



## **2. COMMITMENT TO WOMEN'S RIGHTS**

That gender equality is a development objective in its own right which should be promoted by adopting and implementing specific policies and strategies have long been recognised in regional and international reports, declarations, conventions and protocols. Since its formation in 1945, the equality between men and women has always been a fundamental value for the United Nations: the Preamble of the Charter of the United Nations underscored the determination of the United Nations “to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women”<sup>1</sup>.

Since then, various global and regional commitments have been made calling upon states to condemn and pursue a policy to eliminate discrimination against women and to take appropriate measures to ensure the full development and advancement of women especially in the political, social, economic and cultural fields. Sustainable Development Goal 5 calls upon countries to end all forms of discrimination against all women and girls everywhere (Target 5.1).

This chapter reviews the progress made by the selected countries in domesticating the provisions of three international human rights treaties and three regional human rights treaties included in the African Women’s Progress Scoreboard (AWPS). The global treaties are the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) adopted by the General Assembly in 1979, the Beijing Declaration and Platform for Action adopted at the United Nations’ Fourth World Conference on Women in Beijing in 1995, and the Optional Protocol to CEDAW of 1999. The regional treaties are the African Charter on the Rights and Welfare of the Child (ACRWC) adopted in 1990, the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (Maputo Protocol) adopted in 2003, the Solemn Declaration on Gender Equality in Africa adopted in 2004.

**Table 2.1: Status of ratification of international and regional human rights treaties.**

	CEDAW	ACRWC	Optional Protocol to CEDAW	Maputo Protocol
<b>Chad</b>	✓	✓	✗ <sup>s</sup>	✗ <sup>s</sup>
<b>Guinea</b>	✓	✓	✗	✓
<b>Guinea-Bissau</b>	✓	✗ <sup>s</sup>	✓	✓
<b>Liberia</b>	✓	✗ <sup>s</sup>	✗ <sup>s</sup>	✓
<b>Mauritania</b>	✓ <sup>r</sup>	✓	✗	✓
<b>Mauritius</b>	✓	✓	✓	✗ <sup>s</sup>
<b>Namibia</b>	✓	✓	✓	✓
<b>Niger</b>	✓ <sup>r</sup>	✓	✓	✗ <sup>s</sup>
<b>Rwanda</b>	✓	✓	✓	✓
<b>ST&amp;P</b>	✓	✗	✓	✗ <sup>s</sup>
<b>Seychelles</b>	✓	✓	✓	✓
<b>Sierra Leone</b>	✓	✓	✗ <sup>s</sup>	✗ <sup>s</sup>
<b>South Africa</b>	✓	✓	✓	✓
<b>Swaziland</b>	✓	✗ <sup>s</sup>	✗	✓
<b>Zimbabwe</b>	✓	✓	✗	✓

**Sources:** African Commission on Human and People’s Rights website and United Nations Treaty Collection.

**Notes:** r = the country has expressed reservations. Mauritania has general reservation in respect of articles 13 (a) and 16 of CEDAW. Niger has reservations in respect of article 2, paragraphs (d) and (f), article 5, paragraphs (a) and (b), article 15, paragraph 4, article 16, paragraph 1 (c), (e) and (g), and article 29, paragraph 1. s = these countries have signed but not ratified the instrument.

Whereas CEDAW and its Optional Protocol, ACRWC and the Maputo Protocol are binding legal instruments, Beijing Platform for Action and the Solemn Declaration are not. Table 2.1 summarizes the status of ratification of the four binding legal instruments. Box 2.1 summarises the reporting obligations of State Parties to CEDAW, ACRWC and the Maputo Protocol, and the steps taken by **Rwanda** and **Seychelles** to effectively meet those obligations.

<sup>1</sup> United Nations (1945).

## BOX 2.1 MEETING TREATY REPORTING OBLIGATIONS IN RWANDA AND SEYCHELLES

The implementation of human rights treaties is usually monitored by bodies that are established by the terms of the respective treaties. The treaty bodies operate through a combination of State party reviews, adoption of General Comments/ Recommendations, and, under protocols to some of the treaties, through reviewing individual complaints and holding inquiries. For example, Article 18 (1) of CEDAW obliged States parties to the Convention to submit a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the present Convention for consideration by the Committee on the Elimination of Discrimination against Women. Governments are expected to submit a report on the legislative or other measures taken to adopt the provisions of the Maputo Protocol every two years (Article 26 (1)). The limited availability of up-to-date sex-disaggregated data and the burden of multiple reporting obligations are important challenges faced by State parties in submitting reports on time.

In **Rwanda**, monitoring of the implementation of the international commitments is done through the reporting process spearheaded by the Ministry of Gender and Family Promotion in collaboration with other members of the Universal Periodic Review including the Ministry of Foreign Affairs, the National Human Rights Commission, relevant United Nations organizations and civil society organizations. The Gender Monitoring Office which has the sole responsibility of monitoring the implementation of gender equality principles in all sectors and at all levels has set up a monitoring framework with key indicators related to tracking of the implementation of the international commitments across the board. Gender profiles have been instituted both at sectoral and district levels to identify key achievements, lessons learned and gaps, which inform advocacy for policy and law reviews.

**Seychelles.** In October 2012, the Cabinet of Ministers established the Seychelles Human Rights Treaty Committee made up of representatives from Government ministries, NGOs, and CSOs and jointly chaired by the Department of Foreign Affairs and the Office of the Attorney General. One of the main tasks of the Committee is to coordinate and assist in the preparation and review of treaty reports, and ensure the promotion and dissemination of treaties, concluding remarks and recommendation from treaty bodies.

**Sources:** United Nations (1979), African Union (2003), Freeman (2009) and the AGDI Reports for Rwanda and Seychelles.

## Convention on the Elimination of All Forms of Discrimination against Women

“For the purposes of the present Convention, the term “discrimination against women” shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”<sup>2</sup>

“States parties shall ensure that there is neither direct nor indirect discrimination against women. Direct discrimination against women constitutes different treatment explicitly based on grounds of sex and gender differences. Indirect discrimination against women occurs when a law, policy, programme or practice appears to be neutral in so far as it relates to men and women, but has a discriminatory effect in practice on women because pre-existing inequalities are not addressed by the apparently neutral measure. Moreover, indirect discrimination can exacerbate existing inequalities owing to a failure to recognize structural and historical patterns of discrimination and unequal power relationships between women and men.”<sup>3</sup>

CEDAW in its Article 1 provides a comprehensive definition of discrimination against women which is applicable to the other provisions of the Convention (see first quote above). The article underscores that sex- and gender-based differentiations that nullify or impair equal rights between men and women are discriminatory and therefore in violation of the Convention<sup>4</sup>. However, temporary special measures aimed at promoting the advancement of women and counteracting the effects of past discrimination are considered

<sup>2</sup> United Nations (1979: Article 1).

<sup>3</sup> United Nations, CEDAW Committee (2010a: para. 16).

<sup>4</sup> United Nations High Commissioner for Human Rights, U.N. Fact Sheet No. 22.

non-discriminatory and consistent with the mandate set forth in CEDAW<sup>5</sup>. In general recommendation No. 19, the Committee on the Elimination of Discrimination against Women consider gender-based violence against women and girls as a form of discrimination<sup>6</sup>.

[To update] Table A2.1 shows that countries overall scored themselves high on ratification, reporting and policy commitment. The weakest area overall was research, followed by setting targets, human resources, information and dissemination, monitoring and evaluation, and capacity enhancement. **Rwanda** scored itself highest at 93 percent while **Niger** scored itself lowest at 63 percent. Box 2.2 summarizes some of the measures taken by **Rwanda** to implement the provisions of CEDAW.

#### **BOX 2.2 SELECTED ACTIONS UNDERTAKEN BY RWANDA WITH REGARDS TO CEDAW.**

**Policies and strategies:** Gender equality is a central pillar in all the main national development strategic plans including Vision 2020 and the Economic Development and Poverty Reduction Strategy II (2013-2018). The National Gender Policy (2016-2020) was developed to provide clear guidelines for integrating gender issues into the policies, programmes, activities and budgets across all sectors and at all levels. Several sectoral gender policies, strategies and programmes have been developed to support the implementation of the national gender policy including the Girls' Education Policy (2008), the National Reproductive Health Strategy (2003), the gender mainstreaming strategy for agriculture, the gender mainstreaming strategy for the private sector (2014) the National Implementation Plan of the Beijing Platform for Action (2012-2017) and the National Accelerated Plan for Women, Girls, Gender Equality and HIV (2010 -2014).

