Audit of SRHR laws and policies in SADC



Campaign against child marriages in Zambia. *Photo: Gender Links*

GENDER LINKS FOR EQUALITY AND JUSTICE

Voice + Choice
Action and results for SRHR in SADC

SADC GENDER PROTOCOL ALLIANCE

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AMPLIFYCHANGE

September, 2021

Acronyms

AIDS	Acquired Immune Deficiency Syndrome
ANC	Antenatal Care
ASRHR	Adolescent Sexual and Reproductive Health and Rights
CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
COVID-19	Corona virus
CPR	Contraceptive Prevalence Rate
CSE	Comprehensive Sexuality Education
DRC	Democratic Republic of Congo
GBV	Gender-Based Violence
FP	Family Planning
HIV	Human Immune Deficiency Virus
ICPD	International Conference on Population and Development
PoA	Plan of Action
IMR	Infant Mortality Rate
MHM	Menstrual Hygiene Management
MMR	Maternal Mortality Ratio
MDGs	Millennium Development Goals
MS	Member State
NGO	Non-Governmental Organization
PAC	Post-Abortion Care
PNC	Postnatal Care
SADC	Southern African Development Community
SDGS	Sustainable Development Goals
SRHR	Sexual and Reproductive Health and Rights
STI	Sexually Transmitted Infections
UN	United Nations
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFPA	United National Population Fund
UNICEF	United Nations Children's Fund
WHO	World Health Organization

Executive summary

In 2019, GL conducted a study of laws, policies and strategies related to SRHR in all member states of the SADC. GL reviewed sexual and reproductive health laws strategies and reports, academic research, analysis of laws and practice as well as newspaper articles. This 3rd edition of the *Audit of SRHR Laws and Policies* in SADC now includes information on Comoros, the newest member to join SADC as well as additional information and updates at various points within the SRHR themes presented. What unfolds is a picture of a region with a diverse SRHR landscape.



Dumisile Gamedze facilitating Piggs Peak SRHR campaign.
Photo: Thandokuhle Dhlamini

There are areas with strong legislative and policy framework such as GBV and HIV, and there are others where legislation and policies are patchy. Despite presence of strong legislation, GBV however, remains at crisis levels and is a huge concern for SADC.[1] The region has even moved a step further to start consultations on establishing a GBV Model Law for SADC . There is need however to reflect on the impact the available legislation is making in preventing and responding to GBV. Coupled with the presence of the Covid-19 pandemic that has threatened the fragile gains made on ending GBV in the region, focus on primary prevention as well as strengthening coordination efforts is more crucial at this point.

This report shows that HIV and AIDS policies in the region are now outdated. Urgent review and updating to take into account new strategies such as the, Pre exposure Prophylaxis (PreP), 90:90:90 and new areas such as HPV and increasing new infections amongst young women between ages 15 and 49 is needed. More is needed to also capture how countries can deal with the impact of pandemics such as Covid-19 on access to treatment of HIV and AIDS. Countries also need to move with speed regarding decriminalisation of HIV transmission.

In other areas such as abortion, sex work, decriminalising homosexuality and child marriages there has been little movement in the policy and legislative arena. None of the SADC countries have specific laws on child marriage despite all SADC states adopting the Model Law on Child Marriages. Similarly, 15 SADC countries criminalise sex work with Mozambique criminalising organising sex work and solicitation.

Homosexuality remains a criminal offence in eight countries and a crime for people under 21 in Madagascar. Angola, and Botswana are the latest countries to decriminalise homosexuality in the region. Going forward, it is hoped that the SRHR rights of the LGBT+ community in these countries are also upheld.

Only two countries provide for unrestricted abortion, South Africa and Mozambique. However, uptake of safe, legal abortion in South Africa is less than 10%. Strategies should be

1 https://www.sadc.int/news-events/news/sadc-secretariat-engages-members-parliament-regional-gbv-legislative-response/

developed to address this gap so that women and girls are fully informed of their rights to a safe and legal termination of pregnancy. The new legal provisions in Mozambique are not popularized and the Government does not have a comprehensive roll out plan. Lobbying for unrestricted abortion in all SADC countries is critical to address high levels of maternal mortality and teenage pregnancies. The current maternal mortality rates (MMR) in SADC higher substantially higher than the 70 per 100 000 live births. Only two countries, Mauritius and Seychelles are below that level. MMR levels in Eswatini, Zimbabwe, DRC, Tanzania, Lesotho, are between 400 and 600, this is unacceptably high.

