



# QUARTERLY

Making  
Human Rights  
a Reality

January – March 2023  
ISSN: 1384-282x

## A Victim-Centred and Gender-Sensitive Approach to Justice in Southern Africa: Shared Lessons

- Editorial: Gender-based Violence and Women's Security in Southern Africa
- A Practitioner's Perspective on the Role of African Justice Systems in Addressing Gender-based Violence
- Centring Victims through Gender-sensitive and Gender-responsive Laws: South Africa's Amendment of Three GBV Laws
- Gender-based Violence with a Focus on a Survivor-centred and Gender-sensitive Approach to Justice
- Civil Litigation: Attainable Justice for Victims of Trafficking
- Strengthening Victim-friendly Systems: The Case of Zimbabwe
- In Search of Peace and Justice in Sub-Saharan Conflicts: The Case of the Southern Cameroons/ Ambazonia Right to Self-determination
- An Interview with Gabrielle Louise McIntyre

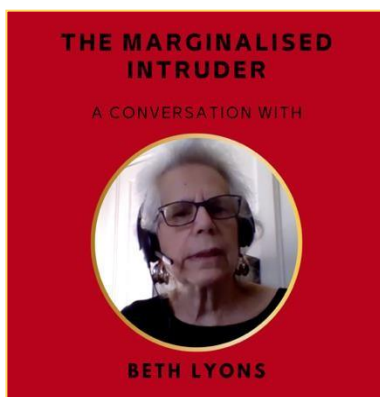
**Peer Reviewed**



# ANNOUNCING ANNOUNCING ANNOUNCING

## HAGUE GIRLS - THE PODCAST

Hague Girls - The Podcast is bringing conversations on rights and accountability to the broader public by sharing women's experiences and perspectives.



Follow us on [Apple](#), [Spotify](#), [Amazon](#), [Buzzsprout](#), [Podcast Index](#), [Podcast Addict](#), [Overcast](#) and [Castro](#).

## About Africa Legal Aid

Since its inception in 1995, Africa Legal Aid (AFLA) has consistently worked to promote human rights in Africa. It plays a key role in espousing a victim-centred and gender-sensitive approach to justice by working with victims and vulnerable groups, whilst also working within national, regional, and international institutions with the aim of building an African continent that is ruled by just principles of law.

AFLA pursues an intersectional feminist agenda and incorporates gender perspectives in all its activities. In 2020, AFLA's director, Evelyn A. Ankumah was inducted into the [International Gender Champions \(IGC\) network](#), a leadership network of female and male decision-makers determined to bring down gender barriers.

The term legal aid as used by AFLA does not denote traditional lawyering of providing legal aid to indigents. Rather, AFLA adopts a holistic approach to legal aid by creating opportunities through which legal institutions in Africa can germinate norms and practices that abhor rights violations.

AFLA operates throughout Africa. It has a strong presence in the human rights and international justice landscape.

AFLA is registered in South Africa, from where it works in cooperation with partners in the sub-region, and on its own projects.

AFLA was first registered in The Netherlands where it has had offices since, and maintains an office in The Hague, the international legal capital.

### Current Programmes:

- A Victim-Centred and Gender-Sensitive Approach to Justice in Africa: Shared Lessons.
- Gender-Sensitive Judging Training of Judges of International Courts and Tribunals with a Focus on the International Criminal Court.
- Emerging Trends on Complementarity in Africa.

AFLA publishes a peer reviewed journal, the AFLA Quarterly, a famous online newsletter, the E-Reporter, a Book Series, and has recently launched Hague Girls – The Podcast.

Over the years, AFLA has established an extensive and impressive network of human rights and justice figures who have become loyal supporters of AFLA and its objectives.

[www.africalegalaid.com](http://www.africalegalaid.com)

Follow us on [LinkedIn](#), connect with us on [Twitter](#) and join us on [Facebook](#)

# REPORTS ON GENDER MENTORING TRAINING PROGRAMME FOR JUDGES OF INTERNATIONAL COURTS AND TRIBUNALS

## PARTICIPANTS



Judge Reine Alapini-Gansou



Judge Althea Violet Alexis-Windsor



Evelyn A. Ankumah



Judge Solomy Balungi Bossa



Judge Fatoumata Dembélé Diarra



Judge María del Socorro Flores Liera



Judge Luz Ibáñez Carranza



Judge Joanna Korner



Gabrielle Louise McIntyre



Judge Florence Mumba



Judge Janet Nosworthy



Judge Kimberly Prost



Judge Miatta Maria Samba



Judge Julia Sebutinde

## Experts and Resource Persons



Sarah Bafadhel



Dr Rosemary Grey



María Manuela Márquez Velásquez



Alka Pradhan



Melinda Reed



Melinda Taylor

**Report of the 8<sup>th</sup> Meeting**

**Report of the 6<sup>th</sup> Meeting**

**Report of the 4<sup>th</sup> Meeting**

**Report of the 2<sup>nd</sup> Meeting**

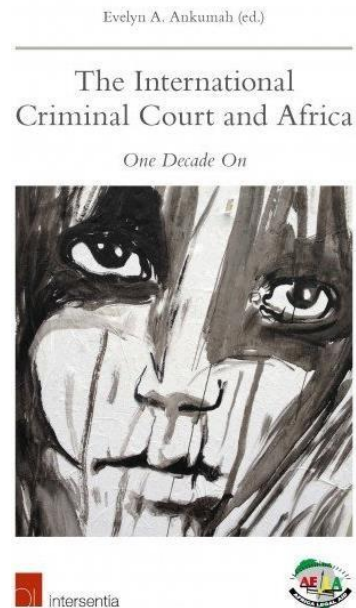
**Report of the 7<sup>th</sup> Meeting**

**Report of the 5<sup>th</sup> Meeting**

**Report of the 3<sup>rd</sup> Meeting**

**Report of the 1<sup>st</sup> Meeting**

**RECEIVE THE AFRICA LEGAL AID (AFLA) QUARTERLY  
FREE OF CHARGE**



In a strategic review of AFLA, this is what the external facilitator, Professor Makau Mutua had to say about the AFLA Quarterly: *An important and critical medium for AFLA's work has been its publications. Particularly significant in this regard has been the AFLA Quarterly, the flagship of the organization. The AFLA Quarterly is now considered by many academics and human rights advocates in Africa and abroad to be an important source of information for human rights and legal developments relating to Africa. It is shaping the way academics and advocates think about complex human rights questions. It graces many a shelf around the world and is boldly expanding and revolutionizing the way both Africans and non-Africans think about African Human Rights issues.*

**Please confirm your interest in receiving free copies of the AFLA Quarterly by clicking [here](#).**

## **First Published in 1996**

Editor

Evelyn A. Ankumah

January – March 2023

ISSN: 1384-282x

Letters can be sent to:

The Editor

Africa Legal Aid (AFLA) Quarterly

E-mail: editor@africalegalaid.com

The views expressed in the AFLA Quarterly are those of the contributors. They do not necessarily reflect the views of Africa Legal Aid, or individual members of its board, the editor, individual members of the Peer Review Panel, or any organizations they are affiliated with.

Contributions in the AFLA Quarterly are original, previously unpublished work.

©All Rights Reserved

## **Peer Review Panel**

- Professor Chris Maina Peter, Professor of Law Emeritus, University of Dar es Salaam, Tanzania; Immediate Past Member of the UN International Law Commission.
- Professor Leila Nadya Sadat, James Carr Professor of International Criminal Law; Director, Crimes Against Humanity Initiative, Washington University School of Law; Special Adviser on Crimes Against Humanity to the International Criminal Court Prosecutor.
- Professor Nsongurua Udombana, Professor of Public International Law and Legal Practitioner; Pioneer Pro-Chancellor, Ritman University.
- Otilia Anna Maunganidze, Head of Special Projects, Institute for Security Studies.
- Dr Benson Olugbuo, Nigeria Country Director, Center for Civilians in Conflict (CIVIC).
- Professor Anne Pieter van der Mei, Chair, Department of Public Law, Maastricht University.

## Table of Contents

Editorial - Gender-based Violence and Women's Security in Southern Africa <i>Evelyn A. Ankumah</i>	1
A Practitioner's Perspective on the Role of African Justice Systems in Addressing Gender-based Violence from a Restorative Justice, Victim-centered and Gender-sensitive Approach <i>Angela Dwamena-Aboagye</i>	2
Centring Victims through Gender-sensitive and Gender-responsive Laws: South Africa's Amendment of Three GBV Laws <i>Annah Moyo</i>	8
Gender-based Violence with a Focus on a Survivor-centred and Gender-sensitive Approach to Justice in Southern Africa <i>Cathy Kodiumoka</i>	15
Civil Litigation: Attainable Justice for Victims of Trafficking <i>Kumvana Mlumbé Mtukule</i>	21
Strengthening Victim-friendly Systems: The Case of Zimbabwe <i>Memory Pamela Kadau</i>	26
In Search of Peace and Justice in Sub-Saharan Conflicts: The Case of the Southern Cameroons/Ambazonia Right to Self-determination <i>Emma M. Osong</i>	33
An Interview with Gabrielle Louise McIntyre	44
Annex: SADC Protocol on Gender and Development	53

## Editorial – Gender-based Violence and Women’s Security in Southern Africa

*Evelyn A. Ankumah\**



*Evelyn A. Ankumah*

This edition of the Africa Legal Aid Quarterly is dedicated to the theme *A Victim-centred and Gender-sensitive Approach to Justice in Southern Africa* with shared lessons from other sub-regions. That an AFLA publication is devoted to this subject matter should not come as a surprise to those familiar with AFLA’s work. Our organisation plays a key role in espousing a victim-centred and gender-sensitive approach to justice by working with victims and vulnerable groups. The question does arise though why this edition focusses on Southern Africa, which is considered the most peaceful region in Africa.

Despite the absence of armed conflict in this sub-region, another conflict is taking place, namely, that of countries at war with their women. A recent study by World Population Review<sup>1</sup> placed Botswana, Lesotho and South Africa as the top three countries with the highest rape rates in the world. In fact, this is not the first time Southern African countries have ranked highest in crimes against women and gender-based violence

(GBV). The contributors to this publication recognise the need to protect and provide redress for victims of GBV. Angela Dwamena-Aboagye provides a practitioner’s insight on the need for African justice systems to tackle GBV through prevention, protection, provision of services and support as well as prosecution. Annah Moyo presents South Africa’s GBV laws as best practice models to combat GBV. Cathy Kodiemoka reviews the findings of GBV and femicide in Southern Africa from a survivor-centred and gender-sensitive perspective. Kumvana Mlumbe Mtukule contends that civil litigation offers more remedies to victims of trafficking than criminal prosecution. Memory Pamela Kadau discusses Zimbabwe’s challenges in supporting victims of GBV and violence against women and Girls (VAWG). Emma Osong challenges double standards in international justice in the search for peace and justice for the people of Southern Cameroon. Finally, Gabrielle Louise McIntyre reflects on her mandate as Chairperson of the Truth, Reconciliation and National Unity Commission of Seychelles, with victims as the central focus and drivers of her Commission’s work.

On behalf of AFLA, I thank each and every author for having contributed so readily and so richly in substance. Last, but not least, we owe a debt of gratitude to the Ford Foundation for their generous support.

---

\*Executive Director, Africa Legal Aid.

<sup>1</sup> World Population Review, Rape Statistics by Country, available at

<https://worldpopulationreview.com/country-rankings/rape-statistics-by-country>, 2023.



# A Practitioner's Perspective on the Role of African Justice Systems in Addressing Gender-based Violence from a Restorative Justice, Victim-centered and Gender-sensitive Approach

Angela Dwamena-Aboagye\*



Angela Dwamena-Aboagye

Photo Credit: Angela Dwamena-Aboagye's LinkedIn

## Introduction

Africa is a big and diverse continent. Its historical contact with colonialism has ensued in legal and justice systems that differ from country to country. These received frameworks are primarily English, French and Portuguese. However, Africa's participation in the international community through the UN and other global or regional bodies has also meant that African nations have had to integrate into or adjust their customary and received law to conform to a significant extent to broad principles of international law and human rights frameworks. Taken together, one can safely say that most countries in Africa,

if not all, have principles and provisions in their body of law or legal frameworks that have similarities in the quest to protect citizens and ensure justice where there are violations. Thus, constitutional and legal frameworks in most African countries have provisions on rights, such as rights to life, security, liberty, dignity, movement and freedom from torture, cruel inhumane treatment and punishment, etc. There are also legal protections covering all citizens or categories of citizens such as women, persons with disability, children, the aged among others. The principles undergirding such specialised legal protections are not divorced from the broader frameworks of law governing these countries; indeed, they emerge from the concern that an attempt to protect all persons could mean overlooking some persons; and actively looking out for such persons by law and constitutional guarantees is actually indicative of a country's level of commitment to ensuring justice and protection for the generality of its citizenry.

## Gender-based Violence in Africa

Gender-based violence (GBV) is, sad to say, endemic in Africa.<sup>1</sup> However, the data shows that it is not just an African problem, but a global phenomenon.<sup>2</sup>

---

\*Lawyer and Executive Director, The Ark Foundation, Ghana.

<sup>1</sup> Summary of current data from WHO and other sources point out for example, that 37% of women aged 15 to 49 in countries classified by the SDG as 'least developed' have been subject to violence. In 2019, one in five women, aged 20–24 years, married before the age of 18 in sub-Saharan Africa which is a risk factor for domestic violence for children. 200 million women and

girls aged 15–49 years, have undergone FGM in 31 countries where the practice is concentrated, and half of these countries are in West Africa.

<sup>2</sup> Globally, 38% of all murders of women are committed by intimate partners. 6% report having been sexually assaulted by someone other than a partner. WHO estimated that about 27–30% of women aged between 15–49 years have been subjected to either physical and/or sexual intimate partner violence in their lifetime. On average, nearly 20 people per minute are

Globally, regionally and at national levels, much has been done through research and analysis on the subject. Talk, through speeches, conferences, roundtables and various kinds of programs and action plans, has been cheap. Action on the other hand, on ending GBV or significantly reducing the phenomenon in African countries, has generally, in my opinion, been poor - sporadic, half-hearted, poorly resourced, poorly coordinated and poorly executed. While assessing the success or otherwise of anti-GBV actions on a country-by-country basis is beyond the remit of this paper, it can be safely concluded by a cursory scan of the current country reports and available data, that African countries are nowhere near boasting of success. Is it because the majority of victims of GBV in Africa are women and girls?

Gender-based violence is defined simply as violence directed at, or which disproportionately affects members of one sex. Women and girls are the ones disproportionately affected. This type of violence often goes unchallenged and unsanctioned. The Inter-Agency Standing Committee (IASC) of the UN General Assembly defines gender-based violence as ‘an umbrella term for any harmful act that is perpetrated against a person’s will and is based on socially ascribed (i.e., gender) differences between males and females. It includes acts that inflict physical, sexual or mental harm or suffering, threats of such

acts, coercion, and other deprivations of liberty.’<sup>3</sup> If the constitutional guarantees and legal protections in African countries are to be applied irrespective of who the citizen is or the recognised legal category to which they belong, why do women and girls suffer so long and hard with respect to GBV? If GBV acts undermine most of the fundamental human rights protections given to citizens in their countries’ constitutional and legal frameworks, why is the phenomenon allowed to run riot in most African countries?

GBV also manifests in various forms. Anti-GBV advocates, researchers and practitioners outline five to seven basic forms of GBV – physical, sexual, psychological/emotional, verbal, economic, social and harmful traditional or customary practices.<sup>4</sup> In all of these manifestations, women and girls predominate as victims, although it is a fact that men and boys also fall victim to all forms of GBV. However, it is almost universally accepted that the numbers are not and cannot be equalised between women and men because of power differences between women and men, underpinned and fueled by patriarchy in all spheres of life. Male perpetrated GBV dominates the data in Africa. There is also the specific recognition of sexual violence, itself a form of gender-based violence and how it manifests through coercive acts of control and intimidation, or as a weapon of war, crime against humanity or genocide.<sup>5</sup> Sexual violence

---

than a partner. WHO estimated that about 27-30% of women aged between 15-49 years have been subjected to either physical and/or sexual intimate partner violence in their lifetime. On average, nearly 20 people per minute are physically abused by an intimate partner in the United States. During one year, this equates to more than 10 million women and men.

<sup>3</sup> IASC, Guidelines for Integrating Gender-Based Violence Interventions in Humanitarian Action, available at [www.interagencystandingcommittee.com](http://www.interagencystandingcommittee.com), (2015).

<sup>4</sup> For a detailed discussion on forms of GBV, see, for e.g., Angela Dwamena- Aboagye, Violet Esi Awotwi, Beth Martin, Rebecca Giordano and Katthy Polich, (Eds.), *The CRC-WISE Collaboration Project: Working with Survivors of Gender-Based Violence* (Ghana, Accra: The Ark Foundation and Women’s Initiative for Self-Empowerment/M&N Publishing, Accra, 2001).

<sup>5</sup> Protocol on the Prevention and Suppression of Sexual Violence against Women and Children (2006) by ICGLR Member for a broad definition of Sexual Violence and acts that constitute sexual violence in Africa.

across the continent merits extremely serious consideration for heightened and effective action in Africa in particular.

Undoubtedly, many African countries have attempted to do something about GBV, but I maintain that they have not done enough to make deep and lasting change. I argue in this paper that I am convinced that the justice system in each African country has a significant and leading role to play in addressing GBV and paving the way for progressive preventive and response strategies that can make a real difference. Why the justice system? First because GBV is a matter of justice. The nature, dynamics and impacts of GBV are such that it is the quest to do justice that impassions all relevant actors – state and non-state – to act. Second, I argue that the justice system is clothed with legal and policy clout in most African countries, to be able to mobilise a cross-section of relevant actors to take action on GBV. Most Justice systems in Africa are led by the Ministries of Justice and/or the Attorney-General. The Justice Ministry has oversight of or is closely connected with other parts of the justice system, such as the high and lower courts, specialised courts, police investigators, police prosecutors, specialised police units and social services, among others. The Justice Ministries are more likely to be able to mobilise other relevant sector ministries that appear to have less political clout or resources, such as the Gender, Health and Education ministries. These other ministries (Gender, Health and Education) are almost always well connected with a plethora of state actors, such as medical and mental health facilities, schools, social welfare and probation offices, childcare and other services. They are also connected to non-state actors such as CSOs, NGOs, CBOs, FBOs, Shelters,

victims and survivors' networks, community services and community leaders, including religious and traditional leaders. All these are necessary actors to be mobilised from these broad networks in the execution of strategies at several levels, national and local, to effectively address GBV. Third, the Justice Ministry is also well-armed with all the international, regional and national legal and policy frameworks, most likely having been an active participant in representing the state in the drafting and promulgation of such frameworks, or the adoption, recognition of or accession to these frameworks. Taken together, philosophical, intellectual and practical resources required to prevent and respond to GBV exist in most African nations, lying within the reach of their existing justice systems. Lastly, the Justice Ministries are vested with broad prosecutorial power or oversight that can be effectively engaged to curtail perpetrator impunity and ensure perpetrator accountability. This power to prosecute and curtail impunity to a large extent is admittedly dependent upon how well-sensitised and trained they are on GBV in its dynamics and ramifications. I posit that the justice systems already existing in African countries, primarily led by their Ministries of Justice do not yet have the full consciousness of their clout, capability and resourcefulness and reach in leading the fight against GBV. Creating this consciousness requires intentionality and focus, and an attempt to bring to the fore quite strongly, an understanding of why it is imperative that GBV must be resisted through preventive efforts and effectively addressed when incidents occur.

The cost of GBV to human development and the socio-economic wellbeing of people and a nation is high. For example,

a research report by the Institute of Statistical, Social and Economic Research (ISSER) on Ghana stated that in 2016 Ghana lost nearly US\$18.9 million as economic costs of violence against women and girls.<sup>6</sup> GBV is said to be a greater cause of ill-health globally among women of reproductive age than all traffic accidents, cancer and malaria cases put together.<sup>7</sup> The impacts of GBV on people in terms of physical and mental health, loss of economic livelihoods, family disruptions and generational violence cannot be over-estimated. Clearly, a country's developmental goals are likely to be significantly eroded by the persistence of GBV and its impacts.

### **Understanding the Elements Underpinning GBV**

As a practitioner who currently works to support victims of all forms of GBV in Ghana and a Shelter provider, I come to these positions I proffer in this paper with careful consideration. I have a background experience of being a lawyer and a State Prosecutor for a number of years. Subsequently, I became an avid anti-GBV advocate, a trainer, researcher and a licensed counsellor for victims of GBV. I have come to deeply understand, I believe, alongside many others who operate in this field of work, that a certain depth of insight into the nature and dynamics of GBV is necessary to propel real action to deal decisively with this phenomenon. It is important for all actors, in particular state actors who bear primary responsibility for prevention against and protection from GBV to have clear insight into:

- The culture that breeds acts of GBV,
- 2. The context that suppresses and silences victims,
- 3. The content of the laws that seek to address the violations,
- 4. The capacity of the institutions that attempt to respond to such acts,
- 5. The strength or weakness of the (civil) society advocacy that keeps GBV on the front-burner.

I have created this list of elements based on my understanding and long years of involvement with GBV advocacy and practice. Without clarity about how these existing elements work by themselves and collectively to reinforce GBV and its debilitating impacts, or provide the impetus to create real change, actors may continue to work half-heartedly, haphazardly or in self-limiting silos. Africa will continue to contend with rising GBV incidents and an almost non-existence political will or pressure to do anything significant to stem it or help those victimised by acts of GBV.

### **Best Model Strategies and Approaches**

International, regional and national frameworks that seek to address GBV, taken together, point to four basic strategies that must be in place at state level. These are *prevention*, *protection*, *provision* and *prosecution* strategies.<sup>8</sup> Briefly, Prevention is to use all media and tools available for consistent, broad based awareness and mass sensitisation. Protection is to engage in use of the law and enforcement institutions to protect

<sup>6</sup> ISSER, *The Economic and Social Costs of Violence against Women and Girls in Ghana*, Report accessed 24<sup>th</sup> November 2022, at [www.issr.ug.edu.gh](http://www.issr.ug.edu.gh).

<sup>7</sup> The World Bank. *World Development Report, 1993, Investing in Health* (New York, Oxford Press), 1993.