**Institutional mechanisms:** The Ministry of Gender and Family Promotion, within the Office of the Prime Minister Office ensures effective coordination of policy implementation in the area of gender across sectors. Other relevant institutions include the Gender Monitoring Office, the National Women's Council and Rwanda Women Parliamentary Forum among others. The Gender Monitoring Office has the sole responsibility of monitoring the implementation of gender equality principles in all sectors and at all levels. The National Women Council, with its central and decentralized structures, mobilizes women to contribute to national development at both national and community levels.

**Implementation plans and targets:** The Ministry of Gender and Family Promotion developed the Strategic Plan for the implementation of the National Gender Policy, which include milestones, targets, and a monitoring and evaluation mechanism.

**Budget:** Under Organic Budget Law (2013), all government budget agencies are required to submit Gender Budget statements with their budgets to the Ministry of Finance and Economic Planning. The Ministry, working closely with the Ministry of Gender and Family Promotion and the Gender Monitoring Office, oversees the mainstreaming of gender into the planning, policy formulation and co-ordinates the Gender Responsive Budgeting process. At the decentralized levels, gender budgeting has been institutionalized through the district performance contracts (Imihigo).

**Involvement of civil society organizations (CSOs):** CSOs have been instrumental in advocating for the repealing of outdated laws. The Rwanda Initiative for Sustainable Development, Haguruka, Legal Aid Forum, Pro-femmes and others have advocated for the repealing of gender insensitive provisions within the penal code of 1977 and the enactment of Gender-Based Violence Law and Land Law among others. Pro-femmes Twese Hamwe - an umbrella organization of 57 women NGOs takes the lead in tracking CEDAW implementation, reporting and monitoring and evaluation. Pro-femmes Twese Hamwe has translated CEDAW into Kinyarwanda which is the official language in Rwanda, undertakes the training of women who aspires to take leadership positions.

**Source:** Rwanda AGDI Report.

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<sup>5</sup> *Ibid.*

<sup>6</sup> United Nations, CEDAW Committee (1992).

Table 2.1 shows that all the countries covered by this report has ratified CEDAW although **Mauritania** and **Niger** have expressed reservations with respect to some of the articles of the Convention including some aspects of Articles 2 and 16. The Committee on the Elimination of Discrimination against Women considers Articles 2 and 16 “to be core provisions of the Convention,” and that reservations to Article 16 are impermissible<sup>7</sup>. In 2014, **Niger** agreed to review its reservations to the Convention<sup>8</sup>.

## Article 2

“States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

(a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;

(b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;

(c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;

(d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;

(e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;

(f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;

(g) To repeal all national penal provisions which constitute discrimination against women.”<sup>9</sup>

Article 2 of CEDAW calls upon governments to condemn discrimination against women. Towards this end governments should take measures to embody the principle of the equality of men and women in their national constitutions, adopt appropriate legislative and other measures to prohibit and eliminate all discrimination against women, establish legal protection of the rights of women on an equal basis with men, take all appropriate measures to modify or abolish existing laws, regulations, customs and practices and repeal all penal provisions which constitute discrimination against women.

[To update] Table A2.2 shows that in terms of Article 2, overall countries scored themselves high on involvement of civil society, law and policy commitment, and relatively low on setting targets and budget. **Rwanda** scored itself highest at 92 percent followed with **Mauritius** at 88 percent, while **Niger** scored itself lowest at 38 percent.

### *Examples of compliance and non-compliance*

Examples of compliance and non-compliance with Article 2 in countries covered by the report are summarised below.

<sup>7</sup> United Nations, CEDAW Committee (1998: para. 6 & 17).

<sup>8</sup> United Nations, CEDAW Committee (2017: para. 8).

<sup>9</sup> United Nations (1979: Article 2).

Article 2 (a): Embody the principle of gender equality in national constitution or legislation

- According to the Women, Business and the Law database, the constitutions of **Chad, Mauritius, Namibia, Niger, Rwanda, Seychelles, Sierra Leone, South Africa, Swaziland** and **Zimbabwe** contain a clause on non-discrimination (Table 2.2). Also, the constitutions of these countries mention gender as a basis for non-discrimination except for **Seychelles**. For example, Section 20 (2) of the 2005 Constitution of **Swaziland** states that “*a person shall not be discriminated against on the grounds of gender*”.

**Table 2.2: Extent to which national constitutions contains non-discrimination clause and recognize customary laws and gender equality on transmission of nationality, 2015.**

	The constitution contains a clause on non-discrimination		Customary law is recognized/invalid if it violates provisions on non-discrimination		A woman can convey citizenship to a non-national spouse the same way as a man
	Yes or No	Yes, and mentions gender?	Recognized	Invalid	Yes or No
<b>Chad</b>	✓	✓	✓	✓	✓
<b>Guinea</b>	✗	N/A	✗	N/A	✗
<b>Guinea-Bissau</b>	✗	✗	✗	N/A	✓
<b>Liberia</b>	✗	N/A	✓	✓	✓
<b>Mauritania</b>	✗	N/A	✗	N/A	✗
<b>Mauritius</b>	✓	✓	✓	✗	✓
<b>Namibia</b>	✓	✓	✓	✓	✓
<b>Niger</b>	✓	✓	✓	✓	✓
<b>Rwanda</b>	✓	✓	✓	✓	✓
<b>ST&amp;P</b>	✗	N/A	✗	N/A	✓
<b>Seychelles</b>	✓	✗	✗	N/A	✓
<b>Sierra Leone</b>	✓	✓	✓	✗	✗
<b>South Africa</b>	✓	✓	✓	✓	✓
<b>Swaziland</b>	✓	✓	✓	✓	✗
<b>Zimbabwe</b>	✓	✓	✓	✓	✓

Source: World Bank (2015).

Notes: ST&P = Sao Tome and Principe. N/A = Not applicable.

- In **Mauritius**, the Equal Opportunities Act (2008) provides for equal access to opportunities in areas dealing with employment, education, the provision of accommodation, goods, services and other facilities, sports, the disposal of immovable property, admission to private clubs and premises open to the public.
- In **Rwanda**, Organic Law N° 43/2013 guarantees women equal rights with men on access, ownership and utilization of land, while Law N° 22/99 provides for equal inheritance rights between women and men, girls and boys.
- The constitutions of **Mauritius** and **Sierra Leone** and legislation in **Niger** make possible “personal status laws” that deny a segment of women basic rights enjoyed by the majority of the population (see Box 2.3).

**BOX 2.3 DISCRIMINATORY PROVISIONS IN MAURITIUS, NIGER AND SIERRA LEONE.**

**Mauritius.** Section 16(4)(c) of the Constitution contains certain exceptions to protection from discrimination that makes possible the existence of “personal status laws”. Women married under these laws are denied basic rights enjoyed by women under the civil marriage law, which makes discrimination possible in marriage, divorce, distribution of marital property, inheritance, guardianship and others. People of the Muslim faith may opt to marry

in accordance with Muslim rites, governed by Muslim religious rules. Judges deciding on litigious issues arising between spouses of a Muslim religious marriage, can only pass judgment after consulting the appropriate religious authority. The government has set up several Commissions task to look into existing rules governing marriages and dissolution of marriages celebrated in accordance with Muslim rites as well as issues on children and succession rights. However, no consensus could be reached.

**Niger.** Act No. 62-11 (1962) and Law No. 2004-50 (2004) give precedence to the application of customary law over civil law in most personal status matters, including marriage, divorce, direct descent, inheritance, settlement of assets and wills, and in relation to property ownership, adversely affecting women and girls. A non-discriminatory Personal Status Code (2010) has been drafted but not adopted due to hostility of certain groups.

**Sierra Leone.** Section 27 (4) (d) of the 1991 Constitution (amended in 2001) states that Section 27(1) which guarantees protection from discrimination, “*shall not apply to any law so far as that law makes provision with respect to adoption, marriage, divorce, burial, devolution of property on death or other interests of personal law*”. Several Constitutional Review Commissions have recommended that this section of the Constitution be expunged. However, section 27 is one of the “entrenched clauses” which can only be lawfully amended by way of a referendum.