Teenage pregnancies and menstrual health are inextricably linked to comprehensive sexuality education (CSE). Most SADC countries provide CSE. The question remains as to how effective the content and delivery is in the classroom. This also impacts on the SRH services young people know about and can access. The menstrual health management (MHM) discourse revolves around the provision and removal of value added tax (VAT) on sanitary ware. Namibia is the latest country to remove VAT on sanitary ware while South Africa introduced a progressive Sanitary Dignity Policy in 2019. The discourse on MHM must include strategies to provide water and sanitation to all schools. Seven

OVERVIEW SEXUAL AND REPRODUCTIVE

Table one: Summary of SRHR policies

Country	SRHR Policy/ Guidelines	Protect pregnant girls' right to stay in school or conditional re-entry	Marriage age over 18 for girls and boys without exceptions	HIV and AID Policy	Human trafficking law
Angola	No	No	No	Yes	Yes
Botswana	Yes	Yes	Yes	Yes	Yes
Comoros	Yes[2]	No[3]	Yes	Yes	Yes
DRC	No	Yes	Yes	Yes	Yes
Eswatini	Yes	Yes	No	Yes	Yes
Lesotho	Yes	Yes	No	Yes	Yes
Madagascar	Yes	Yes	Yes	Yes	Yes
Malawi	Yes	Yes	Yes	Yes	Yes
Mauritius	Yes	No	No	Yes	Yes
Mozambique	Yes	Yes	No	Yes	Yes
Namibia	Yes	Yes	No	Yes	Yes
Seychelles	Yes	No	No	Yes	Yes
South Africa	Yes	Yes	Yes	Yes	Yes
Tanzania	Yes	No	No	Yes	Yes
Zambia	Yes	Yes	No	Yes	Yes
Zimbabwe	Yes	Yes	Yes	Yes	Yes
Yes	**14**	**11**	**7**	**16**	**16**
No	**2**	**5**	**9**	**0**	**0**

2 https://www.unfpa.org/sites/default/files/KM_UNFPA_Results_07_27.pdf
3 Comoros has no clear policy or legislation; https://www.hrw.org/report/2018/06/14/leave-no-girl-behind-africa/discrimination-education-against-pregnant-girls-and (accessed 12/06/2020)

countries (Lesotho, Zambia, Seychelles, Botswana and Madagascar, South Africa, Zimbabwe) provide free sanitary ware in schools, this is up from four countries in 2020. Though there is slow movement in this regard, this finding shows growing commitment by countries to improve the menstrual hygiene of girls and reduce the risk of using unhygienic sanitary methods.

The audit provides an overview SRHR policies in the SADC region. Some policies, such as Namibia 2001, are very old and some while very recent, are regressive such as in Madagascar where abortion is outlawed under any circumstances. South Africa introduced a progressive Sanitary Dignity Policy in 2019. The country is also reviewing its Prescription in Civil and Criminal Matters (Sexual Offences) Amendment Bill and Recognition of Customary Marriages Bill. A strong policy framework that guides SRHR in all countries is necessary for countries to respond and adapt to the evolving SRHR needs. Every country must lobby and advocate for changes to improve SRHR for citizens and particularly for key populations including amongst others youth, sex workers and LGBTI+ communities.

HEALTH AND RIGHTS POLICIES AND LAWS

and laws in 16 SADC countries

Sexual assault/ offences law	Domestic violence law	Sexual harassment law	Sex work decriminalised	Unrestricted abortion	Homosexuality decriminalised
No	Yes	No	No	No	Yes
Yes	Yes	Yes	No	No	Yes
Yes	Yes	Yes	No	No	No
Yes	No	Yes	No	No	Yes
Yes	Yes	Yes	No	No	No
Yes	No	Yes	No	No	No
Yes	Yes	Yes	No	No	No
Yes	Yes	Yes	No	No	No
Yes	Yes	Yes	No	No	No
Yes	Yes	Yes	Yes	Yes	Yes
No	Yes	Yes	No	No	No
Yes	Yes	Yes	No	No	Yes
Yes	Yes	Yes	No	Yes	Yes
Yes	No	Yes	No	No	No
Yes	Yes	Yes	No	No	No
Yes	Yes	Yes	No	No	No
14	**13**	**15**	**1**	**2**	**5**
2	**3**	**1**	**15**	**14**	**11**