<sup>8</sup> UN Declaration on the Elimination of Violence Against Women (DEVAW), 1993; and several UN General Assembly Resolutions. See, for e.g., [www.stopvaw.org](http://www.stopvaw.org), on measures to eliminate violence against women. Similar instruments exist in the African Region by the African Union and Regional blocs such as ECOWAS, SADC, EAS/ GLR member States, etc.

from GBV and gain redress for the victimised. Provision is to ensure the availability of all manner of psychosocial services and support such as medical, legal, economic, social, mental health, spiritual and other support to victims. Prosecution is the use of courts and other alternative or community systems of justice to stem impunity and ensure perpetrator accountability. These four strategies are brought together and become effective only if there is strong coordination between the actors at all points, led by a coordinating body that also cascades its work through the whole system. All the actors pulled together by the leading or coordinating body find themselves operating in at least one of the strategic areas. Internal systems and structures such as referrals, accountability, capacity building, reporting, monitoring, evaluation, and feedback are all built into this system of work, to bring about cohesiveness and effectiveness. Thus, if a justice system is to be empowered to deal effectively with GBV, it must of necessity have these four strategies in place at the same time, or it learns soon enough that it is unable to achieve its goals of dealing with GBV with any effectiveness.

However, the most well-oiled system of response to GBV will fall apart and become ineffectual in time if it is not victim-centered or gender-sensitive in its approaches. These are not mere clichés. They are important considerations in sustaining GBV work, particularly in responding to incidents of GBV at all levels and stages, including incident reporting, victim assistance, counselling investigations, case management, prosecutions, advocacy, etc.

---

<sup>9</sup> Minors must also be assured of a system that is child and victim-centered; however, when it comes to choice of action, the elements are not quite the same for minors as many legal regimes

Victim-centeredness is the approach that ensures respect for the choices of the users of the system of response, in particular, the victim. This means that the victim's rights, needs and wishes are to be taken into consideration and prioritised in every decision related to the case. In this approach, every effort is made to treat the victim with dignity and respect. It also means safeguarding the victim's wellbeing and prioritising their safety. Victim-centeredness upholds confidentiality, as far as legally permitted, in all aspects of the process of assistance; whether in investigations, counselling and other decisions that are made with respect to the incidence. It always tries to seek the informed consent of the victim in decision-making or actions, because, as the popular song says, 'who feels it, knows it.' Without a victim-centered approach, GBV victims are likely to face re-traumatisation and a loss of confidence and sense of safety with the system.<sup>9</sup> Victim centeredness also addresses issues of security, safety and anti-retaliation measures for both victims and witnesses in reported incidents. Information is shared with the victim to enable them make informed decisions. Information shared with other services providers is with informed consent and on a need-to-know basis. Assumptions are not made with respect to a victim's feelings, perceptions, thoughts and experiences, nor their choice of language and expressions to tell their stories. For example, the lessons learnt by the International Criminal Tribunal for Rwanda (ICTR) in the prosecution of rape and other forms of sexual violence before the tribunal in the aftermath of the genocide underscore the need for victim-centeredness in justice delivery at every point.<sup>10</sup> In a

have statutory reporting requirements for child victims.

<sup>10</sup> Charles Dennis Byron, *A Holistic Approach to Gender Justice and Recent Developments within*

fundamental sense, victim-centeredness seeks to embed in its processes ways and means that bring healing and a sense of restoration to the victim. Thus, irrespective of the outcome of formal prosecutorial processes, a victim comes to believe through this approach, that they are worthy as human beings, they are respected, they have agency and also that being able to find justice for their pain is already a work in progress through their engagement with the system.

Creating a gender-sensitive and responsive GBV prevention and response justice system is simply adopting a gendered perspective in all decision-making and actions and ensuring that the system addresses the specific needs and interests of women and men, girls and boys. It is to have a system that minimises existing inequalities in actions and programming while seeking that both men and women would benefit in all the processes. Thus, for a justice system to be gender-sensitive and to create pathways for change, an awareness of hidden factors of culture, inequalities, biases, discriminatory laws and the weaknesses or otherwise of advocacy and practitioner networks within a country's jurisdiction is necessary to create impetus for change. Gender-sensitivity in the system of justice delivery complements and works hand in hand with victim-centeredness.

## Conclusion

A victim-centered and gender-sensitive justice system that is based on deep insights into the elements, dynamics and impacts of GBV, integrates all four

strategies of prevention, protection, provision and prosecution, as well as provides the necessary leadership and coordination for all actors to fit in their roles is more likely to succeed in addressing GBV in a more holistic and effective manner. The machineries and ministries of justice in most African countries, if not all, are well-placed to provide the space and resources to lead and coordinate these efforts. It is my view that they have what it takes, as I have explained in this paper, to take on this vitally important role. In doing so they are not expected to act alone, as they have a plethora of state and non-state actors to mobilise for decisive action. Beyond their countries, the Ministries of Justice have mobilising clout to collaborate within regional and sub regional blocs to act with respect to GBV. Some of these efforts have already been started by Ministries of Justice in the Great Lakes Region in Africa in collaboration with other ministries.<sup>11</sup> While such efforts are commendable, my admonition to African countries and governments would be to go back to ponder over the elements I outlined earlier on in this paper that are critical for effective work on GBV. It is the insights these reflections bring that would fuel the passion to see long-lasting change in addressing GBV and delivering justice to those victimised by it.

---

*the ICTR (Africa Legal Aid (AFLA) Quarterly, Jan – Mar 2009, pp.10-24.*

<sup>11</sup>Regional High-Level Consultation of Ministers in Charge of Justice and Gender on the Kampala

Declaration on Sexual and Gender Based Violence (SGBV), Kinshasa, 2012.

# Centring Victims through Gender-sensitive and Gender-responsive Laws: South Africa's Amendment of Three GBV Laws

*Annah Moyo\**



*Annah Moyo*

## **Introduction**

Placing victims at the centre of justice processes, interventions and support programmes has been established as best practice globally. When it comes to gender-based violence, conflict-related sexual violence, trafficking in persons, dealing with crime and transitional justice, the emphasis on centring victims from the beginning of processes to the end has gained global traction. This approach has been warranted given the vulnerability of victims and their susceptibility to trauma as a result of their victimisation experiences. Prior to the entrenchment of this approach, victims were subjected to long waits for services and interventions needed for their healing and recovery. In most instances, interventions such as psychosocial support, legal and medical services are limited, not centralised and are costly for victims to access all at once, thus adding to their trauma.

---

\*Executive Director, Centre for the Study of Violence and Reconciliation (CSVR).

<sup>1</sup> See CSVR's 2017 report, *Violence against Women in South Africa: A country in Crisis*,

However, reference to victim-centred and gender-sensitive approaches to justice have mostly been confined to response, care and support of victims after their identification and classification as victims. The systematisation and centralisation of services and interventions in most countries get activated once the case is reported at the police station. While this response, care and support to victims after the fact is necessary, the missed opportunity aimed at protection and prevention, is ensuring that laws enacted by states are victim-centric and gender responsive towards a specific demographic in society prone to victimisation and victimhood.

Enactment of laws that combat victimisation and act as safeguards, particularly for women, in all their diversity, who are disproportionately affected by gender-based violence in particular, provides a double-pronged approach that is key for the continuum of victim-centred, gender-sensitive and gender-responsive approaches to justice. With this approach, would-be victims before the fact are placed at the centre, and victims after the fact are also prioritised for care and support. Taking the lead in modelling this approach in Southern Africa, on 28 January 2022, South Africa enacted three laws to address gender-based violence (GBV) that has since reached crisis levels in the country.<sup>1</sup> The Criminal Law (Sexual

available at <https://www.csvr.org.za/pdf/CSVR-Violence-Against-Women-in-SA.pdf>

Offences and Related Matters) Amendment Act Amendment Act,<sup>2</sup> the Criminal and Related Matters Amendment<sup>3</sup> and the Domestic Violence Amendment Act<sup>4</sup> were passed following a public outcry about gender-based violence and femicide and calls from women's groups, victims and gender activists, for tighter laws to combat this scourge.

This article highlights this double-pronged approach to centring victims, using gender-sensitive and gender-responsive approaches, before and after the fact, through legislative safeguards before the fact, on the one hand, and through care, response and support to victims after the fact, on the other. The article uses the three South African GBV laws as a best practice that models this double-pronged approach.

### **GBV in South Africa: Why the Double-pronged Approach to Victim-centred, Gender-sensitive and Gender-responsive Justice Became Necessary**

South Africa is ranked the third country in the world with the highest rape incidents, at 72.1 incidents per one hundred thousand people, after Botswana and Lesotho who overtook South Africa in the first and second highest rape incidents respectively.<sup>5</sup> A

study conducted by the Centre of the Study of Violence and Reconciliation (CSV) titled *Violence against Women in South Africa: A Country in Crisis*<sup>6</sup> shows how the country has an embedded rape culture wherein rape and sexual violence is 'normalized' and underreported. It is estimated that only one out of nine crimes of violence against women and only one out of twenty-five incidents of rape are reported to the police.<sup>7</sup> It is estimated that close to ten thousand cases of rape occur every quarter.<sup>8</sup> In 2021, Statistics South Africa released a report, *Crimes Against Women in South Africa*, indicating that one in five women had experienced physical violence by their partner, and this finding confirmed South Africa's 2016 Demographic and Health Survey that also made the same findings. This figure is reportedly higher in the poorest households, where at least one in three women has reported physical violence. The World Health Organisation (WHO) estimates that 12.1 in every one hundred thousand women are killed by an intimate partner in South Africa each year, a figure that is five times worse than the global average of 2.6.<sup>9</sup> According to Mail & Guardian, 51% of women in South Africa have experienced GBV and 76% of men admit to perpetrating violence against women<sup>10</sup>. The advent of the COVID-19 pandemic further exacerbated the GBV

<sup>2</sup> Act 13 of 2021.

<sup>3</sup> Act 12 of 2021.

<sup>4</sup> Act 14 of 2021.

<sup>5</sup> Rape Statistics by Country 2023, World Population View, available at <https://worldpopulationreview.com/country-rankings/rape-statistics-by-country>

<sup>6</sup> See note 1 above.

<sup>7</sup> Ending gender-based violence in South Africa, one march at a time, available at <https://www.fordfoundation.org/news-and-stories/stories/posts/ending-gender-based-violence-in-south-africa-one-march-at-a-time/#:~:text=It%20has%20been%20estimated%20that,higher%20than%20the%20global%20average>.

<sup>8</sup> Gender-Based Violence in South Africa available at <https://research.reading.ac.uk/global-development/gender-based-violence-in-south-africa/#:~:text=The%20prevalence%20of%20GBV%20in,10%2C000%20rapes%20occur%20every%20quarter>.

<sup>9</sup> Crime stats show that SA's women, children live in constant fear daily, available at <https://www.news24.com/news24/southafrica/news/crime-stats-show-that-sas-women-children-live-in-constant-fear-daily-20201114>.

<sup>10</sup> See Mail & Guardian article published in 2020, available at Gender-Based Violence – The Mail & Guardian (mg.co.za).



crisis in South Africa. The government-imposed lockdown measures to curb the spread of the pandemic left women and girls more vulnerable to existing and new forms of violence, with over two thousand three hundred and twenty cases of GBV recorded in the first week of the lockdown.

Although South Africa employs a victim-centred, gender-sensitive and gender-responsive approach to addressing GBV in the country through victim empowerment programmes, this proved to be inadequate as it was not combative. The femicide and rape statistics revealed certain trends and data that could not be ignored. Amongst others, statistics and incidents reported in the past five to seven years showed that young women below the age of twenty-five bore the highest risk of intimate partner violence and being killed at the hands of partners, ex-partners or strangers;<sup>11</sup> elderly women in rural areas were at high risk of being raped by young men,<sup>12</sup> and women with disabilities also faced heightened risks of GBV.<sup>13</sup> Incidents from various sources also showed limited to no protection for many women whose experiences did not fit the mode of marriage or civil partnerships, against domestic violence and other forms of partner abuse. As a result, the majority of women remained on the periphery of protection and only received support and care after the fact, once they became victims. This coupled, with the high number of GBV incidents

in the country, and the inundation of victim-centred GBV response, care and support services, a double-pronged approach to centring victims before and after the acts of GBV became necessary. Amending three GBV laws to centre victims before the fact was crucial.

### **South Africa's Amended Three GBV Laws: A Regional Model for Centring Victims Before and After the Fact**

To respond to the scourge of GBV in the country, in 2020, the South African government adopted the National Strategic Plan on Gender-Based Violence and Femicide (NSP-GBVF), a comprehensive national policy framework that brings together multiple stakeholders from different sectors of society, to respond to the crisis of GBV. In 2020, three GBV laws were amended to respond to the GBV trends and new developments in the country. The amended legislation (Criminal Law (Sexual Offences and Related Matters) Amendment Act Amendment Act; the Criminal and Related Matters Amendment Act; and the Domestic Violence Amendment Act, is a deliverable from the NSP-GBVF, and the 2018 Presidential Summit Declaration, to *'fast-track the review of existing laws and policies on Gender-Based Violence (GBV), to be victim-centred and ensure all other relevant laws respond to Gender-Based Violence; implement recommendations that had been identified from reviews and address*

<sup>11</sup> Country's femicide keeps growing, available at <https://www.sowetanlive.co.za/news/south-africa/2019-09-04-countrys-femicide-list-keeps-growing/>, see more reports at <https://www.americamagazine.org/politics-society/2022/09/08/violence-women-rape-south-africa-243696>

<sup>12</sup> Teen, 19, arrested over rape of elderly woman, 75, available at <https://www.iol.co.za/capetimes/news/teen-19-arrested-over-rape-of-elderly-woman-75-417e40b1-9d55-498e-9ce1-64b5fef8c6f3>, see

also another incident at <https://www.timeslive.co.za/news/south-africa/2022-06-11-17-year-old-who-raped-and-murdered-elderly-woman-gets-18-year-sentence/>

<sup>13</sup> van der Heijden I, Abrahams N, Harries J, *Additional Layers of Violence: The Intersections of Gender and Disability in the Violence Experiences of Women with Physical Disabilities in South Africa* (2019), *J Interpers Violence* 34(4):826-847.

*legislative gaps, and revisit and fast-track all outstanding laws and Bills that relate to GBV*.<sup>14</sup> At signing the laws in January 2022, President Cyril Ramaphosa made the following remarks: *‘The enactment of legislation that protects victims of abuse and makes it more difficult for perpetrators to escape justice is a major step forward in our efforts against this epidemic and in placing the rights and needs of victims at the centre of our interventions.’*

### **The Criminal Law (Sexual Offences and Related Matters) Amendment Act Amendment Act: Key Victim-centred and Gender-sensitive Provisions**

The Criminal Law Sexual Offences and Related Matters) Amendment Act Amendment Act amended its predecessor legislation, the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 and contributes to victim-centred and gender-sensitive approaches to addressing the scourge of GBV in South Africa. The 2021 legislation responds to the demands made by civil society organisations and activists in 2018, to bring justice to the victims of GBV after South African women held a series of protests against the rising cases of femicide and violence against women in the country. Among other things, the legislation extends the scope of the crime of incest and to this end, it specifically criminalises marriage, engagement in sexual acts and sexual violation where one is a child, between two people who are related through ancestry, marriage or adoption, even in instances where there is consent between the parties.<sup>15</sup> The

legislation also establishes a National Register for Sex Offenders as a record of persons who are or have been convicted of any sexual crimes involving children and persons with mental disability.<sup>16</sup> The Act further increased the period for which a sex offender’s particulars must remain on the National Register of Sex Offenders before they can be removed from the Register to twenty years. The keeping of a National Register of Sex Offenders is a safeguard, that ensures that persons who have committed sexual crimes against children and persons with mental disability, who the legislation deems as vulnerable persons, are not employed in institutions or places that allow them access, supervision or care of these vulnerable groups in communities and society. A new offence of sexual intimidation is also introduced by the legislation, which constitutes unlawful and intentional threat to a complainant that makes such a complainant to reasonably believe that a sexual offence will be committed against them or a member of the family or someone in a close relationship that they are in close relationship with.<sup>17</sup> Criminalising sexual intimidation is important, given the psychological impacts associated with the crime of sexual intimidation on victims, whether the actual act is carried out or not. This declaration of vulnerable persons is a direct response to the rampant reports and statistics of young women being killed in universities or technikons, elder abuse of women above the age of 60 particularly in rural areas and women with mental disability.

The amendment to the legislation also extends the list of people who are in need

---

<sup>14</sup> Declaration of the Presidential Summit Against Gender-Based Violence and Femicide. 2018. Available at <https://www.gov.za/speeches/declaration-presidential-summit-against-gender-based-violence-and-femicide-2-nov-2018-0000>

<sup>15</sup> Section 4 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act Amendment Act 13 of 2021. Available at [https://www.gov.za/sites/default/files/gcis\\_document/202203/45823gen787.pdf](https://www.gov.za/sites/default/files/gcis_document/202203/45823gen787.pdf)

<sup>16</sup> Section 2 of Act 13 of 2021.

<sup>17</sup> Section 5 of Act 13 of 2021.

of protection and identifies the following groups of people as vulnerable persons: children, persons with disability and women who are sixty years and older.<sup>18</sup> Young women below the age of twenty-five are also considered vulnerable persons by the legislation, particularly those who reside in or receive tuition in institutions of higher learning or vocational training institutes, live in a building, those who live in their primary residences or shelters.<sup>19</sup> Another key highlight of provisions of the Act is the mandatory reporting responsibility of any sexual offence by anyone with knowledge of such sexual offence committed against vulnerable persons highlighted above, and there is a penalty for failure to report.<sup>20</sup> A person who has knowledge, or who reasonably believes or suspects that a sexual offence has been committed against vulnerable groups, particularly a child or a person with mental disability has an obligation to report such incident. This third-party obligation to report is important for a country like South Africa where GBV and rape are underreported.

### **The Domestic Violence Amendment Act: Key Victim-centred Provisions**

The Amendment Act introduces innovative ways of protecting victims and adds protections that were not provided in its predecessor legislation, the Domestic Violence Act 116 of 1998. For example, the Amendment Act has broadened the definitions of domestic violence. Domestic violence now includes abuse of an elder, exposure of children to a domestic violence setting, spiritual abuse, sexual abuse, emotional, verbal and psychological abuse, economic abuse, intimidation,

harassment, damage to property, coercive behaviour, controlling behaviour, sexual harassment, entry into victims' or their relative's permanent or temporary residence without their consent where the parties do not share the same residence, and entry into victims' workplace or place of study, without their consent, where the parties do not share the same workplace or place of study.<sup>21</sup> The broadening of the definition is crucial, given the lived reality of diverse manifestations of domestic violence that goes beyond persons in an intimate relationship, and that often occurs outside the place of residence of the victim in South Africa.

The Amendment Act also expanded the scope of what is defined as a domestic relationship, aligning it to the prevailing trends of violence against women in the country. A domestic relationship now includes a number of categories of relations, including between married people according to any law, culture or religion, live-in partners even if they are not married, parents or guardians and children, family members related by marriage, affinity or adoption, people who are or were engaged, dating or in a customary relationship, people in actual or perceived romantic, intimate or sexual relationship of any duration and people who share or have shared the same residence.<sup>22</sup> The implication of this expanded definition of a domestic relationship provides protection to women, in all their diversity, who were previously on the periphery of accessing services and interventions on the basis that they were not married to their abusers or had broken up and were no longer romantically involved with their abusers. The definition also now protects

---

<sup>18</sup> Section 12(c) of Act 13 of 2021.

<sup>19</sup> *Ibid.*

<sup>20</sup> Section 26 of Act 13 of 2021.

<sup>21</sup> Section 2 of the Domestic Violence Amendment Act 14 of 2021. Available at

[https://www.gov.za/sites/default/files/gcis\\_document/202203/45824gen788.pdf](https://www.gov.za/sites/default/files/gcis_document/202203/45824gen788.pdf)

<sup>22</sup> Section 2 of Act 14 of 2021.

commercial sex workers who could not previously open a case of domestic violence against their abusive clients.

Another important provision of the Amendment Act is the compulsory obligation to report acts of domestic violence placed on adults who become aware that such an offence has been committed against another adult or a child, a person with disability or an older person to either a social worker or the police; and failure to report is a criminal offence failing which they will be guilty of a criminal offence.<sup>23</sup> This provision is an important one, particularly in a society where the majority of domestic violence cases are not reported to the police, and the challenge is not that women victims do not speak about their experiences; they do, albeit to family members, friends, religious or cultural leaders and sometimes colleagues in the workplace. This provision therefore places a duty on the confidants of victims, to report these cases for victims' access to justice.

The fact that victims of domestic violence can now apply for protection orders online, without having to go to court in terms of the Amendment Act is another welcome victim-centred and gender-sensitive response to GBV and the limited access to protection for victims.<sup>24</sup> Challenges faced by many women, particularly in rural areas or unemployed women is that accessing the courts is difficult, they need to travel to courts, they need transport fare to get to the courts and they also need to explain their absence in the home particularly if they are economically dependent on their abusers. The Amendment Act also now makes it possible for a peace officer who

attends the scene of domestic violence or who reasonably believes that an act of domestic violence has been committed, to arrest the suspected abuser without an arrest warrant.<sup>25</sup> This provision facilitates swift support and remedy to the victim, without the procedural red tape of having an arresting officer obtain a warrant first before removing the abuser. For most domestic violence cases, every second counts and any delay in response could be fatal and could result in femicide.

### **The Criminal and Related Matters Amendment Act**

The Criminal and Related Matters Amendment Act provides for the appointment of intermediaries and the giving of evidence by using intermediaries and audio-visual links in court proceedings other than criminal proceedings.<sup>26</sup> The use of intermediaries is aimed at supporting minors below the age of 18, under persons suffering from physical, psychological, mental or emotional conditions; or older persons, to give their evidence without exposing them to undue psychological, mental or emotional stress, trauma or suffering.<sup>27</sup> This is true of victims of GBV, whose experiences are traumatic and may prevent them from expressing themselves eloquently, and whose coming face to face with their abusers may retraumatise them. The Act also allows the giving of evidence through the medium of a closed-circuit television or similar electronic media for victims of domestic violence, to reduce physical contact or proximity between the victim and the perpetrator.

Another important provision of the Act is the guarantee that perpetrators of GBV

---

<sup>23</sup> Section 2B of Act 14 of 2021.