**Source:** Mauritius AGDI Report, United Nations, CEDAW Committee (2011) and United Nations, CEDAW Committee (2017).

#### Article 2(b): Adopt legislation and other measures prohibiting discrimination against women

- In **Rwanda**, Organic Law N° 10/20/2013/OL prohibits political organizations from basing themselves on any division that may lead to discrimination including sex, while the Land Law (Law No. 43/2013) prohibits all forms of discrimination including on the basis in relation to access to land<sup>10</sup>.
- In **South Africa**, the Employment Equity Act (1998) prohibits unfair discrimination against employees on one or more grounds, including gender, sex, pregnancy, marital status, and family responsibility.

#### Article 2(c): To establish legal protections for women through public institutions, including tribunals

- In **Mauritius**, the Equal Opportunity Commission was set up in 2013 under the Equal Opportunity Act (2008) to address complaints alleging discrimination including those on the basis of sex. Cases unresolved by the Commission are referred to the Equal Opportunity Tribunal which has jurisdiction to issue interim orders, and directives and compensatory orders.
- In **Rwanda**, cultural attitudes still prohibit women and children from owning property. Courts have overturned decisions made by the community based on Law N° 22/99 (see discussion on Article 2(a)).

#### Article 2(d): Eliminating discrimination by, and within, public authorities and institutions

- In **Niger**, women are discriminated against with regard to access to social benefits and pensions (Act No. 2007-26 that determines the criteria for entitlement to and levels of family allowances, benefits and bonuses) and Decree No. 60-55/MFP/T (on the remuneration and material benefits allocated to officials in state public administrations and establishments)<sup>11</sup>.

#### Article 2(e): Take all measures to eliminate discrimination by any person, organization or enterprise

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<sup>10</sup> United Nations, CEDAW Committee (2015a).

<sup>11</sup> United Nations, CEDAW Committee (2017: para. 35(b)).



- In **Mauritius**, every employer employing more than 10 employees on a full-time basis is required to draw up and apply an equal opportunity policy in line with the guidelines issued by the Equal Opportunities Commission.
- In **Rwanda**, Law N°.59/2008 (2008) on the Prevention and Punishment of Gender-Based Violence punishes marital rape and addresses economic, sexual, physical and psychological abuse.
- In **South Africa**, the Employment Equity Act (1998) states that where designated groups are underrepresented, employers are required to prepare an employment equity plan that includes numeric targets as opposed to compulsory quotas. For example, the South African Cabinet revised the employment equity target from 30 percent to 50 percent women in Senior Management Service positions across the public service by March 2009.

Article 2(f): Modify or abolish discriminatory laws, regulations, customs and practices

- Women are prevented from transmitting their citizenship to a non-national spouse in the same way as a man in **Guinea, Mauritania, Sierra Leone and Swaziland** (Table 2.2).
- Law No. 2014-60 (2014) amended the Nationality Code in **Niger** to allow women to transfer Nigerien citizenship through marriage, a right previously reserved to men only<sup>12</sup>.
- In **Rwanda**, the labour law was amended in 2009 to forbid direct or indirect gender based violence or moral harassment at the work place, and prohibit punishment for any worker who reports or testifies on violence.
- In **Seychelles**, in 2013 a Civil Code Revision Committee chaired by the Chief Justice was assigned the responsibility of revising and modernising the Civil Code of Seychelles (1975) in line with the provisions in the constitution (see Box 2.5).

Article 2(g): Repeal all discriminatory penal codes

In **Rwanda**, Penal Code (1977) which provided for unequal punishment of men and women who committed the same offence was repealed and replaced by Penal Code (2012) to provide for equal penalties for similar offences.

Article 16

“States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

- (a) The same right to enter into marriage;
- (b) The same right freely to choose spouse and to enter into marriage only with their free and full consent;
- (c) The same rights and responsibilities during marriage and at its dissolution;
- (d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;

<sup>12</sup> United Nations, CEDAW Committee (2017: para. 4(b)).



(e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights,

(f) The same rights and responsibilities with regard to guardianship, ward ship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;

(g) The same personal rights as husband and wife, including the right to choosing a family name, a profession and an occupation;

(h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.”<sup>13</sup>

Article 16 of CEDAW relates to elimination of sex and gender discrimination in marriage and family relations. Women and girls could be denied legal rights afforded to them by national constitutions and statutory laws by customs, traditional attitudes and parallel legal systems including customary and religious laws. In General Recommendation No. 21, the Committee on the Elimination of Discrimination against Women underlined that “polygamous marriage contravenes a woman’s right to equality with men” that “ought to be discouraged and prohibited”<sup>14</sup>. Customs and tradition enable forced, arranged and child marriages in contravention of Subsection 1(b). In Subsection 1(d), the article recommends that States Parties include the legal concepts of guardianship, ward ship, trusteeship and adoption in their family codes to ensure that children born out of wedlock enjoy the same rights as children of married couples<sup>15</sup>. The need to recognise and consider the wife’s non-monetary contributions when dividing marital property after the dissolution of the marriage is covered in Subsection 1(h)<sup>16</sup>. Subsection 2 obligates State Parties to adopt the same minimum age standards for both men and women, and establish a legal requirement of marriage registration. Marriage registration protects the rights of spouses with regard to property issues upon dissolution of the marriage by death or divorce<sup>17</sup>.

#### BOX 2.4 VARIOUS FORMS OF FAMILY.

“Marriages may be formed through a variety of customs, ceremonies and rituals that may be sanctioned by the State. Civil marriage is sanctioned solely by the State and is registered. Religious marriage is solemnized through the performance of ritual(s) prescribed by religious law. Customary marriage is undertaken by the performance of ritual(s) prescribed by the customs of the parties’ community.” [paragraph 19]

“In some States parties, the law also provides for registered partnerships and establishes rights and responsibilities between the parties. ... De facto unions are not registered and often do not give rise to any rights. Some States, however, recognize de facto unions and establish equal rights and responsibilities for them that can vary in scope and depth. Certain forms of relationships (namely, same-sex relationships) are not legally, socially or culturally accepted in a considerable number of States parties.” [paragraphs 22-24]

**Source:** United Nations, CEDAW Committee (2013).

[To update] On their performance vis-a vis Article 16, overall countries scored themselves high on involvement of civil society, law and institutional mechanism, and relatively low on setting targets and

<sup>13</sup> United Nations (1979: Article 16).

<sup>14</sup> United Nations (1994: paragraph 14).

<sup>15</sup> American Bar Association CEELI (2002: page 56).

<sup>16</sup> United Nations, CEDAW Committee (1994: paragraph 32).

<sup>17</sup> United Nations, CEDAW Committee (2013: paragraph 25).

budget (Table A2.3). Like for Article 2, **Rwanda** scored itself highest at 92 percent, while **Niger** scored itself lowest at 38 percent.

### *Examples of compliance and non-compliance*

Examples of compliance and non-compliance with Article 16 in countries covered by the report are summarised below.

#### Subsection 1(a): The same right to enter into marriage

Polygamous marriages are allowed in **Chad, Guinea, Niger, Sao Tome and Principe, South Africa and Zimbabwe**.

#### Subsection 1(b): The same right to freely choose a spouse and enter into marriage with their free and full consent

- In **Guinea**, levirate marriages (coercing a widow to marry a relative of her deceased husband) are common in many communities.
- In **Niger**, most child marriages are conducted under customary law, which does not require the consent of the future spouses for marriage<sup>18</sup>.
- In **South Africa**, a person may only legally marry under the following three laws: the Marriage Act (1961), which provides for civil or religious opposite-sex marriages; the Recognition of Customary Marriages Act (1998), which provides for the civil registration of marriages solemnised according to the traditions of indigenous groups; and the Civil Union Act (2006), which provides for opposite-sex and same-sex civil marriages, religious marriages and civil partnerships. Muslim marriages are now recognised if solemnised by a marriage officer duly registered under the Marriage Act, allowing them to be recorded on the National Population Register and so to receive the full legal status afforded by the country's Constitution.
- Section 27 of the Constitution Kingdom of **Swaziland** provides that marriage may be entered into only with the free and full consent of the intending spouses. Customary practices are permitted unless they conflict with the provisions of the constitution. Section 28(3) provides that women shall not be compelled to undergo or uphold a custom to which she is in conscience opposed.

#### Subsection 1(c): The same rights and responsibilities during marriage and at its dissolution

- In **Swaziland**, the Marriage Act (1964) and the customary law relegate married women to minors and vests marital power to the male spouse. As a consequence, women continue to experience discrimination in marriage, inheritance and ownership of assets.

