



The African Women's Protocol:

Act now to support women's reproductive rights and roll back HIV



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Achieving the MDGs requires that women in Africa have universal access to reproductive health care

In 2010 the international community will come together twice. First to review how countries are progressing towards the attainment of the Millennium Development Goals (MDGs) by 2015 and second to assess whether Universal Access to HIV Prevention, Treatment, Care and Support have been achieved. Neither meeting will tell a story of success.

The lack of universal access for women to reproductive health services is undermining the possibility of achieving the MDGs in 2015 – particularly MDGs 5 and 6. It is also part and parcel of the failure to secure Universal Access by 2010 and is a major factor in the high burden of HIV and AIDS on the African continent.

Securing women's access to reproductive rights is a major challenge for 2010 and onwards. Achieving universal access to reproductive rights across Africa is important in and of itself; important in the achievement of the MDGs and critical to rolling back the HIV and AIDS epidemic in the regions worst affected.

Reproductive Rights and HIV

Reproductive rights and HIV and AIDS are fundamentally linked. The UNAIDS Outcome Framework 2009-2011 reinforces the critical link between human and women's rights, especially reproductive rights, as a key component of an effective response to the epidemic. The Framework recognises that a significant reduction of HIV infections can only be achieved through a "dramatic increase in community, national and global action for sexual and reproductive health and rights".

Excerpt from the International Conference on Population and Development (ICPD) Programme of Action

"Reproductive rights embrace certain human rights that are already recognized in national laws, international human rights documents and other relevant UN consensus documents.

"These rights rest on the recognition of the basic right of all couples and individuals to decide freely and responsibly **the number, spacing and timing of their children** and to have the information and means to do so, and the right to attain the **highest standard of**

- ⓧ **Achieving the MDGs requires that women in Africa have universal access to reproductive health care**
- ⓧ **The African Women's Protocol is the continent's commitment to achieving universal access to reproductive health care for women, thereby rolling back HIV in Africa**
- ⓧ **A requirement to realising the vision of the African Women's Protocol is that all African governments ratify, domesticate, and transparently report on it**

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sexual and reproductive health. They also include the right of all to make decisions concerning reproduction free of discrimination, coercion and violence”

Women’s rights, including women’s reproductive rights, are central to the ability of women to take control of their own health, including their sexual and reproductive health, and to take actions to avoid HIV-infection. Women may lack adequate information about contraceptive choices; HIV prevention strategies such as male and female condoms may be unavailable; reproductive health services may be weak and under-funded; and comprehensive reproductive and sexual health information may be denied.

In addition, if women become infected with HIV, lack of reproductive rights may prevent them from seeking treatment, care and support. For example, women may be afraid to access programmes to reduce the risk of mother-to-child transmission of HIV because of fear of abandonment or violence from their partner.

The African Women’s Protocol is the continent’s commitment to achieving universal access to reproductive health care for women, thereby rolling back HIV in Africa

Adopted by the African Union in 2003 and entered into force on 25 November 2005, The Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa, (the African Women’s Protocol) offers a historic vision for women’s reproductive health rights in Africa. Developed by African governments, it provides clear guidance on the duties of African states in relation to women’s reproductive health rights. In addition, for the first time in an international treaty, there is specific mention of HIV and AIDS linked directly to reproductive health rights.

Articles 14 (1 and 2) of the African Women’s Protocol clearly set out three major components of women’s reproductive health care:

- ⓧ Reproductive and sexual decision making, including the number and spacing of children, contraceptive choice and the right to self-protection from HIV
- ⓧ Access to information about HIV and AIDS and reproductive health
- ⓧ Access to reproductive health services, including ante-natal services.

Fully implemented, the African Women’s Protocol provides a rights-based framework through which universal access to reproductive health care for women can be achieved. Achieving universal access to reproductive health rights would be a major step towards rolling back HIV in Africa.

A requirement to realising the vision of the African Women’s Protocol is that all African governments ratify, domesticate, and transparently report on it

To achieve the promise and vision offered by the African Women’s Protocol, all African governments must ratify the Protocol if they have not already done so. The record so far is not impressive (see Table 1).

| SADC Country | Ratified | SADC Country | Ratified |
|--------------|----------|--------------|----------|
| Angola | Yes | Namibia | Yes |
| Botswana | No | Seychelles | Yes |
| DRC | Yes | South Africa | Yes |
| Lesotho | Yes | Swaziland | No |
| Madagascar | No | Tanzania | Yes |
| Malawi | Yes | Zambia | Yes |
| Mauritius | No | Zimbabwe | Yes |
| Mozambique | Yes | | |

Table 1: Ratification of the African Women’s Protocol by SADC Countries – see http://www.soawr.org/en/auprotocol/article/protocol_watch/ for regular changes to the list

Ratification is not enough. All African governments must also domesticate the African Women’s Protocol through signing the Protocol into law where necessary, and undertaking a comprehensive review of existing legislation in light of the African Women’s Protocol provisions. The SADC Parliamentary Forum’s *Model Law on HIV & AIDS in Southern Africa* offers one framework to support this.