<sup>24</sup> Section 4(1)(bb) of Act 14 of 2021.

<sup>25</sup> Section 5 of Act 14 of 2021.

<sup>26</sup> Section 51A and 51C of Act 12 of 2021.

Available at

[https://www.gov.za/sites/default/files/gcis\\_document/202203/4582228-01criminalandrelatedmattersamendmentact12of2021.pdf](https://www.gov.za/sites/default/files/gcis_document/202203/4582228-01criminalandrelatedmattersamendmentact12of2021.pdf)

<sup>27</sup> *Ibid.*

can no longer be released on bail prior to their first appearance in the lower courts, and in instances where bail is granted, written reasons must be given for granting bail against a perpetrator of domestic violence, amongst other related crimes.<sup>28</sup> The implication of this provision is that perpetrators cannot be granted bail easily or before they appear in court, and reasons for granting bail must be documented, thus making it difficult for the prosecutor to concede to their bail application. The victims of domestic violence also have a right to take part in bail and parole proceedings of perpetrators and this presents an opportunity to GBV victims and their relatives, where victims are deceased, to make inputs and be heard before the parole board or any court decision is made.

## **Conclusion**

A double pronged approach to victim-centredness and gender sensitivity through laws that seek to prevent and protect specified groups of victims disproportionately affected by violence and response, care and support interventions to ensure seamless and ease of access to holistic services for victims is important. Monitoring trends, analysing data and statistics of GBV cases and profiling victims and methods of victimisation are some of the strategies that South Africa employed to facilitate special protection of women in South Africa. Laws are not cast in stone and need to be amended or enacted in order to respond to contextual realities, new forms of GBV and trends of victimisation, thus identifying would-be victims before the fact, to enhance their alertness and protection, and providing most needed services, care and support after the fact of GBV, to facilitate healing and empowerment for victims.

With the three victim-centred and gender-sensitive GBV laws that South Africa passed in 2022, the country has led by example, in showcasing how the experiences of women, in all their diversity, of GBV, analysis of cases and statistics and research findings on violence against women, can influence legislative and policy change, resulting in better protection of women and prevention of GBV. Given that laws are not goodwill, but require enforcement and compliance, they contribute immensely to the continuum and enforceable victim-centred, gender-sensitive and gender-responsive approaches to GBV.

---

<sup>28</sup> Section 2 and 4 of Act 12 of 2021.

# Gender-based Violence with a Focus on a Survivor-centred and Gender-sensitive Approach to Justice in Southern Africa

Cathy Kodiemoka\*



Cathy Kodiemoka

## Introduction

Gender-based violence (GBV) refers to violence directed against a person because of his/her gender or sex, and expectations of his/her role in a society or culture.<sup>1</sup> Women are disproportionately affected by violence and the societal gender stereotypes of inequalities, rendering violence against women a significant public health problem. GBV continues to be a

widespread phenomenon, taking multiple forms that include, physical beating, assault, torture, murder and gang rape.<sup>2</sup>

Global statistics show violence against women as a universal phenomenon happening both within and outside the family.<sup>3</sup> Statistics also confirm that GBV occurs mainly in intimate relationships. In South Africa intimate relationships contribute largely to the disproportionate rape and femicide levels in the country.<sup>4</sup>

In the Southern African Development Community (SADC), GBV against women and girls is exacerbated by the persistence of harmful gender norms, culture, alcohol use, increased poverty, violence in urban and rural areas and conflict zones.<sup>5</sup> Partner violence and the fear of abuse prevent girls from refusing sex and jeopardise their ability to negotiate condom use.<sup>6</sup>

Furthermore, GBV had already intensified before the COVID-19 global

\*Gender Advocacy Officer, HURISA.

<sup>1</sup> Pragna Patel, ... Nadia Ahmed, Hunter's Tropical Medicine and Emerging Infectious Diseases (Tenth Edition), 2020.

<sup>2</sup> Jenifer E. Allsworth, Marlene B. Goldman, International Encyclopedia of Public Health (Second Edition), 2017. The list includes murder – every year 66 000 women and girls are killed violently. It includes intimate partner violence – physical, emotional, or sexual abuse perpetrated by a partner or family member. It may occur within a community in the form of physical or sexual abuse by a neighbour or stranger. Finally, gender-based violence may be experienced within a society in the form of systematic violence against women, as has been documented

during recent violent conflicts. Sexual violence against women and girls is a military tactic that damages individuals, families and communities.

<sup>3</sup> [https://www.unodc.org/documents/justice-and-prison-reform/Strengthening\\_Crime\\_Prevention\\_and\\_Criminal\\_Justice\\_Responses\\_to\\_Violence\\_against\\_Women.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Strengthening_Crime_Prevention_and_Criminal_Justice_Responses_to_Violence_against_Women.pdf)

<sup>4</sup> HURISA Report on COVID 19 increase of Gender Based Violence to UN Special Rapporteur, **Special Rapporteur on violence against women and girls, its causes and consequences**, June 30 2020.

<sup>5</sup> <https://esaro.unfpa.org/en/topics/gender-based-violence>

<sup>6</sup> *Ibid.*

crisis. The lockdown and its restrictive rules on movement left many women trapped with their abusers whereas isolated from social contacts and support networks.<sup>7</sup> Increased economic precarity has further limited many women's ability to leave abusive situations. The COVID-driven economic and social instability has also heightened the risk of child marriage, female genital mutilation, and human trafficking.<sup>8</sup> At the same time, the pandemic exposed women leaders to backlash, leading to threats, abuse, and harassment, both online and offline.<sup>9</sup>

## Methodology

Women's experiences in Southern Africa show that Gender Based Violence-Femicide (GBV-F) is a systemic issue that affects all sectors of society. It impacts women's physical and emotional health, as well as communities and societies. A survivor-centered and gender-sensitive approach to justice will ensure that the judiciary consider GBV-F cases with a gender lens. Furthermore, any intervention to curb GBV-F must prioritise the needs and concerns of female survivors.

This article seeks to address the needs and challenges that women in Southern Africa face. The article highlights a three-country synopsis on GBV-F, South Africa, Zambia and Eswatini with a focus on:

- Reviewing the findings on GBV-F in selected countries
- National frameworks and policies protecting women and vulnerable groups, and
- Survivor-centered and gender-sensitive approaches to Justice

## Reviewing the findings of GBV-F in Southern Africa

### *South Africa*

South Africa holds the shameful record of being one of the most unsafe places in the world for women and girls.<sup>10</sup> The statistics of violent crimes committed against women and children are alarming: Eight hundred and fifty-five women and two hundred and forty-three children were killed in South Africa between April and June 2022.<sup>11</sup> It has been observed that there are inadequate shelters for protection of GBV survivors. Those that are available are severely under-resourced.<sup>12</sup> Furthermore, most available shelters provide limited accommodation of up to three months. This, it is argued, is unfortunate given that women are often economically and or emotionally dependent on their perpetrators and limited shelter for short-term has implications on the dynamics of ways to deal with abuse. There is also the lack of second-stage housing, which is a serious concern as women have

---

<sup>7</sup> HURISA Report: Amplifying voices, generating ownership: Consultations for the 2020 Peacebuilding

Architecture Review with local women, other key national and local stakeholders. Available at [https://www.unwomen.org/en/hq-complex-page/covid-19-rebuilding-for-resilience/gender-based-violence?gclid=Cj0KCQjwqoibBhDUARIsAH2OpWgX2ft7yNoq4F8JG4ukBcJR071J18YJWvq9Si3S1PJr1jYoRdJ02\\_saArhfEALw\\_wcB](https://www.unwomen.org/en/hq-complex-page/covid-19-rebuilding-for-resilience/gender-based-violence?gclid=Cj0KCQjwqoibBhDUARIsAH2OpWgX2ft7yNoq4F8JG4ukBcJR071J18YJWvq9Si3S1PJr1jYoRdJ02_saArhfEALw_wcB)

<sup>8</sup><https://www.unwomen.org/en/hq-complex-page/covid-19-rebuilding-for-resilience/gender-based-violence>

<sup>9</sup>*Ibid.*

<sup>10</sup> President Cyril Ramaphosa declared gender-based violence and femicide as South Africa's first pandemic and said society was at war with women and children.

<sup>11</sup><https://www.politicsweb.co.za/documents/crime-stats-show-sa-brutal-and-dangerous-for-women>

<sup>12</sup><https://health-e.org.za/2021/11/26/shelters-for-gbv-survivors-s-running-out-of-options/>

nowhere to turn to after leaving the shelter.<sup>13</sup>

It has been found that survivors are always in need of legal assistance, yet access to justice is limited for them. This is evidenced by Legal Aid South Africa's difficulty in providing legal assistance to women complainants who need protection orders.<sup>14</sup>

It has been observed that a dichotomy persists allowing provision of legal aid to perpetrators, resulting in double standards in the administration of justice. This makes it difficult for women from disadvantaged communities to obtain final protection orders speedily, unless they obtain private legal representation.

For women living in rural areas, access to justice is also impeded by the Traditional Courts Bill. The Bill contains a provision which discards women's right to choose a legal representative where they wish to challenge arbitrary decisions of a tribal court. This reinforces institutionalised patriarchal structures that subjugate women.

### **Zambia**

Zambia has a high rate of GBV in the Southern African region.<sup>15</sup> Defilement (rape of a child), sexual abuse, child marriage and exploitation, battery, incest, property grabbing, assault, wife battery, sexual ritual cleansing, cultural and traditional practices are prominent forms of violence affecting many

women, girls and vulnerable groups in Zambia.<sup>16</sup> These, coupled with poverty, infringe the rights of women and girls.

Furthermore, the law criminalises consensual same-sex sexual conduct.<sup>17</sup> The government continues to reject calls to recognise and protect the rights of LGBTQI+ persons. LGBTQI+ persons are at risk of societal violence due to prevailing prejudices, misperceptions of the law, lack of legal protections and inability to access health-care services. It has been noted that prosecutors are not sensitised about gender-based violence, particularly to ensure impartiality in discharging their functions regarding defilement and rape cases. While justice is an important aspect of safeguarding human rights, its delivery has not been without challenges like in many other Southern Africa countries. Timely disposal of cases and access to legal aid remains one of the major challenges. High illiteracy and poverty levels among the women in rural areas had for a long time prevented many women from accessing legal aid. Literate women also face challenges in accessing justice due to high legal fees of law firms<sup>18</sup> when legal aid is unavailable.

### **Kingdom of Eswatini (Eswatini)**

In Eswatini gender-based violence is an epidemic challenge, disproportionately affecting women and girls. Forty-eight percent of women report to have experienced some form of sexual violence in their lifetime.<sup>19</sup> The

---

<sup>13</sup>[https://cge.org.za/wp-content/uploads/2022/02/CGE-Report-on-the-State-of-Shelters-in-South-Africa\\_2018.pdf](https://cge.org.za/wp-content/uploads/2022/02/CGE-Report-on-the-State-of-Shelters-in-South-Africa_2018.pdf)

<sup>14</sup> Centre for Applied Legal Studies, contribution on HURISA report on the SA CSO CEDAW Shadow Report 2021.

<sup>15</sup><https://www.undp.org/zambia/stories/racing-end-gender-based-violence-when-men-and-boys-get-involved>.

<sup>16</sup>[http://gender.careinternationalwikis.org/\\_media/zambia\\_covaw\\_ii\\_-\\_full\\_rpt\\_june\\_2017.pdf](http://gender.careinternationalwikis.org/_media/zambia_covaw_ii_-_full_rpt_june_2017.pdf).

<sup>17</sup><https://www.state.gov/wp-content/uploads/2021/03/ZAMBIA-2020-HUMAN-RIGHTS-REPORT.pdf>.

<sup>18</sup><https://english.news.cn/20220317/5e1cbda89e184fbfae8b0aa99257c440/c.html>

<sup>19</sup><https://eswatini.unfpa.org/en/topics/gender-based-violence-2#:~:text=In%20Swaziland%2C%20gender%20Dbased%20violence,sexual%20violence%20in%20their%20lifetime.>



government has created this volatile environment which is exacerbated by a range of social and traditional problems including the high rate of domestic and gender-based violence. Women are sexually abused by their partners. The survivors are also not able to access domestic violence shelters due to resource shortages and few trained staff to handle gender-based violence cases. Trained prosecutors and police are challenged by forensic equipment supply shortages and expertise that delay collection of forensic evidence for trials. This leads to enormous delays in the justice system to provide redress for GBV survivors. Furthermore, LGBTQI+ persons face discrimination as well as criminalisation of consensual same-sex conduct. The government refused the Eswatini Sexual and Gender Minorities the right to register as a non-profit organisation.<sup>20</sup>

### **Laws Protecting Women and Vulnerable Groups**

While progress has been made to develop and adopt laws and policies to combat violence against women (including promotion of equality in political and public life as well as education, employment, health care, economic and social life) the Southern African Development Community (SADC) has failed to move beyond a purely formal and/or programmatic approach to one that emphasises substantive enjoyment and realisation of guaranteed rights.

Due to the outcry of women, SADC countries aim to eradicate GBV-F through the following legal frameworks

---

<sup>20</sup><https://mg.co.za/africa/2021-12-04-little-justice-for-gender-based-violence-cases-in-eswatini/>

<sup>21</sup><https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/CSW/64/National-reviews/Zambia.pdf>

to strengthen the existing national, regional and international frameworks:

In South Africa, the National Strategic Plan on Gender-based Violence and Femicide (NSP – GBVF) was adopted in 2020. The NSP- GBVF provides a multi-sectoral, coherent strategic policy and programming framework that seeks to strengthen a coordinated national response to the crisis of GBV and femicide affecting women and vulnerable groups. On 3 June 2020, South Africa's parliament National Assembly passed three GBV bills which were subsequently adopted into law in January 2022, namely, the Criminal and Related Matters Amendment (CRMA), Domestic Violence Amendment Act (DVAA) and the Criminal Law (Sexual Offences and Related Matters) Amendment Act Amendment Act.

Regarding the Zambia legal framework, the Constitution (Amendment) Act No. 2 of 2016 confirms the equal worth of women and men.<sup>21</sup> The Constitution provides for values and principles that include equity, equality and non-discrimination. Further, enactment of the Gender Equity and Equality Act, No. 22 of 2015, strengthens the legal frameworks to escalate elimination of all forms of discrimination against women and girls. It also empowers women to participate fully in the public and private affairs of the country. In addition, gender-based violence fast track courts are established to increase access to justice for GBV survivors and ensure timely disposal of cases.<sup>22</sup>

Eswatini adopted certain domestic policies with a view to aligning its

<sup>22</sup><https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/CSW/64/National-reviews/Zambia.pdf>

domestic framework with additional instruments, such as the Maputo Plan of Action<sup>23</sup> and the African Union Continental Policy Framework on Sexual Reproductive Health and Rights. Legal and policy frameworks have been enacted to protect women's human rights. These include the Sexual Offences & Domestic Violence Bill 2015 and Sexual Offences and Domestic Violence Act of 2018.<sup>24</sup> Another development is the finalisation of the National Strategy for Prevention & Response to Violence which advances already existing protections against gender-based violence.<sup>25</sup>

### **A Survivor-centered and Gender-sensitive Approach to Justice**

The power of behavioural change to address and prevent GBV is undeniable. It requires a multidisciplinary approach that would realise protection and survivor-centred attitudes in communities. Information dissemination, sensitisation, awareness-raising and empowerment programmes will have far-reaching results in transformation of living conditions.

Furthermore, international treaties call on states to establish effective measures to protect, prevent, investigate, and prosecute GBV perpetrators. These include addressing the structural causes of GBV and their prevalent manifestations in local communities. Gender-sensitive legal and policy frameworks must be simplified for effective advancement by justice systems, law enforcement, including traditional, religious, media, private,

---

<sup>23</sup> African Charter on Human and People's Rights Protocol on the Rights of Women in Africa – Maputo Protocol, adopted by the AU in 2003.

<sup>24</sup><https://www.icj.org/wp-content/uploads/2021/03/Eswatini-SRHR-publication-1.pdf>

<sup>25</sup><https://eswatini.unfpa.org/en/topics/gender-based-violence-2>

business as well as health, and social services. SADC needs to make progress addressing GBV by ensuring domestication of its protocols, and that legal systems provide guaranteed remedies to victims and survivors. It is important to prevent secondary persecution of victims and survivors and traumatisation associated with the criminal justice system by monitoring and evaluating protection of vulnerable groups.

In South Africa, the justice system must be gender inclusive and accessible to survivors of GBV. We are commending progress made to tighten the bail regime against rape and murder suspects of women and children. Amendment of legal aid regulations must be considered in favour of domestic violence survivors. Gender and victims' advocates look forward to presidential assent of the Traditional Courts Bill passed by Parliament in September 2022.<sup>26</sup> Complexities on violent domestic relationships have been further considered, with tightened-up protection orders, and broadened circumstances under which they can be granted.<sup>27</sup>

Zambia launched its Anti Gender-based Violence Act (2011), a major step forward in the fight against gender-based violence. The Act provides hope to GBV-F women and children survivors who had no recourse. The framework provides protection and means of

<sup>26</sup> Reflective Report on the implementation of the South African National Strategic Plan on Gender-Based Violence and Femicide, May 2020-September 2022

<sup>27</sup><https://gbvfresponsefund1.org/statements/gbvf-response-fund1-supports-new-gbvf-focused-legislation-in-sa/>

survival to GBV survivors and prosecutes perpetrators.<sup>28</sup>

In addition, the Prosecutors' Handbook on Sexual Violence by the National Prosecution Authority improves access to justice, standardises prosecutions of cases and enhances accountability and transparency in the handling of cases.<sup>29</sup> These enacted laws can be effective, efficient, and deliverable only with political will. There is need for a strengthened justice system which is accessible and impartial to all litigants, irrespective of sex, gender, economic and social background. This would result in a user-friendly justice system responsive to meeting litigants needs with a victim/survivor-centred approach to justice.

Eswatini needs additional measures to protect women and girls from GBV. For example, there is need to repeal discriminatory laws and enact laws to protect women and girls from violence.

Discriminatory laws such as those that prohibit abortion and colonial era sodomy laws continue to increase stigma against women and violates their sexual and reproductive health rights.<sup>30</sup> Eswatini courts have sometimes struck down laws which violate the principle of non-discrimination and prohibition of same-sex relationships. However, progress has been sluggish with limited legal protection.

## Conclusion

Adoption of the aforementioned legislation and policies are a significant step forward in the fight against GBV-F. However, ending GBV-F is a collective

responsibility. SADC states must domesticate GBV protocols and implement policies locally with resources for shelters, psychological counselling and legal assistance to GBV victims and survivors.

---

<sup>28</sup><https://genderlinks.org.za/programme-web-menu/zambia-anti-gender-based-violence-act-passed-2011-10-07/>

<sup>29</sup>[https://www.lusakatimes.com/2021/12/17/gov](https://www.lusakatimes.com/2021/12/17/government-launches-handbook-on-sexual-)  
ernment-launches-handbook-on-sexual-

violence-to-standardize-prosecution-of-cases-throughout-zambia/

<sup>30</sup><https://www.icj.org/wp-content/uploads/2021/03/Eswatini-SRHR-publication-1.pdf>

# Civil Litigation: Attainable Justice for Victims of Trafficking

*Kumvana Mlumbe Mtukule\**



*Kumvana Mlumbe Mtukule*

## Introduction

Human trafficking is a gross violation of human rights. A decade ago, the term ‘human trafficking’ specifically referred to an act of illegal transportation of individuals into a country for forced labour exploitation or sexual exploitation or both. Today however, the legal definition of human trafficking has evolved and it includes all aspects of exploitation even if there has not been cross border transportation or whether a victim was not moved by force. Article 3(a) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime provides a more concise definition of modern human trafficking:

“Trafficking in persons shall mean the recruitment, transportation, transfer,

---

\*Partner, Maxson Arnold & Associates, Malawi.

<sup>1</sup>General Assembly resolution 55/25, 15 November 2000. Also known as the Palermo Protocol.

harbouring or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.”<sup>1</sup>

Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.’<sup>2</sup>

Article 3(b) of the Protocol deals with the issue of consent and clearly sets out that the consent of a victim of trafficking in persons to the intended exploitation shall be irrelevant and sub-Article (c) provides that ‘the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a)’ of Article 3 of the Protocol.<sup>3</sup>

The definition of human trafficking under the Protocol provides a broad and comprehensive platform for perpetrators of human trafficking to be held accountable. It is an established standard of law that where there is a violation, the harm suffered needs to be remedied. Article 25 of the Protocol to the African Charter on Human and Peoples’ Rights

<sup>2</sup> *Ibid*

<sup>3</sup> *Ibid.*

on the Rights of Women in Africa (Maputo Protocol) upholds this standard by guaranteeing the right to a remedy and reparation to victims of human rights violations. The right to a remedy and reparation is further affirmed by Article 8 of the Universal Declaration of Human Rights of 1948.<sup>4</sup>

With an emphasis on Southern Africa, this article discusses the victim-centred approach in providing remedy for victims of human trafficking, especially victims trafficked for domestic work. The article discusses the option of civil litigation as a means of obtaining reparation for victims.

### **Trafficking in Context**

In recent years human trafficking is becoming a pandemic in Africa. There has been a surge of awful stories of how African women have found themselves trafficked to the Middle East and Europe for labour and sexual exploitation. The women, before leaving their countries, are promised legitimate work and better work opportunities by recruitment agencies. Poverty, unemployment, lack of access to information and other social economic shortcomings, make the promises of recruitment agencies a once-in-a-lifetime opportunity to change and improve their lives and those of their loved ones. The media however is not short of stories of women in dire desperation to be rescued by their governments from a total opposite of what they were promised by the employment agencies. They experience

the most demeaning and servitude working conditions that their only way out is to be rescued as they cannot leave on their own accord.

Generally, the perceptions of human trafficking are inevitably influenced by social, cultural, political and legal traditions of a state, and therefore the existence of discrepancies on how human trafficking is dealt with by each state is inevitable.<sup>5</sup> The practical implication, however, is that these variations can lead to fragmented approaches in combating human trafficking in Africa and make regional law enforcement cooperation more difficult. Further, states without sufficient legislative frameworks will become more vulnerable to human trafficking as criminals will naturally concentrate their activities in jurisdictions where law enforcement is weak.<sup>6</sup> The involvement of sophisticated organised criminal groups has also been recognised,<sup>7</sup> and this makes the trafficking operation more sophisticated for states with insufficient legislation framework and whose criminal justice system is not advanced in enforcement. At the centre of all these complications is a victim who is eagerly waiting for her justice and is further made vulnerable in the process.