#### Subsection 1(d): The same rights and responsibilities related to raising children

- In **Namibia**, the Married Persons Equality Act (1996) gives equal guardianship to mothers and fathers in both civil and customary marriages.

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<sup>18</sup> United Nations, CEDAW Committee (2017: para. 42 (a)).

- In **Seychelles**, according to Civil Code of Seychelles (1975) husbands are primarily responsible for the family charges; and fathers are given preference as regards to (a) the administration of the child's property, (b) consent to the child's marriage and (c) the child's domicile (see Box 2.5).

#### **BOX 2.5 LEGAL PROVISIONS NOT IN LINE WITH ARTICLE 16 OF CEDAW IN SEYCHELLES.**

A review undertaken in 2013 concluded that there were a few discriminatory legal provisions related to marriage and family relations such as Article 214 of the Civil Code of Seychelles (1975), making husbands primarily responsible for the family charges; Article 389 giving preference to fathers as regards to (a) the administration of the child's property, (b) consent to the child's marriage and (c) the child's domicile; and Article 40 of the Civil Status Act which sets the minimum age of marriage for girls at 15 and boys at 18 years. The same year, a Civil Code Revision Committee chaired by the Chief Justice was assigned the responsibility of revising and modernising the legislation in line with the provisions in the constitution. The Civil Code of Seychelles Bill 2017 is being considered as replacement for the existing code.

**Source:** Seychelles AGDI Report.

- In one of its latest periodic report to the Committee on the Elimination of Discrimination of Discrimination against Women in 2010, **South Africa** noted that the execution of the duty of parents to support their children under Maintenance Act (1998) is still a challenge as maintenance officers and investigators are ineffective in dealing efficiently and adequately with enquiries and investigations, which results in women often having to spend considerable time away from work to attend numerous appointments in the court<sup>19</sup>.

#### Subsection 1(f): The same rights to custody of children

In **Guinea**, women have the right to custody over their children until the age of seven years, in the case of divorce<sup>20</sup>.

#### Subsection 1(g): The same personal rights

- In **Guinea**, a married woman retains her given name and her family name, and is free to manage and dispose of her finances, to conclude contracts and to take loans, as well as to conduct any legal transaction<sup>21</sup>.
- In **Mauritius**, the law gives complete freedom of choice to women to retain their own name, to change to the husband's name or to use both names.
- **Niger** has legal provisions restricting married women's legal capacity, including the requirement to obtain the husband's permission to exercise a profession<sup>22</sup>.
- In **Rwanda**, the Commercial Code was amended in 2010 so that there is now no need for a woman to have the authorization of her husband to start a business<sup>23</sup>.

#### Subsection 1 (h): Property inheritance and ownership

<sup>19</sup> Commission on Gender Equality [South Africa] (2010).

<sup>20</sup> United Nations, CEDAW Committee (2005).

<sup>21</sup> United Nations, CEDAW Committee (2005).

<sup>22</sup> United Nations, CEDAW Committee (2017).

<sup>23</sup> United Nations, CEDAW Committee (2015a).

- Widows and widowers in **Mauritius** inherit the property of the deceased spouse whatever the circumstances and the matrimonial regime (Civil Code, Article 731)<sup>24</sup>.
- In **Namibia**, the Communal Land Reform (2002) entitles widows the right to stay on communal land allocated to their deceased husband even if they re-marry.
- The application of customary law in **Niger** results in unequal land inheritance and land grabbing from widows<sup>25</sup>.
- In **Rwanda**, under Article 4 of the Land Law N° 43/2013, “All forms of discrimination, such as that based on sex or origin, in relation to access to land and the enjoyment of real rights shall be prohibited”. Further, “the right to land for a man and a woman lawfully married shall depend on the matrimonial regime they opted for”.
- Although there is no discrimination in land ownership in statutory laws in **Sierra Leone**, women are discriminated against under customary rules of succession (see Box 2.6).

#### BOX 2.6 LAND INHERITANCE IN SIERRA LEONE.

Although there are no legal barriers against women owning property under general law in Sierra Leone: both husband and wife can either separately or jointly acquire, own, manage and dispose of property. However, women are at a disadvantage as far as inheritance to land due to the prevalence of customary rules of succession based on the patrilineal system. Under the rules of patrilineal succession, children born to a woman from a land-owning community or family cannot inherit land in that community or family unless their father hails from the same community or family. In addition, preference is normally given to heads of households in the allocation of land who invariably are adult males. The Devolution of Estates Act (2007) has repealed all the discriminatory provisions of law and practices against women and has made men and women equal in the distribution of estate.

**Source:** Sierra Leone AGDI Report and United Nations, CEDAW Committee (2011).

- In **Swaziland**, Section 16 of the Deeds Registry Act (1968) was amended in 2012 to provide women with the legal right to register title deeds for land in their names.
- The High Court in **Zimbabwe** has ruled that children born in and out of wedlock have equal right to their parents’ estate and property<sup>26</sup>.

#### Section 2: Prohibition of child marriage; establishing a marriage registry

- The legal age of marriage is discussed in the section on child marriage in Chapter 3.
- In **Guinea**, only officials of the civil registry are authorized to solemnize a marriage and it must be formally registered.
- The Marriage Act (1961) of **Namibia** provides for the registration of civil marriage and not for customary and polygamous marriages.
- Law N°32/2016 (Article 166) of **Rwanda** recognised only civil monogamous marriage contracted upon mutual consent before the public administration.

<sup>24</sup> SADC (2016: page 10).

<sup>25</sup> United Nations, CEDAW Committee (2017: para. 34).

<sup>26</sup> SADC (2016: p. 7).

- The Registration of Customary Marriage and Divorce Act (2007) in **Sierra Leone** provides for the registration of all customary marriages and divorces.
- Although it outlaws forced marriages by requiring the consent of both parties to a marriage, the Recognition of Customary Act (1998) of **South Africa** in section 4 (9) states that “[f]ailure to register a customary marriage does not now affect the validity of that marriage”.
- In **Zimbabwe**, many marriages are unregistered customary law unions.

## Optional Protocol to CEDAW

“Communications may be submitted by or on behalf of individuals or groups of individuals, under the jurisdiction of a State Party, claiming to be victims of a violation of any of the rights set forth in the Convention by that State Party. Where a communication is submitted on behalf of individuals or groups of individuals, this shall be with their consent unless the author can justify acting on their behalf without such consent.”<sup>27</sup>

“The Committee shall not consider a communication unless it has ascertained that all available domestic remedies have been exhausted unless the application of such remedies is unreasonably prolonged or unlikely to bring effective relief.”<sup>28</sup>

The Optional Protocol to CEDAW (OP-CEDAW) is an international legal mechanism developed to support the implementation of CEDAW. It enables individuals to bring complaints in relation to alleged violations by State parties to the Optional Protocol of the rights set forth in the Convention and to enable the Committee on the Elimination of Discrimination against Women to conduct inquiries into alleged grave or systematic violations of these.<sup>29</sup> It is a treaty in its right – state parties to CEDAW should ratify OP-CEDAW separately to be bound by its provisions.

Of the countries covered by this report, seven countries - **Chad, Guinea, Liberia, Mauritania, Sierra Leone, Swaziland** and **Zimbabwe** – have not ratified the OP-CEDAW (Table 2.1). In 2015, the Committee on the Elimination of Discrimination against Women recommended that State Parties to CEDAW ratify the Optional Protocol.<sup>30</sup> It also recommended that they inform women, civil society organizations and institutions of the procedures available for furthering women’s access to justice through the Optional Protocol Conduct through outreach and educational programmes, resources and activities, in various languages and formats.

## Beijing Platform for Action

Governments should: “Provide constitutional guarantees and/or enact appropriate legislation to prohibit discrimination on the basis of sex for all women and girls of all ages and assure women of all ages equal rights and their full enjoyment; Embody the principle of the equality of men and women in their legislation and ensure, through law and other appropriate means, the practical realization of this principle; Review national laws, including customary laws and legal practices in the areas of family, civil, penal, labour and commercial law in order to ensure the implementation of the principles and procedures of all relevant international human rights instruments by means of national legislation, revoke any remaining laws that discriminate on the basis of sex and remove gender bias in the administration of justice.”<sup>31</sup>

<sup>27</sup> United Nations (1999: Article 2).

<sup>28</sup> *Ibid.* at Article 4 (1).

<sup>29</sup> United Nations CEDAW Committee (2015b: paragraph 67).

