2006, sought to draw out key lessons from mediation and conflict resolution experiences in Africa, and to identify gaps in mediation support while exploring how best to fill them. It was the first regional consultation on the United Nations' newly-established Mediation Support Unit (MSU).



**VOLUME 17**  
**WEST AFRICA'S**  
**EVOLVING SECURITY**  
**ARCHITECTURE**

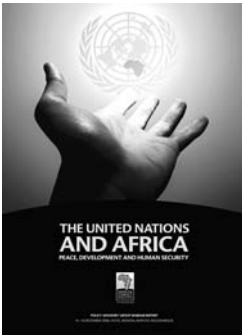
LOOKING BACK TO THE FUTURE

The conflict management challenges facing the Economic Community of West African States (ECOWAS) in the areas of governance, development, and security reform and post-conflict peacebuilding formed the basis of this policy seminar in Accra, Ghana, on 30 and 31 October 2006.



**VOLUME 19**  
**AFRICA'S RESPONSIBILITY**  
**TO PROTECT**

This policy seminar, held in Somerset West, South Africa, on 23 and 24 April 2007, interrogated issues around humanitarian intervention in Africa and the responsibility of regional governments and the international community in the face of humanitarian crises.



**VOLUME 18**  
**THE UNITED NATIONS**  
**AND AFRICA: PEACE,**  
**DEVELOPMENT AND**  
**HUMAN SECURITY**

This policy advisory group meeting, held in Maputo, Mozambique, from 14 to 16 December, set out to assess the role of the principal organs and the specialised agencies of the UN in Africa.

# Notes

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A critical component of the Women's Protocol (the 2003 Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa) is its focus on the protection of women and girls in situations of armed conflict and post-conflict reconstruction processes. This seminar report identifies concrete avenues through which the Protocol can be used effectively to engender reconstruction and peace processes in African societies emerging from conflict.



CAPE TOWN, SOUTH AFRICA

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