Despite this, criminal prosecution of traffickers by African states is quite common as they attempt to remedy the situation somehow. For victims who opt to be brought back home, the state usually facilitates the victim to be bought

---

<sup>4</sup> 'Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law'.

<sup>5</sup> Obokata, Tom, Human Trafficking in Africa: Opportunities and Challenges for the African Court of Justice and Human Rights, in Jallow, Charles C. *et al.* (eds.), *The African Court of Justice and Human and Peoples' Rights in*

Context: Development and Challenges, Cambridge University Press, 2019, pp. 529-552.

<sup>6</sup> *Ibid.*

<sup>7</sup> United Nations Educational, Scientific and Cultural Organisation, Human Trafficking in South Africa: Root Causes and Recommendations, , pp. 27-28, 2007; and U.S. Department of State, Trafficking in Persons Report p. 265, 2015.

back home. After suffering unimaginable physical and extreme mental torture, victims are mostly just happy to have been rescued and to have been safely reunited with their families. However, being back home, also means that the victims are put in a worse situation than they were before the trafficking because now, coupled with poverty, they also suffer from trauma and other associated mental distress due to the harm they endured.

### **The Victim-centred Approach**

If being rescued and returning home to a safe place does not fully remedy the harm caused by trafficking, what then is justice to a trafficked victim? The answer to this question depends on the victim. Recently, institutions and governments have started employing the victim-centred approach (VCA) which is characterised by a systematic focus on the concerns and needs of the victim so that the delivery of services is achieved in a compassionate, sensitive, and non-judgemental way, and is also tailored to the person's vulnerabilities as well as aimed at minimising re-traumatisation through-out the judicial and rehabilitation process.

Could a victim-centred approach also mean giving a chance to the victim to define what justice will mean to them? What is justice to them? The main objective of the victim-centred approach is to ensure that efforts extend well beyond the confines of a criminal case.<sup>8</sup> It means taking the best interest of the victims in mind. One can also argue that VCA also involves allowing the victim to make choices that will make her feel fully redressed including being well informed of the option of a civil

litigation against her perpetrator and what that option involves.

### **Criminal Justice versus Civil Justice**

Lack of available information to victims on the possibility of claiming redress directly from their perpetrators makes justice unattainable for many victims as the only legal route that they can rely on is the criminal justice route that not only does not deliver as expected but is also not about the victim but rather the crime. Generally, the expectations and implications of the criminal process are different for the state and for the victim. As such you may find that whilst the state may be pursuing the criminal process in order to bring the perpetrators to the law and protect the victim, the victim may just want to get back on their feet and be remedied for the harm suffered.

Criminal prosecution, unfortunately, does nothing to help victims of trafficking get back on their feet. In criminal prosecution, the crime is considered as against the state and as such the victim's role is primarily that of a witness. The victim does not have the power or rarely has the power to decide the decisions shaping the case. Although a criminal court may order restitution of any losses incurred by the victim, unfortunately the enforcement has its own complications resulting in a lack of restitution for victims.<sup>9</sup> In other cases, criminal prosecution may take years to be completed whilst in other instances the case may never be completed making the adage of 'justice delayed is justice denied' a living reality for many African victims of trafficking.

In addition to this, if the victims are to take part in criminal proceedings against

---

<sup>8</sup> Luis deBaca, Successes and Failures in International Human Trafficking Law, 33 Mich.J.INT'L.37(2011).

<sup>9</sup> Civil Justice for Victims of Crime, The National Crime Victim Bar Association, USA (2001).

traffickers, the state is expected and must be able to provide sufficient support such as witness protection, legal assistance, translation and/or interpretation, and any other assistance which may be required by the victims.<sup>10</sup> Practically and in reality, this is a challenge for most African states as they already have limited resources to support their judicial system for it to be more accessible by victims and other court users. In the end, concentrating on the victim, in reality, may not be an effective use of its limited resources and this may affect the delivery of service.

According to the American Psychological Association, trafficking survivors experience severe long-lasting mental health consequences from their experience. Trafficking survivors encounter high rates of physical and sexual violence, including torture, psychological abuse, horrific work and living conditions.<sup>11</sup> As a result, many survivors experience trauma whose effects can include hopelessness, distrustfulness and disassociation and loss of dignity.<sup>12</sup> This makes restoration of victim's dignity very essential as the victim is attempting to rebuild her life. Unfortunately, the purpose of criminal proceedings is not to restore a victim's dignity as restoration of a victim's dignity is often achieved by empowering the victim and allowing active participation of the victim in the legal process. This is however more possible and accessible through civil litigation.

In a civil case, the victim controls essential decisions shaping the case. The victim decides whether to sue, accept a settlement offer or proceed to trial. The

victim is a party and as such is entitled to all important information relating to the case. She is part of the process in pursuit of what justice means to her. In addition to this, the civil justice system does not attempt to determine the innocence or guilt of an offender. Rather its main focus is to determine whether an offender or a third party is liable for the injuries sustained by the victim as a result of the criminal act.<sup>13</sup> The civil justice system can also offer a platform where the victim can identify their experience as a violation of their person and rather than holding the defendants accountable for their crimes against the state, the civil justice system holds the defendant liable and directly accountable to their victims as the violation is against the person.<sup>14</sup>

A civil case can also offer attainable justice as it can be pursued successfully even if the offender was never prosecuted or even in cases where a verdict of not guilty was entered in the criminal case.<sup>15</sup>

### **Challenges to Civil Litigation of Trafficking Cases**

Civil litigation offers more remedies to victims who are trafficked. However, it has its own challenges. The most apparent challenge is that of statute of limitations where suits filed after the expiration of a limitation period are time-barred. Although in certain circumstances the period can be extended by the court in accordance with the facts of the case, in most jurisdictions the extension is not under any statute but rather under courts inherent jurisdiction meaning that it will depend on the court

---

<sup>10</sup> Tom Obokota "Human Trafficking in Africa: Opportunities and Challenges for the African Court of Justice and Human Rights", op cit.

<sup>11</sup> American Psychological Association, 'Trafficking of women and girls', Report of the task force, 2014.

<sup>12</sup> *Ibid.*

<sup>13</sup> Civil Justice for Victims of Crime, The National Crime Victim Bar Association, (2001) USA.

<sup>14</sup> *Ibid.*

<sup>15</sup> *Ibid.*

sitting in that particular case. The limitation period presents a risk when criminal proceedings have been delayed beyond the limitation period where a victim has opted to commence civil proceedings after the conclusion of criminal proceedings.

Although most jurisdictions allow concurrent proceedings of criminal and civil cases there is also a risk of having the civil case stayed by the court should the defendant's lawyer apply to the court for a stay of proceedings pending the final determination of the criminal matter. A stay of proceedings arises out of the general rule in civil proceedings that until criminal proceedings have been disposed of, where a defendant or a respondent as the case may be, might be prejudiced in criminal proceedings if the civil proceedings were heard first, the civil proceedings would then be postponed or suspended.<sup>16</sup> Basically the question is whether the defendant will suffer prejudice if the civil proceedings are continued. In *Jefferson v. Betcha*, the court held that a stay of proceedings is granted when there is a real risk of serious prejudice which may lead to injustice in one or both proceedings where there are civil and criminal proceedings relating to the same facts and the same plaintiff.<sup>17</sup> The court in *Glazebrook v. Housing*<sup>18</sup> enunciated similar principles however it highlighted that, if and so far as the civil action can be decided without impinging on the question of fact to be decided in the criminal proceedings, then the civil action can be allowed to go to trial.<sup>19</sup>

There is therefore a need for states to enact law that allows a longer limitation period for trafficking cases in order to allow victims to pursue civil justice regardless of delays in criminal

proceedings. Trafficking in Persons Protocol. Another challenge for civil litigation would be the choice of legal representation. A good number of trafficking victims would have capacity challenges to hire counsel to represent them in civil litigation. This is mainly because hiring a private counsel would be quite a daunting exercise to a victim who might also be struggling with resettlement in addition to a possible ongoing criminal case. Apart from hiring a private counsel, other options for a victim would be approaching legal aid offices and non-governmental organisations with expertise in legal representation. However, this could also prove to be quite a lengthy route as a number of NGOs and legal aid offices would only pursue a matter when their funds permit.

## Conclusion

In conclusion, human trafficking is not only a crime, but it is also a violation of a victim's human rights. A human rights approach to litigating trafficking cases therefore requires the need to focus on the trafficked person, whilst paying attention to the protection of the victim. Her rights, wishes, needs and litigation options are also to be prioritised. It must also be highlighted that advocating civil litigation for trafficking should not diminish the importance of a criminal justice approach to human trafficking.

<sup>16</sup> *Randell v. Cape Law Society ZAECGHC 207, (2012).*

<sup>17</sup> 1 Weekly Law Reports 898 (1979).

<sup>18</sup> Jersey Royal Court 58 (2003).

<sup>19</sup> *Bango v. Attorney General & Anor Malawi High Court 474, (2014).*



# Strengthening Victim-friendly Systems: The Case of Zimbabwe

*Memory Pamela Kadau\**



*Memory Pamela Kadau*

## Introduction

Gender-based violence (GBV) and violence against women and girls (VAWG) have been on the rise despite the existence of legal frameworks outlawing the vices in Zimbabwe. The patriarchal nature of Zimbabwean society has seen more women and girls become vulnerable to GBV than men and boys.<sup>1</sup> This paper brings into perspective Zimbabwe's Victim Friendly Systems (VFS) and uses the Human Rights Based Approach (HBRA) as a yardstick to assess its suitability, practicality, and efficacy in deterring violations and reducing cases of VAWG. The author makes a case for a deliberate feminisation of VFS thus making inferences and key policy arguments for

the review of existing policy, legislative regimes, as well as systems and practice by stakeholders. An attempt is made to draw a balance sheet on normative discourses and praxis.

## Regional and International Statutes

GBV and VAWG undermine the enjoyment of rights by women and girls. According to the United Nations Women (2021), one in three women has suffered GBV and reported incidences increased globally during the COVID19 pandemic lockdown.<sup>2</sup> This provides a basis for strong and responsive multi-sectoral VFS to provide justice to victims and survivors of violence and abuse. GBV encompasses a wide range of abuses that range from sexual threats, exploitation, humiliation, assaults, molestation, domestic violence, incest, involuntary sex work, torture, insertion of objects into genitalia to attempted rape and rape.<sup>3</sup> Spousal violence, rape, forced and child marriages are some of the leading forms of GBV which prevent Zimbabwe from reaching its developmental targets.<sup>4</sup> According to SADC Parliamentary Forum (2021), the developmental objectives which are gender oriented are provided under the SADC Protocol on Gender and Development, Sustainable Development Goal 5 on Gender

---

\* Senior Program Officer, National Democratic Institute (NDI).

<sup>1</sup> Gaidzanwa, R.B., *Grappling with Mugabe's Masculinist Politics in Zimbabwe: A Gender Perspective*, In: Ndlovu-Gatsheni, S.J. (eds) *Mugabeism? African Histories and Modernities*, Palgrave Macmillan, New York, 2015.

<sup>2</sup> The Shadow Pandemic: Violence against Women During COVID-19, 2021. Available at [https://www.unwomen.org/en/news/in-focus/in-focus-gender-equality-in-covid-19-](https://www.unwomen.org/en/news/in-focus/in-focus-gender-equality-in-covid-19-response/violence-against-women-during-covid-19)

[response/violence-against-women-during-covid-19](https://www.unwomen.org/en/news/in-focus/in-focus-gender-equality-in-covid-19-response/violence-against-women-during-covid-19)

<sup>3</sup> This is the working definition in this paper as defined by the World Health Organisation and will be taken to mean the same as VAWG and SGBV for purposes of this paper. Available at [https://www.who.int/health-topics/violence-against-women#tab=tab\\_1](https://www.who.int/health-topics/violence-against-women#tab=tab_1)

<sup>4</sup> These are targets set in the SADC, African Union and United Nations developmental goals which guide all SADC states.

Equality, the Beijing Declaration, as well as Aspiration 6 of Africa Agenda 2063 on progressive women and youth empowerment. Weak and non-responsive VFS undermines Zimbabwe's prospect to reach these goals.

### **Existing Legislative Frameworks**

Zimbabwe has, on paper, progressive legal provisions that address GBV and provide for a robust VFS framework, including a VFS multi-sectoral protocol adopted in 2012.<sup>5</sup> Existing laws include the Criminal Law (Codification and Reform Act [Chapter 9:23] and the Criminal Procedure and Evidence Act Chapter 9:07. These instruments have however been the subject of debate with calls for their strengthening to protect women against political vices. In addition, the country is party to the SADC Model Law on GBV which emphasises that legislation must protect victims, punish perpetrators and ensure that human rights are upheld in accordance with international, regional and sub-regional standards and requirements. At an international and regional level Zimbabwe is a party to the 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); the African Charter on Human and People's Rights (ACHPR); the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (Maputo Protocol); the African Charter on the Rights and Welfare of the Child

---

<sup>5</sup> Protocol on the Multi-Sectoral Management of Sexual Abuse and Violence in Zimbabwe Led by the Judicial Service Commission adopted in 2012.

<sup>6</sup> Op cit

<sup>7</sup> Zimbabwe National Statistical Agency, Zimbabwe Demographic Health Survey Final Report, 2015.

(ACRWC) and the Southern Africa Development Community Protocol on Gender and Development among other regional and international instruments that are relevant to gender equality and non-discrimination.

### **Social Indices**

GBV in Zimbabwe is seen in acts of domestic violence where rights are violated because of physiological make-up and gender roles performed by men and women. The patriarchal nature of Zimbabwean society makes women and girls more vulnerable to GBV than men and boys.<sup>6</sup> According to the Zimbabwe Demographic Health Survey (ZDHS, 2015) more than one in three women experienced physical violence since the age of fifteen and 14.5% of women experienced violence in the same year 2015<sup>7</sup> During the 2020 COVID 19 lockdown, the country witnessed a spike in cases of GBV with a recorded increase of 43% reported cases between the period March – May 2020 compared to the same period in 2019.<sup>8</sup> Other harmful cultural and religious practices include child marriages, forced virginity testing and offering women for cultural rites to appease avenging spirits among others. Furthermore, over the last two decades, hundreds of women and girls' bodies have been violated and mutilated in political conflict. The result has been underrepresentation of women in decision-making which undermines prospects of attaining gender equality

<sup>8</sup> Stopping Abuse and Female Exploitation (SAFE) Zimbabwe Technical Assistance Facility (2020). Violence Against Women and Girls during the COVID 19 Crisis in Zimbabwe: Analysis of practice-based data from Women's Coalition of Zimbabwe (Analysis of Data: March – May 2020). Available at <https://musasa.co.zw/wp-content/uploads/2020/09/SAFE-Report-on-Gender-Based-Violence-Data-in-Zimbabwe-during-Covid-19.pdf>

(WALPE, 2019).<sup>9</sup> This is despite the country's constitution mandating equal representation in decision-making portfolios.

### **The VFS in Zimbabwe**

The Government of Zimbabwe (GoZ: 2012) defines VFS as a set of measures designed to ensure the protection and active participation of survivors in the criminal justice system. Central to this system is the Victim Friendly Unit (VFU) within the Zimbabwe Republic Police (ZRP) and the Victim Friendly Court (VFC). Ideally, this system should handle cases in a victim-centered manner, however, evidence shows insensitivities in managing cases.

### **Patriarchy, Masculinity and Harmful Cultural and Social Practices in VFUs**

Officers manning these VFUs are also accused of exhibiting insensitivity towards victims and survivors of GBV. Machakanja *et al* (2016) found that within the ZRP and court sit-ins by lawyers, female-to-female brutality is still experienced by victims.<sup>10</sup> Oftentimes they have a tendency to label, name-call and blame victims for their predicament making it difficult for victims to open up and share their experiences. Attitudes and terminology used by these law enforcement officers deter victims from seeking help. Furthermore, due to limited funding VFUs operate with limited staff and resources to fully support victims.

There are allegations of stigmatisation in these facilities which deter women from approaching them. For example, women have reported traumatic experiences at the hands of law enforcement agents and in some cases, victims are asked to bring the perpetrator to the station. These insensitive scenarios undermine core principles of an effective VFS and result in compromised access to services and justice by victims.

There are varied explanations of the stigmatisation by law enforcement agencies, chief being the deep-seated masculine cultural practices in society that tend to blame the victim for a violation and places less weight on the actions of perpetrators. The recruitment and training of police officers tends to emphasise physical capabilities with less focus on emotional intelligence. This has led to VFUs manned by senior male police officers who have limited knowledge on intersectional policing practices. Encounters by victims point to police officers that rely on their social beliefs (patriarchy) rather than the law in executing their duties. Some victims complain that when they approach these units the male police officers are quick to blame them and at times even accuse victims of 'inviting violations,' the absence of a robust training programme for police officers manning these facilities is a major setback. Victims are also subjected to sexist, misogynistic and homophobic insults from law enforcement agents and even court officials hearing their cases.

---

<sup>9</sup> Women's Academy for Leadership and Political Excellence (WALPE). The Efficacy of the Parliamentary Women Proportional Representation Quota System, 2009 Available at <https://walpe.org.zw/wp-content/uploads/2019/11/Parliamentary-Quota-system-research-report.pdf>

<sup>10</sup> Machakanja P, Jeranyama D & Bere E, *The Constitutional and Legal Frameworks for the*

*Protection of Women Against Violence in Zimbabwe*, (2016) Available at : <https://old.zimlil.org/content/constitutional-and-legal-frameworks-protection-womenten-against-violence-zimbabwe#:~:text=Zimbabwe%20is%20signatory%20to%20the,the%20women's%20bill%20of%20rights.>

At the turn of the millennium, Zimbabwe attempted with little success to introduce a national dress code and in more recent years different government departments have ‘outlawed’ the wearing of ‘exposing’ clothes while entering public offices. Such stigmatisation of official government positions tends to be embraced as ‘law’ in centres where victims and survivors should access services and justice. This paper argues that it is these archaic practices that further embolden the masculinity in service agents that should provide inclusive VFS.

### **Centralisation of Agencies Offering VFS**

Other government stakeholders in the VFS matrix include the Ministry of Women’s Affairs, Parliamentary Women’s Caucus, the Zimbabwe Gender Commission, the Zimbabwe Human Rights Commission and the National Peace and Reconciliation Commission. These specific departments provide complementary support mechanisms for victims.

However, the issue of centralisation and limited resources to reach out to marginalised communities limits the impact they have on supporting victims (WCOZ, 2021). Victim-centered approaches are also very underdeveloped in these departments which raise significant challenges for victims seeking their services.

### **Limited Funding for non-State Actors**

Non-Governmental Organizations service providers like the Musasa

---

<sup>11</sup> Stopping Abuse and Female Exploitation (SAFE) Zimbabwe Technical Assistance Facility (2020). Violence Against Women and Girls during the COVID 19 Crisis in Zimbabwe: Analysis of practice-based data from Women’s Coalition of Zimbabwe (Analysis of Data: March – May 2020) Available at [https://musasa.co.zw/wp-](https://musasa.co.zw/wp-content/uploads/2020/09/SAFE-Report-on-Gender-Based-Violence-Data-in-Zimbabwe-during-Covid-19.pdf)

Project, Adult Rape Clinic, Childline and Zimbabwe Women Lawyers Association are also part of VFS working within an ecosystem of non-state actors. These service providers offer temporary shelter, psycho-social support, medico-legal services.<sup>11</sup> These service providers play an important role in complementing the government. The major challenge for the service providers is that their work is dependent on funding from development partners and private sectors and when there are competing priorities like the COVID19 response and the recent Russia-Ukraine conflict, resources for other victim-centred work are substantially reduced, limiting their reach.

### **Selected Case Studies**

These cases offer insights into the challenges faced by victims of GBV and VAWG.

#### **The Story of Tinevimbo Mushingi’s<sup>12</sup> Denial of Reporting and Services**

‘ On 14<sup>th</sup> January 2019, I participated in the stay away as part of my right to petition government over economic hardships. During the protest, I saw a woman almost run over by an army truck. Realizing how dangerous it now was, I went back home. On the following day men, whom I later recognised as soldiers, arrived at my house shouting my husband’s name (he is a known political activist in my community). I looked out the window and saw six men in army uniform with guns and three in civilian clothes. I told my husband that there were soldiers, he quickly jumped

[content/uploads/2020/09/SAFE-Report-on-Gender-Based-Violence-Data-in-Zimbabwe-during-Covid-19.pdf](https://musasa.co.zw/wp-content/uploads/2020/09/SAFE-Report-on-Gender-Based-Violence-Data-in-Zimbabwe-during-Covid-19.pdf)

<sup>12</sup> Not her real name because of fear of political victimisation. She opened up to a local CSO which supports victims of GBV following the Zimbabwe protests of 14-15 January 2019.

out the window and ran away. When they continued knocking with force, I eventually opened the door. When they got in the house, they asked me where my husband was while they were searching everywhere. They threatened to assault me, and I informed them that my husband had escaped through the window’.

‘They stepped out and called me outside. I resisted, then one of them came back in and pushed me out with the butt of a gun on the side of my leg. I heard one of them say “if you sleep with her, she will tell us where her husband is.” One of them in army uniform, tripped me and I fell. I tried to get up, but he pinned me down with his leg. One of them dropped his pants and raped me and three others followed without using any protection. When they finished, one of them said to me, “if we hear about this, we are going to come back because we will know who said it and we are not going to rest until we find your husband.” After they left, I went to my local police station to report the case but the police officers in the charge office mocked me saying “*ndozviriipo nyikayose vakomana varikuita basa ravo saka hapana chatokubatsira nacho dzokera kumba*” (meaning ‘there is nothing we can help you with; the boys (soldiers) are doing their job). I left the police station and went back home and found my house looted. My kids were already staying with my mother in Mutare and that is where I went for some three months while my husband had escaped to South Africa. I informed my mother of what had happened, and she referred me to this NGO which works with women who have suffered like me, it was this organisation that gave me assistance, including medical treatment. After January 2019, I got to know a lot of

women who were raped by soldiers; but they were turned away by the police and only got assistance through the same NGO’.