<sup>30</sup> *Ibid.* paragraph 68.

<sup>31</sup> United Nations (1996: paragraph 232(b)-(d)).

[To update] Overall countries scored themselves high on reporting followed by policy commitment, setting targets and involvement of civil society for Beijing Platform for Action (Table A2.4). Areas that were scored low were human resources, information and dissemination, and accountability/transparency. **Rwanda** scored itself highest at 100 percent followed by **Mauritius** at 93 percent, with **Guinea** and **South Africa** scoring themselves 61 percent.

Some of the constitutional and legislative measures to meet the commitments in the Beijing Platform for Action in the countries covered by this report have been discussed earlier. Subsequent sections of the report will also discuss the legal and policy initiatives taken by countries to promote gender equality in the social, economic and political spheres.

## African Charter on the Rights and Welfare of the Child

“1. State Parties to the present Charter shall take specific legislative, administrative, social and educational measures to protect the child from all forms of torture, inhuman or degrading treatment and especially physical or mental injury or abuse, neglect or maltreatment including sexual abuse, while in the care of the child.

2. Protective measures under this Article shall include effective procedures for the establishment of special monitoring units to provide necessary support for the child and for those who have the care of the child, as well as other forms of prevention and for identification, reporting referral investigation, treatment, and follow-up of instances of child abuse and neglect.”<sup>32</sup>

All countries covered by the report have ratified the African Charter on the Rights and Welfare of the Child except for **Guinea-Bissau**, **Liberia**, **Sao-Tome and Principe** and **Swaziland** (Table 2.1). [To update] Overall countries scored themselves high on ratification, law, policy commitment and involvement of civil society for the Charter (Table A2.5). Areas that were scored low were monitoring and evaluation, capacity enhancement and accountability/transparency. **Mauritius**, **Niger** and **Rwanda** scored themselves at least 90 percent while **Seychelles** scored itself lowest at 67 percent. Box 2.6 highlights the child protection interventions in **Mauritius** and **Seychelles**.

### BOX 2.6 CHILD PROTECTION INTERVENTIONS IN MAURITIUS AND SEYCHELLES

#### *Laws*

**Mauritius.** The Child Protection Act (1994, as amended in 1998 and 2005) obligates medical and paramedical professionals or schools to report suspected cases of child abuse and makes provision for all cases of child trafficking, abandonment and abduction. The Divorce and Judicial Separation Act mandates the courts to seek the views of child above the age of 10 in which he or she has an interest. The Child Protection and Care Bill aims to domesticate the Convention on the Rights of the Child.

#### *Institutional mechanisms*

**Mauritius.** The Ombudsperson for Children’s Office was set up in December 2003 to create an effective mechanism for the investigation of complaints regarding violation of children’s rights. The National Children’s Council (NCC) ensures that children participate effectively in all social, economic and political life. An elected National Children’s Committee was set up in 2003 as part of NCC to deliberate on matters relating to child welfare and offer its views to the National Children’s Board. The Community Child Protection Programme is a forum at district level to raise awareness to child protection issues and ensure early detection and reporting of children at risk.

<sup>32</sup> Organization of African Unity (1990: Article 16).



**Seychelles.** A Police Child Protection Team was set up in 2015 composed of five police officers. The Team specializes in child protection cases and responds to instances of neglect and child abuse. The National Commission for Child Protection was set up in 2005 advocates for amendments of legislations, collection of statistics in regards to children, and raise awareness with regards to the rights of the child.

### *Information and dissemination*

**Mauritius.** Girls are sensitized on the Convention on the Rights of the Child, Commercial Sexual Exploitation, teenage pregnancy, violence, abuse, harassment inclusive of bullying in schools and Child Protection Clubs.

**Source:** Mauritius AGDI Report and United Nations, Human Rights Council (2015).

## Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa ("Maputo Protocol")

"States Parties shall combat all forms of discrimination against women through appropriate legislative, institutional and other measures. In this regard they shall: (a) include in their national constitutions and other legislative instruments, if not already done, the principle of equality between women and men and ensure its effective application; (b) enact and effectively implement appropriate legislative or regulatory measures, including those prohibiting and curbing all forms of discrimination particularly those harmful practices which endanger the health and general well-being of women; (c) integrate a gender perspective in their policy decisions, legislation, development plans, programmes and activities and in all other spheres of life; (d) take corrective and positive action in those areas where discrimination against women in law and in fact continues to exist; (e) support the local, national, regional and continental initiatives directed at eradicating all forms of discrimination against women.

States Parties shall commit themselves to modify the social and cultural patterns of conduct of women and men through public education, information, education and communication strategies, with a view to achieving the elimination of harmful cultural and traditional practices and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes, or on stereotyped roles for women and men."<sup>33</sup>

Concerned that "women in Africa still continue to be victims of discrimination and harmful practices"<sup>34</sup> despite ratification of a number of international and regional human rights instruments, the African Union Assembly of Heads of State and Government adopted the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa ("Maputo Protocol") in 2003. The Maputo Protocol is a legally binding human rights instrument. It "expands the scope of protected rights beyond those provided for under CEDAW", "deals with rights already covered in CEDAW with greater specificity" and address a number of issues "of particular concern to African women that were not included in CEDAW"<sup>35</sup> (see Box 2.7). Of all the countries covered by the report, **Chad, Mauritius, Niger, Sao Tome and Principe and Sierra Leone** have not yet ratified the Maputo Protocol (Table 2.1).

### **BOX 2.7 KEY PROVISIONS OF THE MAPUTO PROTOCOL.**

- The first binding treaty to provide for the right: to circumscribed "**medical abortions**" (see Chapter 5); and of a woman to be protected against **HIV infection** and to **know the HIV status of her sexual partner**.
- Obliges State parties to encourage **monogamy**.
- Compels State parties to enact and enforce laws prohibiting **domestic violence**, and criminalizing **marital rape**.

<sup>33</sup> African Union (2003: Article 2(1) and 2(2)).

<sup>34</sup> African Union (Preamble).

<sup>35</sup> Viljoen (2009: page 21).



- Provides for the” **protection of women in armed conflict**”.
- The girl-child may not be recruited or “take a direct part in **hostilities**”.
- State parties should set a “**minimum age of marriage**” at 18, and all marriages must” be **recorded in writing**”.
- Women have the “**right to food security**”.
- The rights of women who are **widows, women with disabilities, and elderly women**.
- Requires State parties to have **affirmative action** such as electoral quotas, and with regard to discrimination in law, illiteracy and education.

**Sources:** African Union (2003) and Viljoen (2009).

[To update] Overall countries scored themselves high on policy commitment, development of a plan and involvement of civil society for the Maputo Protocol (Table A2.6). The weakest area was budget and monitoring and evaluation. **Mauritius** and **Rwanda** scored themselves at least 80 percent while **Niger** and **Seychelles** scored themselves less than 60 percent. Seychelles scored itself zero on reporting, development of a plan and monitoring and evaluation.

## Solemn Declaration on Gender Equality in Africa, 2004

The Solemn Declaration on Gender Equality is a non-binding instrument aimed at promoting and protecting women’s rights in nine specific areas which are complementary with certain provisions of the Maputo Protocol. These areas are: (1) HIV/AIDS; (2) women’s involvement in peace processes and post-conflict reconstruction; (3) “the prohibition of recruitment of child soldiers”; (4) “the prohibition of the abuse of women and sex slaves”; (5) awareness-raising about gender-based violence and trafficking in women; (6) promoting parity in local and national elections; (7) the right to development; (8) land, property and inheritance; and (9) education and literacy<sup>36</sup>.

[To update] Overall countries scored themselves high on policy commitment and involvement of civil society for the Solemn Declaration (Table A2.7). The weakest area was budget, followed by human resources, research, information and dissemination and accountability/transparency. **Mauritius** and **Rwanda** scored themselves above 80 percent while **Niger** and **Seychelles** scored themselves less than 60 percent. Seychelles scored itself zero on reporting, development of a plan and monitoring and evaluation.

## Review and modification of customary law

“Customary law refers to the customs and usages traditionally observed among the indigenous African peoples of South Africa and which form part of the culture of those peoples”.<sup>37</sup>

As discussed above, the majority of countries covered by this report have gender equality clauses in their constitution (Table 2.2). However, the constitution of some countries also recognize systems of customary and/or religious laws. These laws are often discriminatory and deny women and girls full enjoyment of their rights afforded to them under national constitutions and statutory laws. This tension in plural legal systems between constitutional rights and statutory laws on the one hand and customary and religious laws in the other, raises two main issues with regard to the promotion of gender equality. Firstly, the tension is especially salient for private issues such as marriage, divorce, distribution of marital property, inheritance

<sup>36</sup> Viljoen (2009: pp. 25-26).