Finally all governments need to report transparently through the framework set out by the African Women’s Protocol to enable African Union and civil society monitoring of governments’ actions in relation to the Protocol. So far, no country that has ratified the African Women’s Protocol has transparently reported on its obligations to the African Women’s Protocol.

Opportunities

The African Women’s Protocol provides an unparalleled opportunity for civil society to ensure women’s reproductive rights are central in national laws, providing a strong position from which to ensure a rights-based response to the HIV epidemic.

Lobby and Advocate for Ratification, Domestication and Transparent Reporting of the Protocol

Regional and national civil society organisations in Botswana, the DRC, Madagascar, Mauritius and Swaziland need to lobby for the ratification of the

African Women’s Protocol by their governments. Ratification of the Protocol is a fundamental starting point for ensuring women’s reproductive health rights are central to the HIV response.

All regional and national civil society organisations should demand governments domesticate the Protocol and undertake a review of their laws and policies to ensure that there is alignment between the provisions of the African Women’s Protocol and national laws. The SADC Parliamentary Forum’s *Model Law on HIV and AIDS in Southern Africa* offers one framework that can be used.

Finally, civil society organisations in the region should work towards ensuring governments provide transparent reporting on the African Women’s Protocol. Currently, transparent reporting is not occurring and there is little – if any – information in the public domain around how any of SADC’s countries are implementing the Protocol. Transparent reporting is the cornerstone of ensuring the African Women’s Protocol achieves its vision and that the MDGs start to become realisable. Civil society can play a central role in ensuring that this occurs.

Align Programmes and Funding with the African Women’s Protocol

Civil society needs to ensure that its programmes, activities and funding are aligned with and support the

African Women's Protocol's framework for women's reproductive rights. Indeed, many civil society actors are not sufficiently aware of the content of the Protocol and the opportunities it offers. Therefore getting to 'know the African Women's Protocol' is a key first step in aligning to it. The three key areas that will require review and action are:

- ⓧ Reproductive and sexual decision making, including the number and spacing of children, contraceptive choice and the right to self-protection from HIV
- ⓧ Access to information about HIV and AIDS and reproductive health
- ⓧ Access to reproductive health services, including ante-natal services.

Civil society demonstrating what the implementation of the African Women's Protocol would look like and mean for people would provide clear guidance that the African Women's Protocol can become an active document in achieving women's reproductive rights, rolling back HIV and AIDS and ensuring progress towards the achievement of the MDGs. Such action would also offer an opportunity to build awareness of and support for the African Women's Protocol.

Supporting the ratification, domestication and transparent reporting of the African Women's Protocol offers an unparalleled opportunity to secure women's access to reproductive rights throughout SADC. This will enable a response to HIV and AIDS that centralises human rights and women's rights, supports

the UNAIDS *Action Framework: Addressing Women, Girls, Gender Equality and HIV*, and contributes to the rollback of HIV and AIDS in the region and the attainment of the MDGs by 2015. Civil society can play a central role in ensuring this through lobbying governments and aligning programmes and funding with the provisions of the African Women's Protocol.

Key resources

Gernholtz, L. & Grant, C. (2010) A review of international, African and country legal obligations on women's equality in relation to sexual and reproductive health, including HIV&AIDS. HEARD, ARASA: Durban, South Africa.

Available: www.heard.org.za/african-leadership/gender/ilo

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

Available: www.achpr.org/

Center for Reproductive Rights (2006) *The Protocol on the Rights of Women in Africa: An Instrument for Advancing Reproductive and Sexual Rights*. Briefing Paper, Center for Reproductive Rights: New York.

Available: www.reproductiverights.org

SADC PF (2008) Model Law on HIV & AIDS in Southern Africa. SADC PF.

Available: www.sadcpf.org/hiv/AIDS

Action Points for Civil Society

- ⓧ Demand the governments of Botswana, the Democratic Republic of Congo, Madagascar, Mauritius and Swaziland ratify the African Women's Protocol
- ⓧ Lobby all governments in SADC to domesticate the African Women's Protocol
- ⓧ Ensure that all governments in SADC transparently report on their progress towards implementing the Africa Women's Protocol, in line with their responsibilities around the treaty
- ⓧ Align civil society programmes and funding with the provisions of the African Women's Protocol, demonstrating that the African Women's Protocol and women's reproductive rights can be effectively implemented within the region