### **The Story of Natasha,<sup>13</sup> a University Student**

‘I was coming from my evening studies and walking down a long-hedged walkway towards my hostel when suddenly I came across two men. It was dark and I could not see their faces and suddenly one of them grabbed me by the shoulders and started fondling my breasts while the other inserted his hands between my legs touching my vagina. I screamed and the two men let me go and ran laughing into the darkness while I ran to my room crying. The following day, my friend accompanied me to report to the school security who then referred me to the police station near our campus. At the station I was told to wait for the VFU officers who had gone to court. I sat for three hours waiting. As I narrated my ordeal, one of the officers asked, “why were you walking alone at night?” and the other one said, “so they only touched you? That is nothing, at least they did not rape you.” These questions and comments hurt me deeply so much that after I left the station. I never followed up on the case again as I felt violated by the police who were supposed to assist me’.

### **Case Evaluations**

The two case studies show adverse attitudes and conduct by the police who should be part of providing victim-centered services within the VFS framework. In the case of Tinevimbo Mushingi, the police acted in a partisan manner and failed in their duty to enforce the law resulting in the victim failing to

---

<sup>13</sup> Not her real name in order to protect her identity. She studied at a local university and graduated in 2021. She opened up on her case to

a student organisation working on sexual and reproductive health rights for youths and students.

access justice. Natasha faced victim blaming, denying her psychosocial support. For victims to feel confident to report cases, the system must strengthen victim-centered approaches at all levels, and challenge behavioral and cultural prejudices that adversely affect access to VFS.

### **Recommendations: Toward a More Responsive VFS**

Having made a modest attempt to interrogate the underlying causes of inefficient masculine VFUs, this paper makes a case for a more responsive VFS using intersectional approaches by standardised best practices and recommends thus:

- ***Feminisation of Training Curricula for Law Enforcement Agents*** – training curricula for law enforcement agents require review, feminisation and use of intersectional approaches cognisant that women and girls are more vulnerable to GBV.
- ***De-politicization of GBV and VAWG*** – law enforcement agencies must operate within the confines of the law, guided by the non-discrimination principle provided by the Constitution. Similarly, political parties must be seen to discourage GBV and VAWG and move towards the realisation of section 56 of the Constitution by creating safe spaces for women to participate in political processes freely.
- ***Decentralization of Services*** – government should increase budget allocations towards VFS agencies with a deliberate effort at decentralising services. Such services should be expanded to marginalised areas.
- ***Improved Funding for non-State Actors*** – development funding should prioritise financing non state actors that offer psycho-social

support and litigation. These organizations should also offer technical support to VFUs in improving services and access to justice.

- ***Continuous Strengthening and Improvement of Legislation*** - Laws and their application must be tightened to address harmful cultural practices and reinforce positive attitudes which do not blame the victim. The VFS referral pathway must be continuously strengthened to adequately handle and refer cases.
- ***Public Awareness-raising on GBV and VAWG*** - Government and other stakeholders in the VFS must undertake regular and context-defined awareness campaigns to increase awareness on GBV, referral pathways and most importantly challenge stigma and harmful practices, in line with Human Rights Based Action provisions. These awareness campaigns can use multiple media platforms for wider reach.
- ***Review, Updating and Implementation of National VFS Policies*** - Government must continuously update and implement policy framework for VFS, in consultation with stakeholders. These policies should be budgeted for and implemented in communities.

### **Conclusion**

This paper has provided evidence which shows that although Zimbabwe has a progressive legislative regime that seeks to foster judicious and psychosocial support for victims and survivors of GBV and VAWG to realise justice and end the two vices, its law enforcement agencies and state institutions are ill-prepared to implement responsive VFS. The article has shown that masculinity,

cultural norms and practices tend to shape attitudes and perceptions towards victims. Resource constraints also undermine expansion of services by state and non-state actors.

# PEACE IS PEACE ONLY IF PEACE IS DONE RIGHT

## In Search of Peace and Justice in Sub-Saharan Conflicts: The Case of the Southern Cameroons/Ambazonia Right to Self-determination

*Emma M. Osong\**

*'The first step is to stop glorifying war and begin glorifying peace. You cannot kill an ideology with a gun. You have to have a better ideology.'*  
*Ben Ferencz<sup>i</sup>*



*Emma M. Osong*

### Introduction

The political wind is changing in the sub-Saharan Francophone countries. With an uptick in violent military coup d'états, new wars, and long-standing civil wars, there is concern both regionally and internationally that the decade hailed as the year of 'silencing the guns' in Africa was just another mantra, and that opportunities to avert future wars remain a challenge of grave proportion as leaders increasingly hold on to power by any means necessary, including waging war. Rather than witness an emergent Africa where inequality, end of gender-based violence, hunger, human rights, democratic institutions, and peace are on the decline everywhere, an integral part

of UN Sustainable Development Goals (SDG),<sup>1</sup> there is still the drumbeats of war with its attendant human suffering. Where these vexations reared their ugly heads, by far women, young girls, and children bear the brunt. The six-year long war in Cameroon in what is called its Northwest and Southwest regions is particularly vexing, least for being the world's most neglected conflict.

### The Southern Cameroons/Ambazonia Conflict

I begin where we need to start the conversation on victim-centered, gender-sensitive peace and justice to query the UN's calls to end poverty and ensure people everywhere enjoy peace and prosperity, the UN Women frustrations<sup>2</sup> in closing the gender gaps essential for achieving gender-related SDG commitments in Cameroon, and the role of the International Criminal Court (ICC) in accountability. Ostensibly, the year 2020 corresponds to the height of the war in Southern Cameroons, aka, Ambazonia, declared by President Paul Biya in November 2017. It therefore comes as no surprise that there are clear linkages between the medium to low country key performance indicators (i.e., Human Development Index (HDI),

\*Aerospace Systems Engineer; Founder and Executive Director, Women for Permanent Peace and Justice (WPPJ).

<sup>i</sup> <https://law.emory.edu/news-and-events/releases/2015>.

<sup>1</sup> SDG Goals in Cameroon at <https://cameroon.un.org/en/sdgs>

<sup>2</sup> UN Women 2020 gender-based analysis in Cameroon, available at <https://data.unwomen.org/country/cameroon>.



Gender inequality, global innovation ranking and gaps in fostering victim-centered, gender-sensitive sustainable goals in the Republic of Cameroon.<sup>3</sup>

The case of the six-year war in Southern Cameroons, aka, Ambazonia, brought about by the government of the Republic of Cameroon (LRC) in which nearly twenty thousand civilians have been killed, five hundred civilian settlements scotched, nearly one million people internally displaced and several hundred forcibly deported into the forests and neighbouring countries remains largely neglected. It is particularly alarming that the civilian death toll which has occurred on the watch of the supposed civilized world, is on regard as being the same as the number of persons who were killed in the second Libya war which lasted six years and six months.

I am no lawyer. But one need not be a legal scholar to appreciate that crimes that shock or violate our consciences, characterised as atrocity crimes and which are committed by actors at the direction of civilian or military commanders must be of concern to the international community and must be investigated and prosecuted.

Since publicly declared war against armless Southern Cameroons civilians who, led by lawyers and teachers were demonstrating against a systemic policy of cultural genocide targeting their culture, legal and educational systems and ordered the Cameroon military to 'exterminate all terrorists who intend to destroy the country,' human life lost its value on the orders of President Paul Biya. The catalogue of atrocity crimes committed by Cameroonian forces with impunity during their occupation of

civilian settlements in the Southern Cameroons/Ambazonia are of the same magnitude and intensity as the crimes which the world recently witnessed in Bucha, Ukraine where Russian troops left behind mass devastation, death, and mass graves to mock the world.

Human rights organizations have documented evidence that Cameroonian occupying forces and some armed groups have shown blatant disregard for civilian life and have violated the laws and customs of laws. Despite the impunity with which atrocity crimes have been committed in this war, the International Community has taken no steps to protect civilians, particularly women, children, and young girls, avert a humanitarian calamity and hold the perpetrators of atrocity crimes to account.

### **Origins of the Southern Cameroons Crisis and The Root Causes of The Conflict**

Dubbed the 'Anglophone Crisis,' what is happening in Southern Cameroons/Ambazonia since 2017 when President Biya moved in his army, is neither a minority grievance, linguistic or cultural anxieties nor merely lawyers' and teachers' grievances. It should be noted that the situation has sparked widespread civil protests. These are misplaced nomenclatures aimed at minimising the grave historical and legal wrongs in Southern Cameroons. There is extensive evidence of atrocity crimes in which rape is routinely used as a tool of war; summary executions, burning of homes and schools, forced disappearances, torture, and forced deportations constituting war crimes and crimes against humanity. All these

---

<sup>3</sup> KPI values for HDI, Gender inequality, innovation index rankings for Cameroon available at <https://africa.unwomen.org/en/where-we->

[are/west-and-central-africa/cameroon and at https://www.wipo.int/edocs/pubdocs/n/wipo\\_public\\_gii\\_2021/cm.pdf.](https://www.wipo.int/edocs/pubdocs/n/wipo_public_gii_2021/cm.pdf)

crimes have gone un-investigated, prosecuted, or punished.<sup>4</sup>

In 2016, lawyers and teachers went on strike to protest the use of French teachers in English-speaking schools and magistrates in Common Law courts in the Southern Cameroons. The protests were violently repressed. Responding to the popular outcry against the egregious violations which were committed against the protesting lawyers and teachers, the government organised talks with the representatives of teachers and lawyers. When the talks failed, they were arrested, charged with secession, and jailed. This provoked a popular uprising generalised by peaceful demonstrations throughout the territory of the Southern Cameroons/Ambazonia.

On 1 October 2017, Southern Cameroonians declared the restoration of their independence, adopting the name Ambazonia. On November 30th of the same year, the Southern Cameroons declared its independence.<sup>5</sup> The declaration was premised on the basis that the Republic of Cameroon attained its independence on January 1, 1960 without the British Southern Cameroons as part of its territory, and that the international boundaries of the Republic of Cameroon were frozen in international law on the date of its independence.<sup>6</sup> This declaration was precipitated by the declaration of war made by Mr Biya as a disproportionate response to the legitimate non-violent protests which were organised by lawyers and teachers.<sup>7</sup>

---

<sup>4</sup> Ambazonia Genocide Library. Viewer discretion is strongly advised as the nature and content of pictures are particularly shocking to the human conscience.

<sup>5</sup> Media accounts of the declaration of independence in the Anglophone regions. Available at <https://www.aljazeera.com/news/2017/10/1/cameroon-english-speakers-call-for-independence>.

The historical record establishes that the Southern Cameroons was a UN Trust Territory under the Administration of Great Britain. At decolonization in 1961, the UN gave it two choices to achieve independence in association with Cameroon or with Nigeria. In an UN-organized plebiscite held on February 11, 1961, a majority of Southern Cameroonians voted to attain independence by uniting with the independent Republic of Cameroon. On April 12, 1961, the UN General Assembly voted overwhelmingly in favour of independence for Southern Cameroons in Res. 1608(XV) and set October 1, 1961, as the date for independence. The Republic of Cameroon and France voted against Res. 1608(XV).

For a colonial or trust territory to attain independence, the colonial power must surrender the instruments of power to the peoples of the territory concerned. To fulfil this requirement, (*UN Res. 1514(XV) of 14 Dec. 1960 at # 5*) *ordained: Immediate steps shall be taken, in Trust and Non-Self-Governing Territories or all other territories which have not yet attained independence, to transfer all powers to the peoples of those territories, without any conditions or reservations, in accordance with their freely expressed will and desire, without any distinction as to race, creed or color, in order to enable them to enjoy complete independence and freedom.*

In violation of the Pre-plebiscite agreements, the UK handed the

<sup>6</sup> Article 4(b) of the Constitutive Act of the African Union. ).

<sup>7</sup> Live images of the outbreak of the crisis and statements of President Biya declaration of war available at : <https://www.youtube.com/watch?v=QG5PT5XLkw0>.

instruments of sovereignty to the President of the Republic of Cameroon instead of the elected leaders of the autonomous Southern Cameroons. President Ahidjo simply amended its constitution to annex the territory and imposed a federation of two equal states on the Southern Cameroons. On the eve of Independence Day of 1 October set by the UN, Ahidjo deployed his army of occupation to enforce the occupation and annexation.

In 1972, the federation was dissolved even though the constitution in its article 47 prohibited its dissolution and a United Republic was imposed; the federal character of the country was dissolved, and the country was declared '*one and indivisible*'. In 1984, La Republique du Cameroun reverted to its identity and name at independence on the critical date of January 1, 1960, effectively dissolving the purported union it imposed on the Southern Cameroons.

Opposition to this constitutional arrangement was severely repressed. Anyone challenging the illegalities was declared a secessionist and terrorist, killed, jailed, or fled into exile. On November 30, 2017, the President of La Republique du Cameroun, Paul Biya declared war and deployed his military to carry out a campaign of terror, genocide, and atrocity crimes in the territory of the Southern Cameroons.<sup>8</sup>

In the Paris Peace Forum in November 2019 which President Paul Biya attended, he publicly confessed that Cameroon's policy has always been the total assimilation of the peoples of the Southern Cameroons.<sup>8</sup> That policy led to a continuation of the right of the People of Southern Cameroons the choice of self-rule by going against UN Charter 76 (a) and (b) and UN Resolution 1608.

---

<sup>8</sup> Proceedings of the Paris Peace Forum available at

The rationale for the war is the belief by Cameroon that gained independence on January 1, 1960, that it could simply assimilate, annex, and integrate the territory of the Southern Cameroon/Ambazonia, independent on October 1, 1961, into a highly centralised one and indivisible state. That policy constitutes a violation of the right of Southern Cameroons to external self-determination which was guaranteed by UN Charter Article 76 (a) and (b) and UN Resolution 1608. The Republic of Cameroon also violated the Geneva Conventions (1949 (protection of civilians in armed conflicts) and the 1949 and 1954 (the "Never Again" pledge) convention on the responsibility on the prevention of genocide, and international human rights conventions.

### ***Sex And Gender-based Crimes and The Use of Rape as A Tool of War***

In the prosecution of the war, Cameroon uses Rape as an instrument of war. There are ongoing sex and gender-based crimes in which women and young girls are specifically targeted, brutalised, raped; are used as sex slaves to humiliate and subdue the civilian population to surrender to the assimilation and annexation. Southern Cameroonian children and youth are specifically targeted. The actual number of women and children raped in Southern Cameroon/Ambazonia since the outbreak of the war is higher as victims of rape are reluctant to speak up.

Due to restrictions imposed by the Cameroon government on humanitarian and human rights organisations, access to the hard-hit areas to investigate or confirm the cases of rape is limited. Targeting school children and the burning villages and schools has led to

<https://www.youtube.com/watch?v=71plmK60lWs>.

widespread school closure and internal displacements since the start of the war in 2017, further worsening the plight of children, in particular young girls.

Government forces have on some occasions taken responsibility for some of the crimes which they committed against women, children, and vulnerable groups of persons. A military spokesman admitted the authenticity of recent videos on social media platforms of a bloodied naked body of a grandmother in Guzang, a village in the NW region believed to have been raped and killed by the army. Her death, like that of two young mothers, Suzan Abazi and Basheba Etoh who were killed in Andek village of Momo on September 19, 2022, by armed forces from the Koutaba Airborne Troops Battalion (BTAP). The massacre of Baby Carolouise, 13 students at Mother Francesca school, members of the families of Shey and Sika who were massacred in Ngarbuh on February 14, 2020, are part of a criminal record of widespread or systematic attacks against Southern Cameroonian civilian population. A majority of the victims of the over 500 civilian settlements, villages, ancestral homes and civilian subsistence economy farms burnt; nearly one million people internally displaced are women, girls, children and the vulnerable. Despite the increasing crimes, calls for an independent investigation have gone unheeded. The military and civilian commanders (Governors and Ministers) bear the superior responsibility and must be held accountable.

### ***Militarisation of Justice and Civil Administration, Forced Deportation, and Wilful Killing of Civilians***

---

<sup>9</sup> Norwegian Refugee Council characterises the crisis in Cameroon as ‘the world’s most neglected displacement crisis today’, available at :

The ongoing militarisation of civilian settlements by the armed forces has led to widespread fear and systematic killings. The rural areas which are homes of the majority poor are heavily militarised and constitute some of the worst crime bases in the six-year war.

The human toll of the war is aggravated by the combined effect of the forcible deportation of civilians from their ancestral homes into neighbouring countries and forests, the heavy presence of the military in civilian settlements, the systemic and widespread attacks against civilian and civilian targets and the obliteration of civilian subsistence economy. The use of starvation as a strategic military tactic and the prevention of international aid agencies, human rights organisations, and medical access to the victims in villages in need of assistance has resulted in a humanitarian crisis described by the Norwegian Refugee Council (NRC) as of an unimaginable magnitude.<sup>9</sup>

There is ongoing militarisation in which hospitals, places of worship, educational systems and cultural landmarks are specifically targeted. The impunity with which these crimes are committed, and the targeting of Southern Cameroonians’ women, children, girls, adolescents and young adults qualify as genocide.

### ***Collective Punishment***

In the eyes of the civilian and military commanders, all southern Cameroonians are targets. This is demonstrated by the raids of civilian settlements in urban and rural areas where particularly young men are ferried away to military detention centers without any form of due process (see the case of NERA 10). This conduct traumatises entire population settlements

<https://www.nrc.no/news/2019/june/cameroon-tops-list-of-most-neglected-crises/>.

and tantamount to state sponsored terrorism. There are reported cases of entire families arrested, jailed, and their whereabouts unknown because a member of the family is suspected of being an ‘amba boy’ as Southern Cameroons Restoration fighters or combatants are called.

The case of the minors Sandra Ashu and Miriam Mbi Etchi, who were brought before a military tribunal and remanded to adult state prison in Kumba, Cameroon since January 2021 for being alleged accessories after the fact in the October 24, 2020, massacre of seven children at the Mother Francisca International Bilingual Academy in Kumba by unknown gunmen clearly elucidates this point. These minors and thousands of others who are in jail are entitled to the protections under international conventions on children in armed conflict. Appeals to UNICEF to rescue these children victims from being sacrificed for crimes from which they are victims and should be protected have not resulted in their release.

Documented eye-witness accounts by human rights organisations reveal incidences of collective punishment, burning of homes and the arbitrary arrests and forcible disappearance of civilians. On April 24, 2022, the Cameroon’s Rapid Intervention Battalion (BIR) arrested forty motor bike riders who were part of a funeral convoy in the locality of Oku. Their whereabouts are still unknown. Their crime: suspicion of being ‘amba boys’. On June 1, 2022, the BIR killed nine people in Missong village including four women and an eighteen-month child accusing them of harbouring ‘Amba’ fighters.<sup>10</sup>

---

<sup>10</sup> Documentation of incidences of collective punishment in the ‘Anglophone’ regions in Cameroon, Human Rights Watch: [www.hrw.org](http://www.hrw.org).

A recent headline from Human Rights Watch reads:

*On December 10, 2021, soldiers gathered about 80 residents in the village square mostly women, accused them of harboring separatist fighters, and threatened them with death. The soldiers forcibly disappeared four villagers, two of them women, during the raid. They were found dead on December 29, with apparent gunshot wounds to their heads.*

The lack of independent investigation to hold those responsible continues.

### ***The Creation of Militias or Vigilante Groups***

Some state officials ordered villages to create armed militias, so-called vigilante groups. These armed bands are used to carry out atrocity crimes against civilian populations with the support of the army on the mere suspicion that members of the targeted civilian population are part of or harbour an armed group. The massacre on February 14, 2020, in Narbeh where thirty-three people were killed including thirteen children, (the entire Shey and Sika families) is an example of a state sponsored atrocity crime. Also, a pregnant woman was killed by groups sponsored, supported, and operating under Cameroon’s military command. A highly manipulated report released by a rare commission of inquiry established by the Cameroon government due to the glaring nature of the massacres, nevertheless, found that Cameroon soldiers and allied militias committed the atrocity crimes in Ngarbuh. The government accepted responsibility, but no further action has been taken against the civilian and

military commanders responsible for the crimes. Rather they have been publicly praised and promoted.

Several human rights groups point the finger at government for their human rights abuses, rape, torture, mass killings, arbitrary arrests and mass incarcerations of mostly young men of Ambazonia extraction. Meanwhile, there have also been documented abuses by armed groups operating under a myriad of commanding leaders both in the country and in the diaspora.<sup>11</sup>

### **A Slow Walk to Genocide in Ambazonia**

That the war can be characterised as genocidal may not be subject of reasonable controversy. It can be disputed only by those who place interests above human suffering. Evidence of war crimes and crimes against humanity have been widely documented in the war in Ambazonia.<sup>12</sup> Like the case of Bucha, Ukraine, the civilised world should initiate urgent measures for the ICC to formally open investigations of crimes committed in the Southern Cameroons for the following reasons:

Southern Cameroonians/Ambazonians have a distinct, common identity and internationally recognised personality and borders. This fact was made clear by the 2019 Cameroon government organised Major National Dialogue held in Yaoundé that sought to impose a ‘*Special Status*’ on the ‘Anglophones’, and the public admission by President Biya of a failed

attempt to annex and assimilate Southern Cameroons/Ambazonia into a centralised *one and indivisible* Cameroon republic.

Additionally, the following evidence point to the conclusion that there is an ongoing genocide in the Southern Cameroons:

1. The Republic of Cameroon has demonstrated that it has the special intent, and knowledge to destroy Southern Cameroonians on the basis of their nationality, cultural and legal personality. The Republic of Cameroon through President Paul Biya and senior members of his government have made public statements denying the existence of Southern Cameroons.
2. Public statements have been made calling Southern Cameroonians terrorists and a threat to unity who must be ‘wiped out’. There can be no other justification when pursuant to orders and these statements, civilian settlements are militarised, and civilians are targeted and killed, meanwhile Francophone civilians living in the territory have not been targeted. Only Southern Cameroon civilians are specifically targeted.
3. The use of dehumanising terms to describe Southern Cameroonians in the media<sup>12</sup> and to justify the killing of

---

<sup>11</sup> Documented accounts of abuses by government forces and armed groups, available at <https://www.voanews.com/a/cameroon-military-accuses-government-troops-of-human-rights-violations-/6798543.html>.