<sup>37</sup> Recognition of Customary Marriages Act (1998: s1).

rights, marital rape, and guardianship among others. Secondly, the constitution is usually silent as to how these conflicts are to be resolved, leaving it to the judiciary to adjudicate on such matters<sup>38</sup>. As will be discussed in chapter 6, given that the judicial system is still dominated by males, these decisions may not necessarily be based on the principles underpinning CEDAW. Signatories to CEDAW and other human rights instruments are obligated to review their legislative frameworks and to amend and/or repeal provisions that discriminate against women.

[To update] Not all countries have customary laws. The constitutions of Guinea, Guinea-Bissau, Mauritania, Sao Tome and Principe and Seychelles do not recognise customary law (Table 2.2). Although Mauritius does not have customary laws, it does have a provision for personal laws, which mainly affects women from the Muslim community (see Box 2.3). Overall countries scored themselves high on institutional mechanism and involvement of civil society (Table A2.8). The weakest area was targets, followed by budget and monitoring and evaluation. Of the countries where customary laws exist, **Rwanda** scored itself highest at 92 percent and **Guinea** lowest with 12 percent. Box 2.8 includes examples of the harmonization of customary laws with national laws and constitutions.

#### BOX 2.8 HARMONIZATION OF CUSTOMARY AND NATIONAL LAWS.

- **Liberia** (CEDAW Committee, 2015): “The Committee notes that, in 2011, the State party adopted an act establishing a law reform commission with a mandate to review laws. The Committee also notes the pluralistic legal system in the State party, where customary and statutory law are applicable side by side, and is concerned that certain elements of customary law are in conflict with statutory law and do not comply with the Convention.”
- **Namibia** (CEDAW Committee, 2015): “The Committee notes that the State party has a pluralistic legal system in which customary and statutory law are both applicable and that section 66 (1) of the Constitution provides that customary law is valid only to the extent to which it does not conflict with the Constitution or any other statutory law. The Committee is concerned, however, that some elements of customary law are not in compliance with the Convention.”
- **Niger** (CEDAW Committee, 2017): “No timeframe is envisaged to repeal discriminatory legislation, including provisions in the Civil Code regulating, *inter alia*, the matrimonial home (art. 108), the status of head of household and paternal power (art. 213 to 216), the legal capacity of a married women (art. 506 to 507), remarriage (art. 228, 296), the exercise of guardianship over children (art. 389 to 396, 405), and the distribution of marital assets (art. 818)”.
- In **South Africa**, the Reform of Customary Law of Succession and Regulation of Related Matters Act (2010) gave widows and daughters equal inheritance rights with widowers and sons.
- **Swaziland** is reviewing the Marriage Act and Administration of Estate Act to align them with the provisions of the Constitution.
- The Law Commission of **Zimbabwe** is working on proposals to harmonize customary laws with national laws.

**Source:** SADC (2016), United Nations, CEDAW Committee (2015c), United Nations (2015d) and United Nations, CEDAW Committee (2017).

## Concluding remarks

This chapter looked at the progress made by the countries covered by this report in meeting their commitments set in global and regional instruments on women’s rights. These instruments are the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the

<sup>38</sup> Institute for Security Studies (2016: p. 7).

African Charter on the Rights and Welfare of the Child (ACRWC), the Beijing Declaration and Platform for Action, the Optional Protocol to CEDAW, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) and the Solemn Declaration on Gender Equality in Africa. CEDAW and its Optional Protocol, ACRWC and the Maputo Protocol are binding legal instruments, while Beijing Platform for Action and the Solemn Declaration are not.

**Convention on the Elimination of All Forms of Discrimination against Women.** All countries covered by this report has ratified CEDAW. However, Mauritania and Niger have expressed reservations with respect to Articles 2 and 16, which the Committee on the Elimination of Discrimination against Women considers to be core provisions of the Convention.

**African Charter on the Rights and Welfare of the Child.** Guinea-Bissau, Liberia, Sao-Tome and Principe and Swaziland have not ratified the Charter.

**Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.** Chad, Guinea, Liberia, Mauritania, Sierra Leone, Swaziland and Zimbabwe have not ratified the Optional Protocol.

**Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.** Chad, Mauritius, Niger, Sao Tome and Principe and Sierra Leone have not yet ratified the Protocol.

**Domesticating the provisions of international and regional human rights instruments.** Countries have made considerable progress in incorporating the principles and provisions of these legal instruments in their national constitutions and legislation, adopting legislation, policies and other measures prohibiting discrimination against women, and amending and repealing laws, regulations, customs and practices that are discriminatory. Toward that end, countries have reviewed laws to identify discriminatory provisions including by setting up review commissions.

**Plural legal systems.** Although the majority of countries covered by this report have gender equality clauses in their constitution, the constitution of some countries also recognize systems of customary and/or religious laws. These laws are often discriminatory and deny women and girls full enjoyment of their rights afforded to them under national constitutions and statutory laws. Countries have taken steps to harmonize customary laws with constitutional provisions and national laws in line with CEDAW and other instruments.

**“Personal status laws”.** Another issue that poses a challenge to domestication of provisions of these legal instruments is the existence of “personal status laws” in **Mauritius, Niger and Sierra Leone**. Personal status laws deny a segment of women basic rights enjoyed by the majority of the population, and makes discrimination possible in marriage, divorce, distribution of marital property, inheritance, guardianship and others.

**Reporting obligations of State parties.** The limited availability of up-to-date sex-disaggregated data and the burden of multiple reporting obligations are important challenges faced by State parties in submitting reports on time to treaty bodies. **Seychelles** has set up an inter-ministerial committee to coordinate and assist in the preparation and review of treaty reports, and ensure the promotion and dissemination of treaties, concluding remarks and recommendation from treaty bodies.

**Scoring on the African Women's Progress Scoreboard.** Overall, countries score themselves well on enacting legislation, policy commitment and involvement of civil society organizations in terms of

meeting the international and regional commitments on women's rights. Weak areas were setting targets and budget, as well as monitoring and evaluation, information and dissemination and accountability/transparency.

## Recommendations

Governments should undertake the following interventions to eliminate all discrimination against women and promote equality between men and women.

**Ratification of instruments.** For countries that have not yet done so, expedite the ratification of the African Charter on the Rights and Welfare of the Child, Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

**Harmonization of laws with international and regional human rights instruments.** Harmonize statutory and customary laws with the provisions of the relevant international and regional human rights instruments and repeal all legislation that is incompatible with the principle of equality of women and men.

**Review and modify discriminatory laws, regulations, customs and practices.** Accord priority to the review of laws, regulations, customs and practices including, customary laws and personal status laws where they exist, to identify and takes steps to modify those that discriminate against women and girls.

**Participation of women and civil society's organizations.** Ensure that women and civil society's organizations participate substantively in processes aimed at reviewing discriminatory laws and domesticating the provisions of international and regional instruments on women's rights.

**Awareness-raising.** In collaboration with civil society organizations, undertake education awareness programmes targeting parliamentarians, the general public and other key stakeholders regarding the importance of incorporating the prohibition of sex-based discrimination and gender equality provisions in legislation. Also, strengthen programmes aimed at enhancing women's awareness of their rights and the means to claim them these rights.

**Resources.** Allocate adequate organizational, human, technical and financial resources to the justice system to ensure that non-discriminatory laws are effectively enforced and women have effective access to justice.

**Data.** Enhance the collection, analysis and dissemination of comprehensive data, disaggregated by sex, age, disability, ethnicity, location and socioeconomic status, which should be used to assess trends in the situation of women and progress towards the realization of gender equality in all areas covered by the international and regional instruments which they are party to.

**Dissemination.** Continue to disseminate the contents of the regional and international human rights treaties which they are party to, including translating them into local languages.