<sup>12</sup> ‘Yaounde Based Anglophone Elite Fail To Tame Their Dogs’

<https://cameroonpostline.com/yaounde-based-anglophone-elite-fail-to-tame-their-dogs/%E2%80%8B>.

civilians as dogs, rats, 'enemies in the house', (see Governor Okakia Bilai, Ministers Isa Tchiroma and Atanga Nji, and Biya dehumanizing statements).

4. Accusing Southern Cameroonians of terrorism to justify laying siege on civilian settlements (eg. 'kale kale' or mass arrests, deportation, mass incarceration, and extra-judicial killings).

The genocide is occurring on the watch of the international community which has made no attempt to intervene and attempt to stop the carnage as it is doing in Ukraine, Myanmar, Yemen, or Syria.

### **International Response: Principles Versus Interest**

During the 77<sup>th</sup> UN General Assembly (UNGA) debates on September 20, 2022, a member admonished the UN for mainly focusing on debating the repercussions of war as a means to achieve peace. UNGA delegates reminded the world that universally accepted norms are genuine freedom and living a dignified life, and that when freedom is under threat, we must join to remove that threat or face the threat with solidarity from all. We have seen selective solidarity at play. Tribal wars in Europe are a concern for the world but not when proxy wars are fought in Africa where international principles of peace and security, which are upheld in one part are blatantly ignored in other parts of the world where there is the same attendant human suffering.

International response to human suffering, particularly gender crimes in

the Southern Cameroons is a betrayal of the peace and security architecture which the international community pledged to rely on to save the world from the scourge of war and crimes of concern to humanity. Western colonial economic interests, particularly, France Afrique colonial ghost of impunity which the Republic of Cameroon inherited at independence, appear to have emboldened Cameroon in its resolve to perpetuate atrocity crimes in the Southern Cameroons so long as it procures arms from multiple sources and from its erstwhile colonial master to fulfil colonial and neo-colonial economic interests in the Southern Cameroons over Southern Cameroonian lives.

At the height of the war in 2017-2018, New Age Oil, the British energy conglomerate signed a 1.7B pound deal for natural liquid gas in the Etinde fields off the shore of Southern Cameroons in the Gulf of Guinea. According to published reports there are three other partners: Lukoil (Russia), Euroil /Bowleven (Scotland), and SNH representing the Government of Cameroon.<sup>13</sup> Where oil is mined in Southern Cameroons on and offshore, the crude is piped miles away from the natural deep seaport of Victoria (now Limbe) in Southern Cameroons to Douala (in French Cameroon), neither the benefit from employment nor the benefits of tar, the waste product of crude, goes to the Southern Cameroons which owns the resources.

Not to be left out, in April 2022, Russia signed a military cooperation agreement with Cameroun for the sale of weapons, military training, and intelligence gathering. There have been reports of the Wagner Group, a Russian based

---

<sup>13</sup> <https://www.offshore-energy.biz/report-new-age-pens-deal-to-develop-etinde-field-using-flng-unit-cameroon/>.

organisation specialised in military undercover activities operating in the Central African Republic, Mali, Congo and in the Republic of Cameroon.<sup>14</sup> This military cooperation allows Russian mercenaries to gain a foothold in the Gulf of Guinea where the Southern Cameroons is situated.

Cameroon is a partner in the fight of Boko Haram in the Sahel. The same international partners who train and equip the Cameroon army turned a blind eye when the said army re-deployed to fight and kill civilians in the Southern Cameroons using weapons supplied by them.

Investigations by Danwatch showed that Cameroon armed forces, ‘one of Africa’s most violent and brutal military with a reputation of killing and torturing civilians’, answerable directly to Mr Biya frequently hold joint military exercises in areas where civilian deaths in Southern Cameroons have been reported between 2016-2020.<sup>15</sup> The UN failed to uphold its peace and security principles by failing to prevent the carnage and genocide which is being encouraged, supported and sponsored by Western democracies for economic gain. Legislation has been introduced in Denmark prohibiting the country from training military forces in African countries known for systematic abuses.

The Danwatch report also shows that Norwegians have trained Cameroon’s BIR too.<sup>16</sup> Instead of fighting piracy in the Gulf of Guinea or battling Boko

Haram in the Northernmost part of Cameroun, these special forces are deployed against civilians in Southern Cameroons.

The Intercept disclosed what was suspected but not confirmed that ‘even after acknowledging abuses, the US continued to employ notorious proxy forces in Cameroon.’ The report showed that in countries where the US is not at war, it funds, trains, and equips foreign troops to do its own bidding under a special program dubbed 127e.<sup>17</sup> There have been documented cases of torture and cold-blooded executions by the US funded BIR in Southern Cameroons.

With a confluence of multinational interests, cold war positioning, coupled with the Indigenous People of Biafra (IPOB) insurgency in neighboring Nigeria and Biya’s war in the Southern Cameroons, there is indeed a threat to the maritime economy and security in the Gulf of Guinea. Southern Cameroons is an umbilical cord and potential battlefield for foreign interest and their proxy wars.

### **On the Question of International Peace and Security**

One of the voices yet unheard and based on legitimacy historically and legally, and today because of a deadly conflict, is that of Southern Cameroons/Ambazonians.

If you believe that the mission of the International Criminal Court is to

---

<sup>14</sup><https://foreignpolicy.com/2022/04/27/cameroon-russia-military-deal-biya-putin-france/>

<sup>15</sup> Investigative Report by Denmark’s Danwatch News Agency on the training of Cameroon’s Rapid Intervention Battalion known by the acronym BIR who operate in the crisis regions. Available at <https://danwatch.dk/perspektiv/trods-drab-voldtaegter-og-tortur-froemaend-traenede-brutal-specialstyrke-i-cameroun/>

<sup>16</sup>*ibid.*

<sup>17</sup> Investigative reports by The Intercept on the training of BIR in Cameroon who are then deployed to the crisis affected regions. Available at <https://theintercept.com/2022/03/09/cameroon-military-abuses-bir-127e/>



prosecute the world's most egregious crimes and that the role of the UN is to secure the peace, institute the rule of law, and promote human security, you must listen to the voice of the Southern Cameroons/Ambazonians.

At the end of World War II, the civilised nations of the world made a pledge that 'never again' will genocide occur under its watch. The peace and security architecture of the UN has not realised this objective and has not safeguarded peace and security. In this slow-walk into another genocide in the Southern Cameroons/Ambazonia, the UN has been unwilling or unable to enforce its own resolution and has failed to put in place early warning mechanisms and systems to act or to intervene before human catastrophes occur.

During the 77<sup>th</sup> UNGA debates, President Macron gave a fiery speech in which he observed that in declaring war, Russia broke our collective security, and the world cannot be indifferent. He added that Europe's destiny is the world's destiny. Can the same be said of Africa's destiny? If the civilised world has risen against Russia for trampling on the UN Charter by declaring war on 'its own people' because the people of the Dunbars regions are ethnically Russian and were once a united Soviet empire, then the world must listen to the voice of Southern Cameroons/Ambazonian.

The impunity decried by Mr Macron stems from the failures of the UN peace and security architecture. The case of Southern Cameroons/Ambazonia is vexing on many levels. The multiplicity of actors in the conflict does not help as atrocities pile up. There continues to be a proliferation of armed groups, parallel militias including foreign mercenaries and generalised fragmentation, which when taken together, harms potential justice and peace efforts.

The use of foreign mercenaries and foreign militaries by Cameroon to kill innocent civilians in Southern Cameroons is a breach of the UN's peace and security principles. France, Denmark, Russia, US, UK, and Norway have been training and providing weapons to Cameroon's soldiers, ostensibly to fight Boko Haram in the Northernmost part of the country, but with the knowledge of these countries and on their watch, that Cameroon has been deploying these forces and weapons to perpetrate the atrocity crimes in the Southern Cameroons/Ambazonia with impunity.

### **The Ground Under Our Feet Have Shifted**

War begins in the minds of men. Hitler and Goebbels believed the Reichstag would last a thousand years. Creating a world attuned to a gender-sensitive approach to peace and justice starts with righting the breaches in the world order – upholding the peace and security principles enshrined in the UN Charter. At national levels, it requires removing threats of war that make widows of wives, orphans of children, sex slaves of young displaced girls, thereby perpetuating generations of illiterate traumatised children and child prostitutes. It requires upholding an international rules-based world order, as opposed to allowing impunity to rear its ugly head before seeking justice for victims and accountability for crimes.

Russia cannot be sanctioned, and its alleged crimes are now in the hands of the ICC, while the Republic of Cameroon is immune for the same or similar atrocity crimes. To deter the commission of crimes against humanity, war crimes, and genocide, there must be accountability. For only then do we

succeed in creating a world attuned to saving the most vulnerable amongst us when mostly women, children and girls suffer the gravest scourges and indignities.

The guns are yet to be silenced. The sounds of weapons deafening. Men start wars and believe their impunity will go unchallenged. The ICC has a particular duty to deter crimes that shock our consciences.

We see presidents believe they are mighty. As in the movie *Mr. Jones*, Hitler believed the Reich will live for a thousand years. Once an Empire, Great Britain a mere island is today separated from its friends. The US believe, powerful with an army capable of annihilating all others hostility removed its troops from Asia. Today, Russia seeks three hundred thousand more conscripts to fight a war it will never win in the hopes of killing an ideology with a gun. In the wake of the humbling of these great powers and persons, one thing remains true: it is difficult to kill off an ideology.

The women and children of Southern Cameroons/Ambazonia have a sacred right not just to peace but to justice. This is a fundamental human right. And this means removing all threats to war, the use of force, and the peaceful resolution of conflict. These are the principles enshrined in the UN Charter and in the Universal Declaration of Human Rights.

Peace is peace only if peace is done right.

## An Interview with Gabrielle Louise McIntyre

### As she Concludes her Mandate as Chairperson of the Truth, Reconciliation and National Unity Commission of Seychelles



*Gabrielle Louise McIntyre*  
Photo Credit: ICL1 Wikipedia

#### **Evelyn A. Ankumah**

We decided to do this interview a year ago to coincide with the completion of your mandate as Chairperson of the Truth, Reconciliation and National Unity Commission (the Commission) of Seychelles. Tell us about the Commission, its mandate and its work.

#### **Gabrielle L. McIntyre**

In June 1977 there was a coup d'état in Seychelles. The instigator of the coup was the then prime minister, Albert Rene and he ousted President James Mancham. Albert Rene and James Mancham had prior to the grant of independence to Seychelles from the United Kingdom on 29 June 1976 each established and led one of the two political parties in Seychelles. Albert Rene had formed the Seychelles Peoples

United Party and James Mancham the Seychelles Democratic Party. Relations between these parties and their supporters throughout the mid 1960s and 1970s were always marked with tension and violence.

Prior to independence, James Mancham's Democratic Party consistently gained a majority of seats in elections much to the dissatisfaction of the Seychelles Peoples United Party who alleged unfairness of the first past the post voting system in Seychelles – a system where the number of overall votes did not determine the government, but the number of districts won. This system was claimed unsuited to Seychelles due to the considerable imbalance in the number of voters per district and resulted in a situation where, for example, in 1967 the Seychelles Peoples United Party received 48.5% of the votes and gained three seats while the Seychelles Democratic Party with 40.8% of the overall votes gained four seats. However, despite these long and considerable tensions between these parties, both had agreed that upon independence they would form a coalition government and work together. As Mancham's government had obtained the most seats in elections, prior to independence, he held the position of chief minister and upon independence became president, the Seychelles opting to become a republic, and Albert Rene, who held a seat and was the leader of the Seychelles Peoples United Party, became his prime minister. Less than a

---

\* Chairperson, Women's Initiatives for Gender Justice, and Chairperson, The Truth,

Reconciliation and National Unity Commission, Seychelles.

year later, on 5 June 1977, when President Mancham and a number of his ministers were in London attending the Commonwealth Heads of Government conference and celebrations of the queen's silver jubilee, Albert Rene assisted by a band of armed supporters took power by force ousting President Mancham from power along with the other members of his government.

On the implementation of the coup on 5 June 1977, the 1976 Constitution was suspended and now President Rene ruled by Presidential Decree until proclaiming a new constitution in 1979 establishing Seychelles as a one-party State. The 1979 Constitution contained none of the human rights provisions contained in the 1976 Constitution and outlawed opposition parties. Throughout the period of the one-party state, the human rights of those who opposed the government or were suspected of opposing the government were systematically violated, including through state sanctioned unlawful killings, imprisonment, torture, enforced disappearances, kidnapping, acquisition of property, denial of employment and termination of employment on political grounds and forced exile.

Following international pressure, in December 1991, President Rene declared the return of Seychelles to a multiparty system and in 1993 a new constitution was adopted in Seychelles, which unlike the 1979 Constitution entrenched the human rights of the citizens of Seychelles. However, despite that formal change Albert Rene's party continued to hold power and perpetuate the same system that had been entrenched under the one-party state for many years thereafter and many of the violations of the one-party state continued, including state sanctioned killings and entrenched discrimination by government on political grounds of

those that did not support the government. Albert Rene continued to hold presidential power until 2004, at which time he handed the baton to original coup participant James Michel. James Michel was successful in his first election as president in 2006 and was re-elected in May 2011 and then again by a margin of some 200 votes in 2015. Less than a year into his third term in 2016, James Michel handed power to Danny Faure.

Notably, in 2016, for the first time since the coup d'état of 1977, the opposition party gained a majority of seats in the National Assembly and it was the majority opposition in the National Assembly that pushed for the establishment of a Truth Commission to examine the human rights violations that had been committed following the coup d'état of 1977. Following that pressure, a bi-partisan body was formed within the National Assembly, the National Truth and Reconciliation Committee, to examine the issue. Following the work of that Committee, which received three hundred and fifteen individual complaints alleging a range of human rights violations, there was a bi-partisan decision in the National Assembly to establish a Truth, Reconciliation and National Unity Commission, founded on the model of the South African Truth and Reconciliation Commission to investigate the complaints that had been made. President Danny Faure, being more moderate than his predecessors and committed to reconciliation of the people of Seychelles, assented to the Bill establishing the Truth, Reconciliation and National Unity Commission in September 2018.

The mandate of the Commission is to investigate individual complaints of violations of human rights related to the coup d'état of 1977 and to make findings to a balance of probabilities as to their

veracity, make recommendations on reparations and rehabilitation and to grant amnesty to perpetrators who have provided a full and frank disclosure of their culpable acts and provided a sincere apology to victims. This is in the context where the government installed by the coup had in effect retained both legislative and executive power until 2016 and executive power until the presidential elections of October 2020, albeit with some name changes along the way, and where human rights violations continued well past the introduction of the multiparty system.

As such, upon its establishment, the Commission was examining alleged human rights violations committed by the government that still held executive power and this resulted in certain tensions between the Commission and government authorities from the outset. It also fuelled allegations of the Commission being a political tool being used by the opposition government to take power.

In October 2020, and purportedly as a result of the revelations made before the Truth Commission, Danny Faure lost the presidential election and for the first time in forty-three years there was a transition of both legislative and presidential power to the opposition party, the Seychelles Democratic Union.

For anyone who is interested in the history of the coup and the establishment of the Commission and the obstacles it faced I would invite you to read volumes I and II of the Commission's Final Report that should be made public at the beginning of May this year the Commission having completed its mandate and filed its Final Report on 31 March 2023. All of the individual complaints made before the Commission and the Commission's investigation and determination of them, some three

hundred and seventy-one admissible cases, are contained in Volume III. There are two other Volumes Volume IV which deals with the Commission's amnesty proceedings and Volume V which addresses reparations.

#### **EA**

Thank you very much for that comprehensive overview. For almost two decades you served the very successful International Criminal Tribunal for the Former Yugoslavia (ICTY), the first international war crimes tribunal since the Nuremberg and Tokyo Tribunals. Within that period, and for close to fifteen years, you held the key position of Chef de Cabinet and Principal Legal Adviser to successive presidents of the ICTY and the successor of the ICTY and its sister Tribunal for Rwanda, the International Residual Mechanism for International Criminal Tribunals (IRMICT). How did you make the switch from working within the international justice landscape in The Hague to the national level in Seychelles, as Chairperson of the Commission?

#### **GM**

Making the switch was surprisingly quite seamless because that long experience in a leadership role with the ad hoc Tribunals gave me many transferable skills, including the ability to establish an institution from scratch and have it up and running within the three months mandated time frame to do so with extremely limited government support.

When the Security Council decided to give definitive dates for the closure of the ICTY and ICTR, while completing the work of those institutions, the Tribunals were required to establish a new institution, the International Residual Mechanism for Criminal Tribunals merging the practice of both institutions and as the Chef de Cabinet to the President of the ICTY, who also

became the first President of the Mechanism, I played a leading role in the development of that new regulatory framework for the Mechanism but also in the first judgements of the Mechanism ensuring judicial continuity with the predecessor institutions to avoid merited judicial challenges.

More broadly, my role as Chef de Cabinet to the presidents, who exercised supervisory authority over the Registry, meant that I was extremely well versed in all aspects of the running of an institution from preparing its budget and defending that budget before external bodies; to identifying risks to operations and taking mitigating measures, to the creation of standard operating procedures to ensure the integrity of work practices, as well as rules of procedure and evidence to guide the work of the Commission, the drafting of codes of conduct for staff and commissioners, a system of performance management for staff and policies for records management and archiving. All of these regulatory instruments and many others needed to be created from scratch and my previous experience made it relatively simple for me to do so.

In addition, my long role at the Tribunals in supervising outreach and communications, with the press and victims' communities, meant I was armed with the skills to develop outreach activities and forge relationships with media and press. Also, that long experience of working under constant budgetary pressures and multi-tasking from one task to the next helped me in managing the hearing schedule, developing strategies for the efficient scheduling of some four hundred cases to be heard, and to basically work at a pace to ensure that the Commission remained on top of its workload, while grossly understaffed.

From the outset of my appointment, I was committed to ensuring that the Commission took all measures within its power to meet its mandated obligations efficiently and with integrity in a fraught political environment and my experience at the Tribunals gave me the skills to lead the Commission in navigating that environment. It has to be underscored that the National Commissioners were part of the political landscape of Seychelles, they had previous alignments with one government or another, they could be harassed and lobbied in the street by people. They were subjected, as I was, to social media abuse, but under my leadership they were completely committed to protecting the impartiality and the integrity of the Commission. Sometimes this meant difficult decisions had to be taken by the Commission, but I always had their full support in doing so. We formed a very strong team and that is what gave the Commission its real effectiveness and power. The strength of team spirit among myself and the National Commissioners and their respect and support of my leadership, despite the fact that I was the only foreigner on the Commission.

#### **EA**

Impressive. I am aware of the admiration and respect you enjoyed from your Commission as I was in touch with one of the members for quite some time.

I read that you did not get the support you had anticipated from President Danny Faure's government. Yet, you were appointed Chair of the Commission by President Faure. Could you please clarify this?

#### **GM**

I applied for the position at the Commission following its advertisement and was interviewed by the Seychelles Constitutional Appointments Authority. That Authority recommended my

appointment to President Faure, and he assented to that recommendation. As I explained earlier, the Commission was investigating human rights violations committed by the government that still held executive power under the presidency of Danny Faure. At the time of the establishment of the Commission I don't think anyone actually believed it would be of any real consequence in Seychelles or that it would achieve its mandated objectives. I don't think the Government in agreeing to establish the Commission intended to give it the support it needed to succeed. It has to be noted that due to the politically discriminatory practices entrenched by the coup government and the system of patronage in Seychelles, where loyalty to the government meant everything, all the institutions in Seychelles were supportive of the government. These institutions from the police, army, and government ministries more generally, particularly, the Ministry of Finance to whom the Commission relied upon for the allocation of a budget had the power to impact the work of the Commission and they did so through denial of essential resources and systematic failures to cooperate with the Commission or to cooperate efficiently. For example, the Commission would write seeking access to files held by various government departments, and it would receive no response, leading to reiteration after reiteration of the same request without response. Sometimes, after a prolonged period the information requested would be provided, other times the Commission would eventually be told the file could not be located. In response, the Commission found other ways to get the information it needed. If the police did not have a file, and invariably they never had the file, the Commission tracked down the investigating police officer whether in Australia, Canada, the United Kingdom or elsewhere in the world, and obtained

the evidence it was seeking through the examination of the police officers.

All the details concerning the many deliberate obstacles placed in the way of the Commission are detailed in Volume I of the Final Report of the Commission and I think when people read that volume they will understand how difficult the work of the Commission was made by those who really did not want it to succeed.

#### **EA**

You must have had some fulfilment too. What were the highs and lows of your work as Chairperson of the Commission?

#### **GM**

The highs were the ability to be successful, to maintain professionalism and the integrity of the institution with the support of the national commissioners in a difficult political environment. I salute the national commissioners for their strength of character and their integrity, and it was an honour to lead them through this difficult process and to work with them to ensure national ownership of the work of the Commission. I am exceptionally proud of their achievements, noting that none of them had any previous experience whatsoever in human rights, the law or transitional justice processes. They came from the education sector, the tourism industry and the Anglican Church but their commitment to learning and to making meaningful contributions to the work of the Commission ensured the success of the Commission as an institution.

The lows were really the impact of feeling like the Commission was being consistently sabotaged by the government and politicised in circumstances where the Commission had no political agenda. To underscore

that the Commission was not in support of any government party as well as hearing its complainants it invited those still alive who had participated in the coup in 1977, and other strong supporters of the party that had taken power with the coup and who continued to support that party, to be heard before the Commission so that the Commission could establish a holistic record of the situation in Seychelles following the coup. The Commission also consistently emphasised that the mandate of the Commission was not to penalise people, it was to foster understanding, reconciliation and forgiveness and it consistently strove to do that.

**EA**

After working for so long for the ICTY and IRMICT, purely accountability bodies, how did you make the switch to a body that does something else?

**GM**

The decision had been taken by the legislative authorities in Seychelles to address past violations of human rights through a reconciliatory process and not a punitive one. I still considered the TRNUC an accountability body as it sought to encourage perpetrators of past violations of human rights to publicly confess to that involvement and to seek forgiveness from the victims of the violation and acceptance by the victim and the broader community. I respected the choice that had been made by the government authorities of Seychelles. My role was to implement the mandate given and to do so professionally and with full respect for the dignity and rights of all of those involved in the TRNUC process. I did not find a huge difference between implementing the mandate of the ad hoc Tribunals. It was the same process of abiding by the regulatory framework provided and ensuring the implementation of the mandate given.

**EA**

You have observed that ‘the Commission will not reconcile the people of Seychelles. National unity and reconciliation depend on the national leadership, from politicians to religious and community leaders.’ So, will the government’s goal of reconciliation be realised? Will the people of Seychelles collectively move forward from the violations of the past?

**GM**

The political divisions between the Seychellois predated the coup d’état of 1977 and are not going to be resolved by the work of the Commission highlighting the human rights violations committed by the party that took power with the coup. Even following the re-introduction of the multiparty system in 1993, nothing changed in Seychelles in terms of the strength of political division in the country and for decades thereafter the coup government, with the aim of maintaining political power, targeted opposition elements through such measures as using the police to plant drugs on people, destroying their property, unlawful killings, and black listing them for employment in the public sector on politically discriminatory grounds. The opposition president elected in October 2020 is trying to soften or civilise the political divisions by taking measures to show that he is the president for all Seychellois and not just his supporters. For example, the new president has retained most of the administration of the predecessor government as his administration. However, as these were the people in positions of power discriminating against his supporters for years on political grounds, this reconciliatory and non-discriminatory approach of the new president has not been accepted well by many of the Seychellois who supported him for years and were responsible for



him taking office after losing the election on six previous occasions. They don't trust these people and believe that they are now working to sabotage the new president and towards regaining the post lost in the last election. Further, while the new president had adopted a reconciliatory approach, unfortunately, in response, the now opposition government seems intent on entrenching the political divide. It is complicated, it may take generations, or it may never happen.

#### **EA**

Africa Legal Aid has a Southern Africa programme on a victim-centred and gender-sensitive approach to justice. What lessons can civil societies and legal fraternities in the Southern Africa Development Community (SADC) region, of which Seychelles belongs, learn from the work of your Commission for the benefit of victims? And given that I consider you a champion on all things gender, what lessons can gender groups and women-led civil societies learn from the work of the Commission?

#### **GM**

Victims were the central focus of the work of the Commission and victims were the drivers of the work of the Commission. One of the strengths of the Commission was that it heard victims, every person that made a complaint before the Commission was given a platform to be heard and the Commission listened as did the general public as the Commission hearings were broadcast locally and live streamed to reach international audiences. Through that process of being heard, victims, some who had been silenced for some forty years, began their process of healing. I think the importance of hearing victims directly is of central importance to the work of a body seeking to bring redress to victims.

The Commission did not just hear victims, it also made sure they knew the investigator assigned to their case, that they could come to the Commission at any time and access their investigative file and see what steps had been taken by the Commission towards the investigation of their complaint, what responses had been made to allegations by other witnesses or suspects. Complainants were also informed of the scheduling of hearings in their cases and where those hearings were in closed session they were invited to attend or provided with a recording of the hearing after it if they were unable to attend in person. The Commission also provided direct support to victims who had concerns for their safety and made sure that they felt safe and protected. The response of the police in Seychelles to the protection of persons who feared retaliation from their engagement with the Commission was lackadaisical at most and the Commission's victims had no confidence in the police. Despite its limited resources, the Commission established through multi-functioning its staff a witness protection unit and that unit carried out risk assessments of victims' properties, intervened when victims were harassed by other Seychellois, provided security advice and a contact number that could be called at any time by victims. It was of utmost importance to the Commission that victim engagement, that victims telling their stories publicly, did not lead to re-victimisation of those victims and that the Commission took all measures possible to prevent re-victimisation.

The Commission also directly engaged victims in the design of reparations and the Commission's policy on reparations was victim-led. The victims determined the redress they wanted from the government and through the administration of surveys, public

meetings and the establishment of a victim's committee to represent victims more broadly before the Commission, the central role of victims in the work of the Commission was solidified.

In everything it did, its policies and practices, the Commission considered the impact of gender to ensure the equal treatment of both men and women before the Commission. To accommodate victims of sexual violence, historically predominately women, the Commission offered victims pseudonyms and held closed sessions hearings of their evidence and protected the disclosure of their identities from the general public. The Commission believed that there were many more victims of sexual violence crimes than came forward and it made public calls for victims of sexual violence to come forward and offered confidentiality of their identity and non-public disclosure of their evidence. When victims of sexual violence came forward after the close of the statutory time frame for the filing of complaints, the Commission nonetheless scheduled those victims for hearing and made special accommodation to make recommendations that they receive reparations despite non-compliance with the statutory framework.

#### **EA**

What lessons can civil societies and legal fraternities in the SADC region learn from the work of the Truth, Reconciliation and National Unity Commission of Seychelles? And what lessons can gender groups and women-led civil society groups learn from the Commission for the benefit of the victims?

#### **GM**

One of the factors that the Commission really highlighted and could serve as a lesson to the SADC member states is the importance of the rule of law for the

protection of human rights. As well as the importance of public servants' understanding of their ethical duties as civil servants.

Gender groups and women-led civil society groups can learn from the Commission's experience of offering protective measures to complainants to encourage them to come forward with complaints of sexual violence and abuse. The protective measures that the Commission was offering were pseudonyms, protection of the identity of the victims of sexual violence who were giving evidence before the Commission, and closed sessions. The Commission did not announce this policy at the outset of its public hearings but evolved into it as they went along, but there were disappointingly few complaints of women with allegations of sexual violence and abuse. If the Commission would have had a clear policy upfront and made it publicly available and announced it, maybe more victims of sexual violence may have come forward.

Another lesson that can be learnt from the work of the Commission is gender balance. The Commission had more female staff than male staff. Women were more interested in applying for jobs at the Commission and showed a lot of courage.

#### **EA**

What do you hope will be your legacy as Chair of the Truth, Reconciliation and National Unity Commission of Seychelles?

#### **GM**

I hope my legacy as Chair of the Truth, Reconciliation and National Unity Commission of Seychelles is the end of the culture of fear that had plagued Seychelles since the coup d'état of 1977. Throughout the Commission's mandate it was subjected to threats, the victim

community feared for themselves and for the Commission members, but we navigated that environment successfully. The Commission led by example by refusing to be intimidated and refusing to be swayed from the professional and impartial implementation of its mandate and by showing its support for victims. It also engaged directly with those individuals who had been central to the culture of fear in Seychelles, the main perpetrators, and tried to understand their actions and provide its support to them as part of the Commission's reconciliatory mandate. Through its amnesty proceedings, the Commission demystified the direct perpetrators, people who had effectively been used as instruments by the government towards maintaining political power. It was before the Commission that these people began to fully appreciate the role they had played while explaining the lack of choice they had and seeking the forgiveness of the community.

**EA**

Gabrielle Louise McIntyre, thank you very much for sharing your experiences and perspectives.

**GM**

Thank you for the opportunity. It has been a pleasure.

## ANNEX

### SADC PROTOCOL ON GENDER AND DEVELOPMENT

#### TABLE OF CONTENTS

Preamble

#### **PART ONE – DEFINITIONS, GENERAL PRINCIPLES AND OBJECTIVES**

Article 1 Definitions

Article 2 General Principles

Article 3 Objectives

#### **PART TWO – CONSTITUTIONAL AND LEGAL RIGHTS**

Article 4 Constitutional Rights

Article 5 Affirmative Action

Article 6 Domestic Legislation

Article 7 Equality in Accessing Justice

Article 8 Marriage and Family Rights

Article 9 Persons with Disabilities

Article 10 Widows' and Widowers' Rights

Article 11 The Girl and Boy Child

#### **PART THREE – GOVERNANCE**

Article 12 Representation

Article 13 Participation

#### **PART FOUR – EDUCATION AND TRAINING**

Article 14 Gender Equality in Education

#### **PART FIVE – PRODUCTIVE RESOURCES AND EMPLOYMENT**

Article 15 Economic Policies and Decision Making

Article 16 Multiple Roles of Women

Article 17 Economic Empowerment

Article 18 Access to Property and Resources

Article 19 Equal Access to Employment and Benefits

#### **PART SIX – GENDER BASED VIOLENCE**

Article 20 Legal

Article 21 Social, Economic, Cultural and Political Practices

Article 22 Sexual Harassment

Article 23 Services

Article 24 Training of Service Providers

Article 25 Integrated Approaches

#### **PART SEVEN – HEALTH AND HIV AND AIDS**

Article 26 Health

Article 27 HIV and AIDS

#### **PART EIGHT – PEACE BUILDING AND CONFLICT RESOLUTION**

Article 28 Peace Building and Conflict Resolution

#### **PART NINE - MEDIA, INFORMATION AND COMMUNICATION**

Article 29 General Principles

Article 30 Gender in Media Content

Article 31 Universal Access to Information, Communication and Technology

#### **PART TEN – FINAL PROVISIONS**

Article 32 Remedies

Article 33 Financial Provisions

Article 34 Institutional Arrangements

Article 35 Implementation, Monitoring and Evaluation

Article 36 Settlement of Disputes

Article 37 Withdrawal

Article 38 Amendments

Article 39 Signature

Article 40 Ratification

Article 41 Entry into Force

Article 42 Accession

Article 43 Depositary

### PROTOCOL ON GENDER AND DEVELOPMENT PREAMBLE

We, the Heads of State or Government of:

The Republic of Angola, The Republic of Botswana, The Democratic Republic of Congo, The Kingdom of Lesotho, The Republic of Madagascar The Republic of Malawi, The Republic of Mauritius, The Republic of Mozambique, The Republic of Namibia, The Republic of Seychelles, The Republic of South Africa, The Kingdom of Swaziland, The United Republic of Tanzania, The Republic of Zambia, The Republic of Zimbabwe

**CONVINCED** that the integration and mainstreaming of gender issues into the Southern African Development Community (SADC) Programme of Action and Community Building Initiatives is key to the sustainable development of the SADC region;

**NOTING** that Member States undertook, in the SADC Treaty (Article 6(2)), not to discriminate against any person on the grounds of, inter alia, sex or gender;

**NOTING** further that all SADC Member States are convinced that gender equality and equity is a fundamental human right and are committed to gender equality and equity and have signed and ratified or acceded to the United Nations Convention on the Elimination of All Forms of Discrimination Against Women;

**RECALLING** that Member States reaffirmed their commitment to the Nairobi Forward Looking Strategies (1985); Convention on the Rights of the Child (1989); the Africa Platform of Action; the Beijing Declaration and its Platform for Action (1995); and United Nations Resolution 1325 on Women, Peace and Security (2000); and resolved, through the SADC Declaration on Gender and Development (1997) and its Addendum on the Prevention and Eradication of Violence Against Women and

Children (1998); to ensure the elimination of all gender inequalities in the region and the promotion of the full and equal enjoyment of rights;

**TAKING COGNISANCE** of the decision on gender parity taken at the inaugural session of the African Union Assembly of Heads of State and Government in July 2002 in Durban, South Africa, and the adoption of the Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa during the Second Ordinary Session of the Assembly of the African Union in Maputo, Mozambique in 2003;

**RECOGNISING** that Member States are obliged to meet their commitments and set targets under the said instruments, and that the fragile gains made face new threats as a result of, inter alia, HIV and AIDS, globalisation, human trafficking, especially of women and children, the feminisation of poverty, and gender based violence;

**RECOGNISING** further that social, cultural and religious practices, attitudes and mindsets continue to militate against the attainment of gender equality and equity which are central to democracy and development;

**RECALLING** that Article 26 of the SADC Addendum on the Prevention and Eradication of Violence Against Women and Children recognises that urgent consideration must be given to the adoption of legally binding SADC instruments;

**DETERMINED** to consolidate and create synergy between the various commitments on gender equality and equity made at regional, continental and international levels into one comprehensive regional instrument that enhances the capacity to report effectively on all instruments and also addresses new challenges; and

**COMMITTED** to drawing up a plan of action setting specific targets and timeframes for achieving gender equality and equity in all areas, as well as effective monitoring and evaluation mechanisms for measuring progress.

**HEREBY AGREED** as follows:

**PART ONE  
DEFINITIONS, GENERAL PRINCIPLES  
AND OBJECTIVES**

**ARTICLE 1  
DEFINITIONS**

1. In this Protocol, terms and expressions defined in Article 1 of the Treaty establishing SADC shall bear the same meaning unless the context otherwise requires.

2. In this Protocol, unless the context otherwise requires:

“affirmative action” means a policy programme or measure that seeks to redress past discrimination through active measures to ensure equal opportunity and positive outcomes in all spheres of life;

“AIDS” means Acquired Immune Deficiency Syndrome;

“child” means every human being below the age of eighteen;

“care-giver” means any person who provides emotional, psychological, physical, economic, spiritual or social care and support services to another;”

“discrimination” means any distinction, exclusion or restriction which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise, by any person of human rights, and fundamental freedoms in the political, economic, social, cultural, civil or any other field;

“equality” means state of being equal in terms of enjoyment of rights, treatment, quantity or value, access to opportunities and outcomes, including resources;

“gender” means the roles, duties and responsibilities which are culturally or socially ascribed to women, men, girls and boys;

“gender based violence” means all acts perpetrated against women, men, girls and boys on the basis of their sex which cause or could cause them physical, sexual, psychological, emotional or 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 or other forms of conflict;

“gender equality” means the equal enjoyment of rights and the access to opportunities and outcomes, including resources, by women, men, girls and boys;

“gender equity” means the just and fair distribution of benefits, rewards and opportunities between women, men, girls and boys;

“gender mainstreaming” means the process of identifying gender gaps and making women’s, men’s, girls’ and boys’ concerns and experiences integral to the design, implementation, monitoring and evaluation of policies and programmes in all spheres so that they benefit equally;

“gender stereotypes” means the beliefs held about characteristics, traits and activity domains that are deemed appropriate for women, men, girls and boys based on their conventional roles both domestically and socially;

“gender sensitive” means acknowledging and taking into account the specific gender needs of

both men and women at all levels of planning, implementation, monitoring and evaluation;

“health” means a complete state of physical, mental, spiritual and social well-being of an individual and not merely the absence of disease or infirmity;

“HIV” means Human Immunodeficiency Virus;

“human trafficking” means the recruitment, transportation, harbouring or receipt of persons, by means of threat, abuse of power, position of vulnerability, force or other forms of coercion, abduction, fraud or deception to achieve the consent of a person having control over another person for the purpose of amongst other things, sexual and financial exploitation;

“informal sector” means the portion of a country’s economy that lies outside of any formal regulatory environment;

“multiple roles of women” means the several responsibilities that women shoulder in the reproductive, productive and community management spheres;

“National Gender Machineries” means national structures with the mandate of executing and monitoring gender and related policies and programmes in line with national, regional and international commitments;

“quasi-judicial proceedings” means administrative proceedings that are undertaken for the settlement of specific rights or obligations which may require discretion and decision and which may be the subject to notice and hearing requirements and judicial review”;

“sex” means the biological differences between females and males;

“sexual harassment” means any unwelcome sexual advance, request for sexual favour, verbal or physical conduct or gesture of a sexual nature, or any other behaviour of a sexual nature that might reasonably be expected or be perceived to cause offence or humiliation to another whether or not such sexual advance or request arises out of unequal power relations;

“sexual and reproductive rights” means the universal human rights relating to sexuality and reproduction, sexual integrity and safety of the person, the right to sexual privacy, the right to make free and responsible reproductive choices, the right to sexual information based on scientific enquiry, and the right to sexual and reproductive health care; and

“social safety nets” means the measures taken or applied to mitigate the effects of poverty, gender based violence and other social ills; and

“State Party” means a Member State that is a Party to this Protocol.

## **ARTICLE 2 GENERAL PRINCIPLES**

1.

For the purposes of this Protocol, the following principles shall apply:

- (a) States Parties shall harmonise national legislation, policies, strategies and programmes with relevant regional and international instruments related to the empowerment of women and girls for the purpose of ensuring gender equality and equity;
  - (b) States Parties shall decide all matters relating to the implementation of this Protocol by consensus; and
  - (c) States Parties shall cooperate in facilitating the development of human, technical and financial capacity for the implementation of this Protocol.
2. States Parties shall adopt the necessary policies, strategies and programmes such as affirmative action to facilitate the implementation of this Protocol. Affirmative action measures shall be put in place with particular reference to women and girls, in order to eliminate all barriers which prevent them from participating meaningfully in all spheres of life.

## **ARTICLE 3 OBJECTIVES**

The objectives of this Protocol are:

- (a) to provide for the empowerment of women, to eliminate discrimination and to achieve gender equality and equity through the development and implementation of gender responsive legislation, policies, programmes and projects;
- (b) to harmonise the implementation of the various instruments to which SADC Member States have subscribed to at the regional, continental and international levels on gender equality and equity which, amongst others, are the Convention on the Elimination of all Forms of Discrimination Against Women (1979); Convention on the Rights of the Child (1989); the International Conference on Population and Development (1994); the Beijing Declaration and its Platform For Action (1995); the SADC Declaration on Gender and Development (1997) and its Addendum (1998); the Millennium Development Goals (2000); the UN Security Council Resolution 1325 on Women, Peace and Security (2000); the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (2003); the United Nations Convention on the Rights of People with Disabilities (2008); or any other legal instruments that may be relevant to this

- Protocol, in order to accelerate implementation;
- (c) to address emerging gender issues and concerns;
  - (d) to set realistic, measurable targets, time frames and indicators for achieving gender equality and equity;
  - (e) to strengthen, monitor and evaluate the progress made by Member States towards reaching the targets and goals set out in this Protocol; and
  - (f) to deepen regional integration, attain sustainable development and strengthen community building.

**PART TWO  
CONSTITUTIONAL AND LEGAL RIGHTS  
ARTICLE 4  
CONSTITUTIONAL RIGHTS**

1. States Parties shall endeavour, by 2015, to enshrine gender equality and equity in their Constitutions and ensure that these rights are not compromised by any provisions, laws or practices.
2. States Parties shall implement legislative and other measures to eliminate all practices which negatively affect the fundamental rights of women, men, girls and boys, such as their right to life, health, dignity, education and physical integrity.

**ARTICLE 5  
AFFIRMATIVE ACTION**

States Parties shall put in place affirmative action measures with particular reference to women in order to eliminate all barriers which prevent them from participating meaningfully in all spheres of life and create a conducive environment for such participation.

**ARTICLE 6  
DOMESTIC LEGISLATION**

1. States Parties shall review, amend and or repeal all laws that discriminate on the ground of sex or gender by 2015.
2. States Parties shall enact and enforce legislative and other measures to:
  - (a) ensure equal access to justice and protection before the law;
  - (b) abolish the minority status of women by 2015;
  - (c) eliminate practices which are detrimental to the achievement of the rights of women by prohibiting such

- practices and attaching deterrent sanctions thereto; and
- (d) eliminate gender based violence.

**ARTICLE 7  
EQUALITY IN ACCESSING JUSTICE**

States Parties shall put in place legislative and other measures which promote and ensure the practical realization of equality for women. These measures shall ensure:

- (a) equality in the treatment of women in judicial and quasi-judicial proceedings, or similar proceedings, including customary and traditional courts, and national reconciliation processes;
- (b) equal legal status and capacity in civil and customary law, including, amongst other things, full contractual rights, the right to acquire and hold rights in property, the right to equal inheritance and the right to secure credit;
- (c) the encouragement of all public and private institutions to enable women to exercise their legal capacity;
- (d) that positive and practical measures are taken to ensure equality for women complainants in the criminal justice system;
- (e) the provision of educational programmes to address gender bias and stereotypes and promote equality for women in the legal system;
- (f) that women have equitable representation on, and participation in, all courts including traditional courts, alternative dispute resolution mechanisms and local community courts; and
- (g) accessible and affordable legal services for women.

**ARTICLE 8  
MARRIAGE AND FAMILY RIGHTS**

1. States Parties shall enact and adopt appropriate legislative, administrative and other measures to ensure that women and men enjoy equal rights in marriage and are regarded as equal partners in marriage.
2. Legislation on marriage shall ensure that:
  - (a) no person under the age of 18 shall marry unless otherwise specified by law which takes into account the best interests and welfare of the child;
  - (b) every marriage takes place with the free and full consent of both parties;
  - (c) every marriage, including civil, religious, traditional or customary, is registered in accordance with national laws; and

- (d) during the subsistence of their marriage the parties shall have reciprocal rights and duties towards their children with the best interests of the children always being paramount.
3. States Parties shall enact and adopt appropriate legislative and other measures to ensure that where spouses separate, divorce or have their marriage annulled:
    - (a) they shall have reciprocal rights and duties towards their children with the best interests of the children always being paramount; and
    - (b) they shall, subject to the choice of any marriage regime or marriage contract, have equitable share of property acquired during their relationship.
  4. States Parties shall put in place legislative and other measures to ensure that parents honour their duty of care towards their children, and maintenance orders are enforced.
  5. States Parties shall put in place legislative provisions which ensure that married women and men have the right to choose whether to retain their nationality or acquire their spouse's nationality.

**ARTICLE 9  
PERSONS WITH DISABILITIES**

States Parties shall, in accordance with the SADC Protocol on Health and other regional and international instruments relating to the protection and welfare of people with disabilities to which Member States are party, adopt legislation and related measures to protect persons with disabilities that take into account their particular vulnerabilities.

**ARTICLE 10  
WIDOWS' AND WIDOWERS' RIGHTS**

1. States Parties shall enact and enforce legislation to ensure that:
  - (a) widows are not subjected to inhuman, humiliating or degrading treatment;
  - (b) a widow automatically becomes the guardian and custodian of her children when her husband dies, unless otherwise determined by a competent court of law;
  - (c) a widow shall have the right to continue to live in the matrimonial house after her husband's death;
  - (d) a widow shall have access to employment and other opportunities to

- enable her to make a meaningful contribution to society;
- (e) a widow shall have the right to an equitable share in the inheritance of the property of her husband;
- (f) a widow shall have the right to remarry any person of her choice; and
- (g) a widow shall have protection against all forms of violence and discrimination based on her status.

2. States Parties shall put in place legislative measure to ensure that widowers enjoy the same rights as widows under sub-Article 1.