# Annex

**Table A2.1: Scores for the Convention on the Elimination of All Discrimination Against Women, 1979.**

	Ratification	Reporting	Law	Policy commitment	Development of a plan	Targets	Institutional mechanism	Budget	Human resources	Research	Involvement of civil society	Information and dissemination	Monitoring and evaluation	Capacity enhancement	Accountability/transparency	Total	Maximum score	Percentage (%)
Chad																	<b>30</b>	
Guinea	2	2	2	2	2	2	2	2	1	0	2	1	1	1	1	<b>23</b>	<b>30</b>	<b>77</b>
Guinea-Bissau																	<b>30</b>	
Liberia																	<b>30</b>	
Mauritania																	<b>30</b>	
Namibia	2	2	2	2	2	1	1	1	1	1	1	1	1	1	2	<b>21</b>	<b>30</b>	<b>70</b>
Niger	1	2	1	1	1	2	1	1	1	1	1	1	1	1	2	<b>18</b>	<b>30</b>	<b>60</b>
Rwanda	2	2	2	2	2	0	2	2	2	2	2	2	2	2	2	<b>28</b>	<b>30</b>	<b>93</b>
Sao Tome and Principe																	<b>30</b>	
Sierra Leone																	<b>30</b>	
South Africa	2	1	2	2	1	1	1	1	1	1	2	1	1	1	1	<b>19</b>	<b>30</b>	<b>63</b>
Swaziland	2	2	1	2	2	1	2	1	1	1	2	1	1	1	1	<b>21</b>	<b>30</b>	<b>70</b>
Zimbabwe																	<b>30</b>	

Source: AGDI National Reports.

**Table A2.2: Scores for Article 2 of the Convention on the Elimination of All Discrimination Against Women, 1979.**

	Law	Policy commitment	Development of a plan	Targets	Institutional mechanism	Budget	Human resources	Research	Involvement of civil society	Information and dissemination	Monitoring and evaluation	Capacity enhancement	Accountability/transparency	Total	Maximum score	Percentage (%)
Chad															<b>26</b>	
Guinea	2	1	1	1	1	1	1	0	2	1	1	1	1	<b>14</b>	<b>26</b>	<b>54</b>
Guinea-Bissau															<b>26</b>	
Liberia															<b>26</b>	
Mauritania															<b>26</b>	
Mauritius	2	2	2	2	2	1	2	2	2	2	1	2	1	<b>23</b>	<b>26</b>	<b>88</b>
Namibia	2	2	1	1	2	1	1	1	2	1	1	1	1	<b>17</b>	<b>26</b>	<b>65</b>
Niger	1	1	0	0	1	0	1	1	1	1	1	1	1	<b>10</b>	<b>26</b>	<b>38</b>
Rwanda	2	2	2	0	2	2	2	2	2	2	2	2	2	<b>24</b>	<b>26</b>	<b>92</b>
Sao Tome and Principe															<b>26</b>	
Seychelles	1	2	1	1	1	1	1	1	2	2	1	2	1	<b>19</b>	<b>26</b>	<b>73</b>
Sierra Leone															<b>26</b>	
South Africa	2	2	2	1	2	1	1	1	2	1	1	1	1	<b>18</b>	<b>26</b>	<b>69</b>
Zimbabwe															<b>26</b>	

Source: AGDI National Reports.

Notes: Swaziland reported overall score for CEDAW rather than separate scores for Articles 2 and 16.

**Table A2/3: Scores for Article 16 of the Convention on the Elimination of All Discrimination Against Women, 1979.**

	Law	Policy commitment	Development of a plan	Targets	Institutional mechanism	Budget	Human resources	Research	Involvement of civil society	Information and dissemination	Monitoring and evaluation	Capacity enhancement	Accountability/transparency	Total	Maximum score	Percentage (%)
Chad															26	
Guinea	2	1	1	1	1	1	1	1	2	1	1	1	1	15	26	58
Guinea-Bissau															26	
Liberia															26	
Mauritania															26	
Mauritius	1	1	2	2	2	1	2	1	1	2	1	1	1	18	26	69
Namibia	2	2	2	1	2	1	1	1	1	1	1	1	1	17	26	65
Niger	1	1	0	0	1	0	1	1	1	1	1	1	1	10	26	38
Rwanda	2	2	2	0	2	2	2	2	2	2	2	2	2	24	26	92
Sao Tome and Principe															26	
Seychelles	1	2	1	1	1	1	1	1	2	2	1	2	1	17	26	65
Sierra Leone															26	
South Africa	2	1	0	0	2	1	1	1	2	1	1	1	1	14	26	54
Zimbabwe															26	

Source: AGDI National Reports.

Notes: Swaziland reported overall score for CEDAW rather than separate scores for Articles 2 and 16.

**Table A2.4: Scores for Beijing Platform for Action, 1996.**

	Reporting	Law	Policy commitment	Development of a plan	Targets	Institutional mechanism	Budget	Human resources	Research	Involvement of civil society	Information and dissemination	Monitoring and evaluation	Capacity enhancement	Accountability/transparency	Total	Maximum score	Percentage (%)
Chad																28	
Guinea	2	1	1	2	2	1	1	1	1	1	1	1	1	1	17	28	61
Guinea-Bissau																28	
Liberia																28	
Mauritania																28	
Mauritius	2	2	2	1	2	2	2	2	2	2	1	2	2	1	25	28	89
Namibia	2	2	2	2	2	2	1	1	1	2	1	1	1	1	21	28	75
Niger	2	2	2	2	2	2	1	1	2	2	2	2	2	2	26	28	93
Rwanda	2	2	2	2	2	2	2	2	2	2	2	2	2	2	28	28	100
STP																28	
Seychelles	2	1	2	1	2	1	1	1	1	2	2	1	2	1	20	28	71
Sierra Leone																28	
South Africa	2	1	2	1	1	1	2	1	1	2	0	1	1	1	17	28	61
Swaziland	2	1	2	2	2	2	1	1	1	2	1	1	1	1	20	28	71
Zimbabwe																28	

Source: AGDI National Reports.



**Table A2.5: Scores for African Charter on the Rights and Welfare of the Child, 1990.**

	Ratification	Reporting	Law	Policy commitment	Development of a plan	Targets	Institutional mechanism	Budget	Human resources	Research	Involvement of civil society	Information and dissemination	Monitoring and evaluation	Capacity enhancement	Accountability/transparency	Total	Maximum score	Percentage (%)
Chad																	<b>30</b>	
Guinea	2	0	2	2	2	2	2	1	2	1	2	1	1	1	1	<b>22</b>	<b>30</b>	<b>73</b>
Guinea-Bissau																	<b>30</b>	
Liberia																	<b>30</b>	
Mauritania																	<b>30</b>	
Mauritius	2	2	2	2	1	2	2	2	2	1	2	2	2	2	1	<b>27</b>	<b>30</b>	<b>90</b>
Namibia	2	2	2	2	2	2	2	2	1	1	2	1	1	1	1	<b>24</b>	<b>30</b>	<b>80</b>
Niger	2	2	2	2	2	2	2	2	2	2	2	2	1	1	1	<b>27</b>	<b>30</b>	<b>90</b>
Rwanda	2	2	2	2	2	0	2	2	2	2	2	2	2	2	2	<b>28</b>	<b>30</b>	<b>93</b>
STP																	<b>30</b>	
Seychelles	2	1	2	2	1	2	2	2	1	1	1	1	0	1	1	<b>20</b>	<b>30</b>	<b>67</b>
Sierra Leone																	<b>30</b>	
South Africa	2	2	2	2	2	1	2	2	1	2	2	1	1	1	1	<b>24</b>	<b>30</b>	<b>80</b>
Swaziland	2	1	2	2	2	2	2	1	1	1	2	1	1	1	1	<b>22</b>	<b>30</b>	<b>73</b>
Zimbabwe																	<b>30</b>	

Source: AGDI National Reports.