**ARTICLE 11  
THE GIRL AND BOY CHILD**

1. States Parties shall adopt laws, policies and programmes to ensure the development and protection of the girl child by:
  - (a) eliminating all forms of discrimination against the girl child in the family, community, institutions and at state levels;
  - (b) ensuring that girls have equal access to education and health care, and are not subjected to any treatment which causes them to develop a negative self-image;
  - (c) ensuring that girls enjoy the same rights as boys and are protected from harmful cultural attitudes and practices in accordance with the United Nations Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child;
  - (d) protecting girls from economic exploitation, trafficking and all forms of violence including sexual abuse; and
  - (e) ensuring that girl children have equal access to information, education, services and facilities on sexual and reproductive health and rights.
2. States Parties shall put in place legislative and other measures to ensure that the boy child enjoys the same rights as the girl child under sub-Article 1.

**PART THREE GOVERNANCE  
ARTICLE 12  
REPRESENTATION**

1. States Parties shall endeavour that, by 2015, at least fifty percent of decision-making positions in the public and private sectors are held by women including the use of affirmative action measures as provided for in Article 5.



2. States Parties shall ensure that all legislative and other measures are accompanied by public awareness campaigns which demonstrate the vital link between the equal representation and participation of women and men in decision making positions, democracy, good governance and citizen participation.

**ARTICLE 13  
PARTICIPATION**

1. States Parties shall adopt specific legislative measures and other strategies to enable women to have equal opportunities with men to participate in all electoral processes including the administration of elections and voting.
2. States Parties shall ensure the equal participation of women and men in decision making by putting in place policies, strategies and programmes for:
  - (a) building the capacity of women to participate effectively through leadership and gender sensitivity training and mentoring;
  - (b) providing support structures for women in decision-making positions;
  - (c) the establishment and strengthening of structures to enhance gender mainstreaming; and
  - (d) changing discriminatory attitudes and norms of decision making structures and procedures.
3. States Parties shall ensure the inclusion of men in all gender related activities, including gender training and community mobilisation.

**PART FOUR  
EDUCATION AND TRAINING**

**ARTICLE 14  
GENDER EQUALITY IN EDUCATION**

1. States Parties shall, by 2015, enact laws that promote equal access to and retention in primary, secondary, tertiary, vocational and non-formal education in accordance with the Protocol on Education and Training and the Millennium Development Goals.
2. States Parties shall by 2015 adopt and implement gender sensitive educational policies and programmes addressing gender stereotypes in education and gender based violence, amongst others.

**PART FIVE PRODUCTIVE  
RESOURCES AND  
EMPLOYMENT  
ARTICLE 15  
ECONOMIC POLICIES AND DECISION  
MAKING**

1. States Parties shall, by 2015, ensure equal participation, of women and men, in policy formulation and implementation of economic policies.
2. States Parties shall ensure gender sensitive and responsive budgeting at the micro and macro levels, including tracking, monitoring and evaluation.

**ARTICLE 16  
MULTIPLE ROLES OF WOMEN**

States Parties shall conduct time use studies by 2015 and adopt policy measures to ease the burden of the multiple roles played by women.

**ARTICLE 17  
ECONOMIC EMPOWERMENT**

1. States Parties shall, by 2015, adopt policies and enact laws which ensure equal access, benefit and opportunities for women and men in trade and entrepreneurship, taking into account the contribution of women in the formal and informal sectors.
2. States Parties shall, by 2015, review their national trade and entrepreneurship policies, to make them gender responsive.
3. States Parties shall, by 2015, and with regard to the affirmative action provisions in Article 5, introduce measures to ensure that women benefit equally from economic opportunities, including those created through public procurement processes.

**ARTICLE 18  
ACCESS TO PROPERTY AND  
RESOURCES**

States Parties shall, by 2015, review all policies and laws that determine access to, control of, and benefit from, productive resources by women in order to:

- (a) end all discrimination against women and girls with regard to water rights and property such as land and tenure thereof;
- (b) ensure that women have equal access and rights to credit, capital, mortgages, security and training as men; and

- (c) ensure that women and men have access to modern, appropriate and affordable technology and support services.

**ARTICLE 19  
EQUAL ACCESS TO EMPLOYMENT  
AND BENEFITS**

1. States Parties shall, by 2015, review, amend and enact laws and policies that ensure women and men have equal access to wage employment in all sectors of the economy.
2. States Parties shall review, adopt and implement legislative, administrative and other appropriate measures to ensure:
  - (a) equal pay for equal work and equal remuneration for jobs of equal value for women and men;
  - (b) the eradication of occupational segregation and all forms of employment discrimination;
  - (c) the recognition of the economic value of, and protection of, persons engaged in agricultural and domestic work; and
  - (d) the appropriate minimum remuneration of persons engaged in agricultural and domestic work.
3. States Parties shall enact and enforce legislative measures prohibiting the dismissal or denial of recruitment on the grounds of pregnancy or maternity leave.
4. States Parties shall provide protection and benefits for women and men during maternity and paternity leave.
5. States Parties shall ensure that women and men receive equal employment benefits, irrespective of their marital status including on retirement.

**PART SIX  
GENDER BASED VIOLENCE  
ARTICLE 20  
LEGAL**

1. States Parties shall:
  - (a) by 2015, enact and enforce legislation prohibiting all forms of gender based violence; and
  - (b) ensure that perpetrators of gender based violence, including domestic violence, rape, femicide, sexual harassment, female genital mutilation and all other forms of gender based violence are tried by a court of competent jurisdiction.
- 2.

States Parties shall, by 2015, ensure that laws on gender based violence provide for the comprehensive testing, treatment and care of survivors of sexual offences, which shall include:

- (a) emergency contraception;
  - (b) ready access to post exposure prophylaxis at all health facilities to reduce the risk of contracting HIV; and
  - (c) preventing the onset of sexually transmitted infections.
3. States Parties shall, by 2015, review and reform their criminal laws and procedures applicable to cases of sexual offences and gender based violence to:
    - (a) eliminate gender bias; and
    - (b) ensure justice and fairness are accorded to survivors of gender based violence in a manner that ensures dignity, protection and respect.
  4. States Parties shall put in place mechanisms for the social and psychological rehabilitation of perpetrators of gender based violence.
  5. States Parties shall, by 2015:
    - (a) enact and adopt specific legislative provisions to prevent human trafficking and provide holistic services to survivors, with the aim of re-integrating them into society;
    - (b) put in place mechanisms by which all relevant law enforcement authorities and institutions may eradicate national, regional and international human trafficking networks;
    - (c) put in place harmonised data collection mechanisms to improve data collection and reporting on the types and modes of trafficking to ensure effective programming and monitoring;
    - (d) establish bilateral and multilateral agreements to run joint actions against human trafficking among origin, transit and destination countries; and
    - (e) ensure capacity building, awareness raising and sensitisation campaigns on human trafficking are put in place for law enforcement officials.
  6. States Parties shall ensure that cases of gender based violence are conducted in a gender sensitive environment.
  7. States Parties shall establish special counselling services, legal and police units to provide dedicated and sensitive services to survivors of gender based violence.

**ARTICLE 21**  
**SOCIAL, ECONOMIC, CULTURAL AND**  
**POLITICAL PRACTICES**

1. States Parties shall take measures including legislation, where appropriate, to discourage traditional norms, including social, economic, cultural and political practices which legitimise and exacerbate the persistence and tolerance of gender based violence with a view to eliminate them.
2. States Parties shall, in all sectors of society, introduce and support gender sensitisation and public awareness programmes aimed at changing behaviour and eradicating gender based violence.

**ARTICLE 22**  
**SEXUAL HARASSMENT**

1. States Parties shall, by 2015, enact legislative provisions, and adopt and implement policies, strategies and programmes which define and prohibit sexual harassment in all spheres, and provide deterrent sanctions for perpetrators of sexual harassment.
2. States Parties shall ensure equal representation of women and men in adjudicating bodies hearing sexual harassment cases.

**ARTICLE 23**  
**SUPPORT SERVICES**

1. States Parties shall provide accessible information on services available to survivors of gender based violence.
2. States Parties shall ensure accessible, effective and responsive police, prosecutorial, health, social welfare and other services to redress cases of gender based violence.
3. States Parties shall provide accessible, affordable and specialised legal services, including legal aid, to survivors of gender based violence.
4. States Parties shall provide specialised facilities, including support mechanisms for survivors of gender based violence.
5. States Parties shall provide effective rehabilitation and re-integration programmes for perpetrators of gender based violence.

**ARTICLE 24**  
**TRAINING OF SERVICE PROVIDERS**

States Parties shall introduce, promote and provide:

- (a) gender education and training to service providers involved in gender based violence including the police, the judiciary, health and social workers;
- (b) community sensitisation programmes regarding available services and resources for survivors of gender based violence; and
- (c) training for all service providers to enable them to offer services to people with special needs.

**ARTICLE 25**  
**INTEGRATED APPROACHES**

States Parties shall adopt integrated approaches, including institutional cross sector structures, with the aim of reducing current levels of gender based violence, by half by 2015.

**PART SEVEN**  
**HEALTH AND HIV AND AIDS**  
**ARTICLE 26**  
**HEALTH**

States Parties shall, by 2015, in line with the SADC Protocol on Health and other regional and international commitments by Member States on issues relating to health, adopt and implement legislative frameworks, policies, programmes and services to enhance gender sensitive, appropriate and affordable quality health care, in particular, to:

- (a) reduce the maternal mortality ratio by 75% by 2015;
- (b) develop and implement policies and programmes to address the mental, sexual and reproductive health needs of women and men; and
- (c) ensure the provision of hygiene and sanitary facilities and nutritional needs of women, including women in prison.

**ARTICLE 27**  
**HIV AND AIDS**

1. States Parties shall take every step necessary to adopt and implement gender sensitive policies and programmes, and enact legislation that will address prevention, treatment, care and support in accordance with, but not limited to, the Maseru Declaration on HIV and AIDS.

2. States Parties shall ensure that the policies and programmes referred to in sub-Article 1 take account of the unequal status of women, the particular vulnerability of the girl child as well as harmful practices and biological factors that result in women constituting the majority of those infected and affected by HIV and AIDS.
3. States Parties shall, by 2015:
  - a. develop gender sensitive strategies to prevent new infections;
  - b. ensure universal access to HIV and AIDS treatment for infected women, men, girls and boys; and
  - c. develop and implement policies and programmes to ensure appropriate recognition of the work carried out by care givers, the majority of whom are women, the allocation of resources and the psychological support for care-givers as well as promote the involvement of men in the care and support of people living with HIV and AIDS.

**PART EIGHT  
PEACE BUILDING AND CONFLICT  
RESOLUTION  
ARTICLE 28  
PEACE BUILDING AND CONFLICT  
RESOLUTION**

1. States Parties shall endeavour to put in place measures to ensure that women have equal representation and participation in key decision-making positions in conflict resolution and peace building processes by 2015 in accordance with United Nations Security Council Resolution 1325 on Women, Peace and Security.
2. States Parties shall, during times of armed and other forms of conflict take such steps as are necessary to prevent and eliminate incidences of human rights abuses, especially of women and children, and ensure that the perpetrators of such abuses are brought to justice before a court of competent jurisdiction.

**PART NINE  
MEDIA, INFORMATION AND  
COMMUNICATION  
ARTICLE 29  
GENERAL PRINCIPLES**

1. States Parties shall ensure that gender is mainstreamed in all information, communication and media policies,

programmes, laws and training in accordance with the Protocol on Culture, Information and Sport and other regional and international commitments by Member States on issues relating to media, information and communication.

2. States Parties shall encourage the media and media-related bodies to mainstream gender in their codes of conduct, policies and procedures, and adopt and implement gender aware ethical principles, codes of practice and policies in accordance with the Protocol on Culture, Information and Sport.
3. States Parties shall take measures to promote the equal representation of women in the ownership of, and decision making structures of the media, in accordance with Article 12.1 that provides for equal representation of women in decision making positions by 2015.

**ARTICLE 30  
GENDER IN MEDIA CONTENT**

1. States Parties shall take measures to discourage the media from:
  - (a) promoting pornography and violence against all persons, especially women and children;
  - (b) depicting women as helpless victims of violence and abuse;
  - (c) degrading or exploiting women, especially in the area of entertainment and advertising, and undermining their role and position in society; and
  - (d) reinforcing gender oppression and stereotypes.
2. States Parties shall encourage the media to give equal voice to women and men in all areas of coverage, including increasing the number of programmes for, by and about women on gender specific topics and that challenge gender stereotypes.
3. States Parties shall take appropriate measures to encourage the media to play a constructive role in the eradication of gender based violence by adopting guidelines which ensure gender sensitive coverage.

**ARTICLE 31  
UNIVERSAL ACCESS TO  
INFORMATION,  
COMMUNICATION AND TECHNOLOGY**

States Parties shall put in place information and communication technology policies and laws in

the social, economic and political development arena for women's empowerment, regardless of race, age, religion, or class. These policies and laws shall include specific targets developed through an open and participatory process, in order to ensure women's and girl's access to information and communication technology.

**PART TEN  
FINAL PROVISIONS  
ARTICLE 32  
REMEDIES**

States Parties shall:

- (a) provide appropriate remedies in their legislation to any person whose rights or freedoms have been violated on the basis of gender; and
- (b) ensure that such remedies are determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided by law.

**ARTICLE 33  
FINANCIAL PROVISIONS**

1. States Parties shall ensure gender sensitive budgets and planning, including designating the necessary resources towards initiatives aimed at empowering women and girls.
2. States Parties shall mobilise and allocate the necessary human, technical and financial resources for the successful implementation of this Protocol.

**ARTICLE 34  
INSTITUTIONAL ARRANGEMENTS**

1. The institutional mechanisms for the implementation of this Protocol shall comprise the:
  - (a) Committee of Ministers Responsible for Gender/Women's Affairs;
  - (b) Committee of Senior Officials Responsible for Gender/Women's Affairs; and
  - (c) SADC Secretariat.
2. The Committee of Ministers responsible for Gender/Women's Affairs shall:
  - (a) ensure the implementation of this Protocol; and
  - (b) supervise the work of any committee or sub-committee established under this Protocol.
3. The Committee of Senior Officials shall:
  - (a)

report to the Committee of Ministers on matters relating to the implementation of the provisions contained in this Protocol;

- (b) supervise the work of the Secretariat;
  - (c) clear the documents prepared by the Secretariat to be submitted to the Committee of Ministers;
  - (d) invite the Secretariat to make presentations on gender and development to the Committee of Ministers, as and when necessary; and
  - (e) liaise closely with both the Committee of Ministers and the Secretariat.
4. The SADC Secretariat shall:
    - (a) facilitate and monitor reporting by States Parties on the implementation of the Protocol;
    - (b) coordinate the implementation of this Protocol;
    - (c) identify research needs and priorities in gender/women's affairs areas; and
    - (d) provide technical and administrative assistance to the Committee of Ministers and the Committee of Senior Officials.

**ARTICLE 35  
IMPLEMENTATION, MONITORING AND  
EVALUATION**

1. States Parties shall ensure the implementation of this Protocol at the national level.
2. States Parties shall ensure that national action plans with measurable time frames are put in place, and that national and regional monitoring and evaluation mechanisms are developed and implemented.
3. States Parties shall collect and analyse baseline data against which progress in achieving targets will be monitored.
4. States Parties shall submit reports to the Executive Secretary of SADC once every two years, indicating the progress achieved in the implementation of the measures agreed to in this Protocol.
5. The Executive Secretary of SADC shall submit the progress reports to Council and Summit for consideration.

**ARTICLE 36  
SETTLEMENT OF DISPUTES**

1. States Parties shall strive to resolve any dispute regarding application, interpretation or implementation of the provisions of this Protocol amicably.
2. Any dispute arising from the application, interpretation or implementation of this Protocol, which cannot be settled amicably, shall be referred to the SADC Tribunal, in accordance with Article 16 of the Treaty.

**ARTICLE 37  
WITHDRAWAL**

1. A State Party may withdraw from this Protocol upon the expiration of twelve (12) months from the date of giving written notice to that effect to the Executive Secretary.
2. Such State Party shall cease to enjoy all rights and benefits under this Protocol upon the withdrawal becoming effective, but shall remain bound by the obligations under this Protocol for a period of twelve (12) months from the date of notice.

**ARTICLE 38  
AMENDMENTS**

1. A proposal for the amendment of this Protocol shall be submitted to the Executive Secretary of SADC by any State Party that is party to the Protocol.
2. The Executive Secretary of SADC shall submit a proposal for amendment of the Protocol to Council after:
  - a. all Member States that are parties to the Protocol have been notified of the proposal; and
  - b. thirty days have elapsed since notification to the Member States that are parties to the Protocol.
3. An amendment to this Protocol shall be adopted by a decision of three-quarters of the Member States that are Parties to the Protocol.

**ARTICLE 39  
SIGNATURE**

This Protocol shall be signed by the duly authorised representatives of Member States.

**ARTICLE 40  
RATIFICATION**

This Protocol shall be ratified by the Signatory States in accordance with their constitutional procedures.

**ARTICLE 41  
ENTRY INTO FORCE**

This Protocol shall enter into force thirty (30) days after the deposit of the Instruments of Ratification by two-thirds of the Member States.

**ARTICLE 42  
ACCESSION**

This Protocol shall remain open for accession by any Member State.

**ARTICLE 43  
DEPOSITARY**

1. The original texts of this Protocol and all Instruments of Ratification and Accession shall be deposited with the Executive Secretary of SADC, who shall transmit certified copies to all Member States.
2. The Executive Secretary of SADC shall notify the Member States of the dates on which Instruments of Ratification and Accession have been deposited under paragraph 1.
3. The Executive Secretary of SADC shall register the Protocol with the Secretariat of the United Nations, the Commission of the African Union and such other organisation as the Council may determine.

**IN WITNESS WHEREOF, WE**, the Heads of State or Government or duly Authorised Representatives of SADC Member States have signed this Protocol.

Done at .....this.....day ..... of..... 2008 in three (3) original texts in the English, French and Portuguese languages, all texts being equally authentic.

## Some AFLA Activities



Participants take a break during the launch of AFLA book 4 on *The International Criminal Court and Africa: One Decade*. The Hague, 2016.



Baltasar Garzon, the former Spanish judge who in 1998 issued an international warrant for the arrest of former Chilean leader Augusto Pinochet in the UK for alleged deaths and torture of Spanish citizens in Chile, triggering debates on the use of universal jurisdiction. He is leaving the Dakar courtroom with AFLA executive director Evelyn A Ankumah, after the *Habré* judgment was handed down.



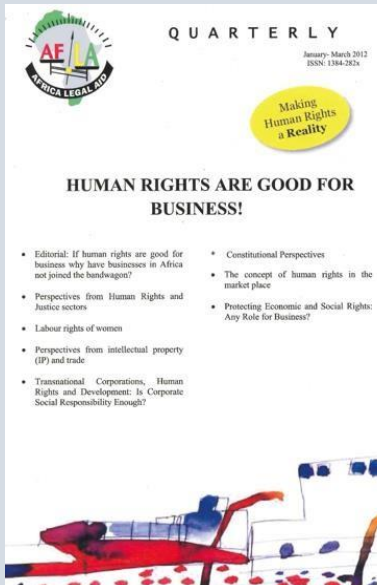
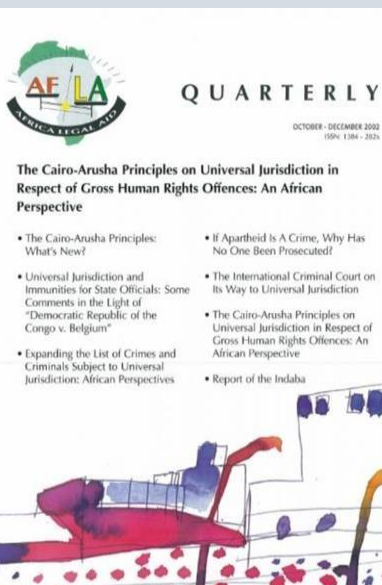
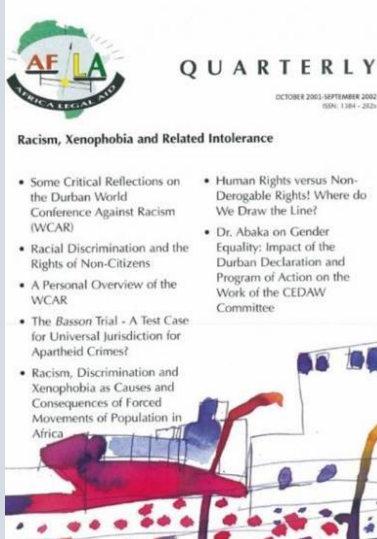
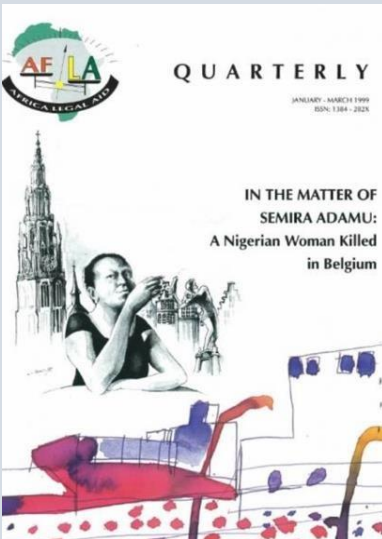
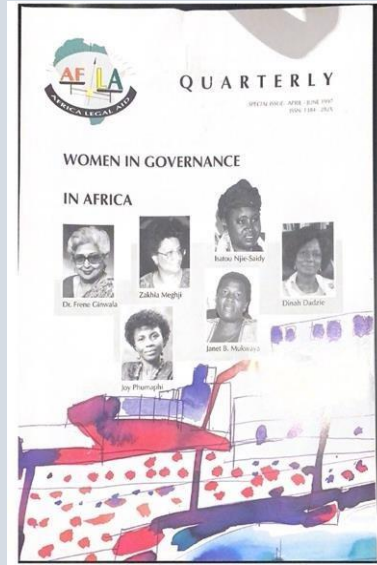
AFLA-ASP side event on: *Launch of AFLA Quarterly on Lessons from the Gbagbo and Blé Goudé Case & ICC Review*, The Hague 2019.



AFLA's seminar held in cooperation with the AU Commission at the 29<sup>th</sup> AU Summit on: *Carrying Forward the Legacy of the Extraordinary African Chambers in the Habré Trial: An African Solution to an African Problem*



AFLA's Consultations with Stakeholders on *Emerging Trends on Complementarity in West Africa*, Banjul, 2018.



January - March  
2023

AFLA Quarterly  
Africa Legal Aid



"MAKING HUMAN RIGHTS A REALITY"