**Table A2.6: Scores for Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2003.**

	Ratification	Reporting	Law	Policy commitment	Development of a plan	Targets	Institutional mechanism	Budget	Human resources	Research	Involvement of civil society	Information and dissemination	Monitoring and evaluation	Capacity enhancement	Accountability/transparency	Total	Maximum score	Percentage (%)
Chad																	<b>30</b>	
Guinea	2	0	2	1	2	2	1	1	1	1	2	1	1	1	1	<b>19</b>	<b>30</b>	<b>63</b>
Guinea-Bissau																	<b>30</b>	
Liberia																	<b>30</b>	
Mauritania																	<b>30</b>	
Mauritius	1	2	2	2	2	2	2	1	2	2	2	1	1	2	1	<b>25</b>	<b>30</b>	<b>83</b>
Namibia	1	2	2	2	2	2	1	1	1	1	1	1	1	1	1	<b>20</b>	<b>30</b>	<b>67</b>
Niger	0	2	1	2	2	1	1	1	1	1	1	1	1	1	1	<b>17</b>	<b>30</b>	<b>57</b>
Rwanda	2	2	2	2	2	0	2	2	2	2	2	2	2	2	2	<b>28</b>	<b>30</b>	<b>93</b>
STP																	<b>30</b>	
Seychelles	2	0	1	2	0	1	1	1	1	1	2	1	0	1	1	<b>15</b>	<b>30</b>	<b>50</b>
Sierra Leone																	<b>30</b>	
South Africa	2	x	2	1	2	1	1	0	0	2	2	1	1	1	1	<b>17</b>	<b>28</b>	<b>61</b>
Swaziland	2	1	1	2	2	2	2	1	1	1	2	1	1	1	1	<b>21</b>	<b>30</b>	<b>63</b>
Zimbabwe																	<b>30</b>	

Source: AGDI National Reports.

**Table A2.7: Scores for the Solemn Declaration on Gender Equality in Africa, 2004.**

	Law	Policy commitment	Development of a plan	Targets	Institutional mechanism	Budget	Human resources	Research	Involvement of civil society	Information and dissemination	Monitoring and evaluation	Capacity enhancement	Accountability/transparency	Total	Maximum score	Percentage (%)
Chad															26	
Guinea	2	1	1	1	1	1	1	1	2	1	1	1	1	15	26	58
Guinea-Bissau															26	
Liberia															26	
Mauritania															26	
Mauritius	2	2	2	2	2	1	2	2	2	1	2	2	1	23	26	88
Namibia	2	2	2	2	2	1	1	1	1	1	1	1	1	18	26	69
Niger															26	
Rwanda	2	2	2	0	2	2	2	2	2	2	2	2	2	24	26	92
Sao Tome and Principe															26	
Seychelles	0	2	0	1	0	0	0	0	1	1	1	1	1	10	26	
Sierra Leone															26	
South Africa	2	2	1	1	2	1	1	1	2	1	1	1	1	17	26	65
Swaziland	1	2	2	2	2	1	1	1	2	1	1	1	1	18	26	69
Zimbabwe															26	

Source: AGDI National Reports. Niger did not provide scoring.

**Table A2.8: Scores for the review and modification of customary law.**

	Law	Policy commitment	Development of a plan	Targets	Institutional mechanism	Budget	Human resources	Research	Involvement of civil society	Information and dissemination	Monitoring and evaluation	Capacity enhancement	Accountability/transparency	Total	Maximum score	Percentage (%)
Chad															26	
Guinea	0	0	0	0	1	0	0	0	1	0	0	1	0	3	26	12
Guinea-Bissau															26	
Liberia															26	
Mauritania															26	
Mauritius	1	X	X	X	X	X	X	X	X	X	X	X	X	1	2	50
Namibia	2	2	2	1	2	1	1	1	2	1	1	1	1	18	26	69
Niger	0	2	1	2	2	1	1	1	2	2	1	1	1	17	26	65
Rwanda	2	2	2	0	2	2	2	2	2	2	2	2	2	24	26	92
Sao Tome and Principe															26	
Sierra Leone															26	
South Africa	2	0	2	1	2	1	1	1	2	1	1	1	2	17	26	65
Swaziland															26	
Zimbabwe															26	

Source: AGDI National Reports. No scores provided for Seychelles and Swaziland.

## References

African Union (2003). *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa*. Adopted by the Assembly of the African Union in Maputo on 11 July 2003.

African Union (2004). *Solemn Declaration on Gender Equality in Africa*.

American Bar Association, Central and East European Law Initiative (CEELI) (2002). *The CEDAW Assessment Tool: An Assessment Tool Based on the Convention to Eliminate all forms of Discrimination against Women (CEDAW)*.

Commission on Gender Equality [South Africa] (2010): Report to the CEDAW Committee on South Africa's implementation of CEDAW (1998- 2008).

Marsha A. Freeman (2009). *Reservations to CEDAW: An analysis for UNICEF*. United Nations Children's Fund (UNICEF), Gender, Rights and Civic Engagement Section, Division of Policy and Practice, New York, 2009.

Organization of African Unity (1990). *African Charter on the Rights and Welfare of the Child*. OAU Doc. CAB/LEG/24.9/49 (1990).

Southern African Development Community (SADC) (2016). *SADC Gender and Development Monitor 2016*. SADC. Gaborone, Harare.

United Nations (1945). *Charter of the United Nations*. Signed on 26 June 1945 in San Francisco.

United Nations (1979). General Assembly Resolution 34/180. *Convention on the Elimination of All Forms of Discrimination against Women*. New York: United Nations. Adopted by the General Assembly on 18 December 1979.

United Nations (1999). General Assembly Resolution 54/4. *Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women*. New York: United Nations. Adopted by the General Assembly on 15 October 1999.

United Nations, Committee on the Elimination of Discrimination against Women (1992). Eleventh Session of the Committee on the Elimination of Discrimination against Women, General Recommendation No. 19: Violence against Women.

United Nations, Committee on the Elimination of Discrimination against Women (1998). Report of the Committee on the Elimination of Discrimination against Women, Nineteenth Session, A/53/38/Rev.1.

United Nations, Committee on the Elimination of Discrimination against Women (2005). Consideration of reports submitted by States parties under Article 18 of the Convention on the Elimination of All Forms of Discrimination against Women. Combined fourth, fifth and sixth periodic reports of States parties, Guinea. CEDAW/C/GIN/4-6.

United Nations, Committee on the Elimination of Discrimination against Women (2010a). General recommendation 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women. CEDAW/C/GC/28.

United Nations, Committee on the Elimination of Discrimination against Women (2010b). Consideration of reports submitted by States parties under Article 18 of the Convention on the Elimination of All Forms of Discrimination against Women. Combined second, third and fourth periodic reports of States parties, South Africa. CEDAW/C/ZAF/2-4.

United Nations, Committee on the Elimination of Discrimination against Women (2011). Consideration of reports submitted by States parties under Article 18 of the Convention on the Elimination of All Forms of Discrimination against Women. Sixth periodic reports of States parties, Sierra Leone. CEDAW/C/SLE/6.

United Nations, Committee on the Elimination of Discrimination against Women (2013). General recommendation on article 16 of the Convention on the Elimination of All Forms of Discrimination against Women (Economic consequences of marriage, family relations and their dissolution). CEDAW/C/GC/29.

United Nations, Committee on the Elimination of Discrimination against Women (2014). Concluding observations on the sixth periodic report of Sierra Leone. CEDAW/C/SLE/CO/6.

United Nations, Committee on the Elimination of Discrimination against Women (2015a). Consideration of combined seventh to ninth periodic reports of Rwanda. CEDAW/C/RWA/7-9.

United Nations, Committee on the Elimination of Discrimination against Women (2015b). General Recommendation No. 33 on women's access to justice, 11th Session, U.N. Doc. CEDAW/C/GC/33.

United Nations, Committee on the Elimination of Discrimination against Women (2015c). Concluding observations on the combined seventh and eighth periodic reports of Liberia. CEDAW/CO/LBR/7-8.

United Nations, Committee on the Elimination of Discrimination against Women (2015d). Concluding observations of the combined fourth and fifth periodic reports of Namibia. CEDAW/CO/NAM/4-5.

United Nations, Committee on the Elimination of Discrimination against Women (2017). Concluding observations on the combined third and fourth periodic reports of Niger. CEDAW/C/NER/CO/3-4.

United Nations, Committee on the Elimination of Discrimination against Women and Committee on the Rights of the Child (2014). Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child on harmful practices. CEDAW/C/GC/31-CRC/C/GC/18.

United Nations High Commissioner for Human Rights, U.N. Fact Sheet No. 22, Discrimination against Women: The Convention and the Committee. Available at: <http://www.ohchr.org/Documents/Publications/FactSheet22en.pdf>

United Nations, Human Rights Council (2015). National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21: Seychelles. A/HRC/WG.6/24/SYC/1.

Viljoen, Frans (2009). "An Introduction to the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa." *Washington and Lee Journal of Civil Rights and Social Justice*, Vol. 11: pp. 11-46.

World Bank Group. (2015). *Women, Business and the Law 2016: Getting to Equal*. Washington, DC: World Bank. doi:10.1596/978-1-4648-0677-3.