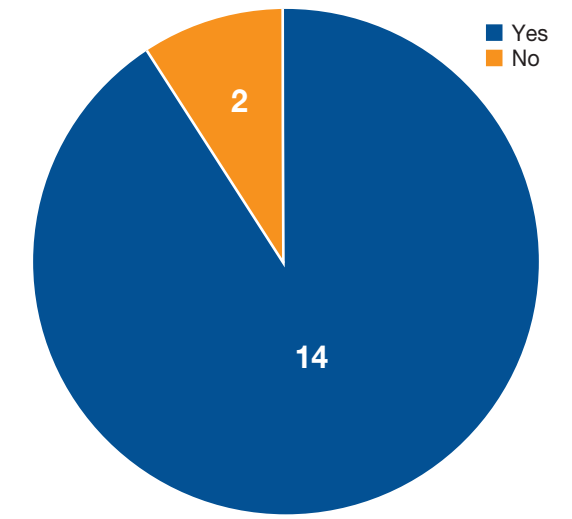
SECTION ONE
SEXUAL AND REPRODUCTIVE HEALTH

Stand-alone SRHR policies or guidelines

Stand-alone SRHR policies and laws, ensures that countries focus on SRHR issues in line with global and regional commitments that aim to give voice and choice to women and men.

Figure one shows that 14 out of 16 SADC countries have stand-alone policies or guidelines on SRHR. Of the 13 countries, 11 have SRHR policies while Botswana and Tanzania and Comoros have SRHR guidelines. Angola and the DRC do not have stand-alone policies or guidelines.

Figure one: Number of countries with stand-alone SRHR policies or guidelines



Source: Gender Links.



Sixteen Days of Activism March against GBV - Orange Farm, Johannesburg, South Africa. *Photo: Thandokuhle Dlamini*

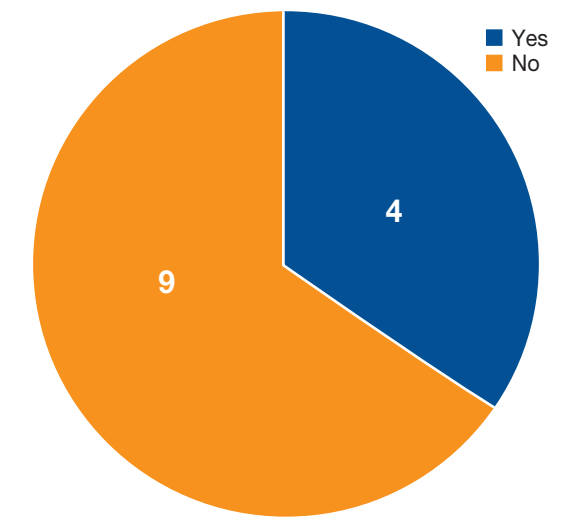
Table two: Status of SRHR policies in SADC		
Country	**Policies/Guidelines**	**Year**
SRHR policies		
Adopted more than five years old		
Namibia	National Policy for Reproductive Health	2001
Mauritius	National Sexual and Reproductive Health Policy	2007
Lesotho	National Reproductive Health Policy	2008
Zambia	National Reproductive Health Policy	2008
Malawi	National Reproductive Health and Rights Policy	2009
Mozambique	National Sexual and Reproductive Health Policy	2011
Seychelles	Reproductive Health Policy for Seychelles	2012
Five years or less		
eSwatini	National Policy on Sexual and Reproductive Health	2013
South Africa	Sexual and Reproductive Health and Rights: Fulfilling our Commitments and "National Adolescent Sexual and Reproductive Health and Rights Framework Strategy"	2014 - 2019
Madagascar	Reproductive Health and Family Planning Law	2017
Zimbabwe	National Adolescent Sexual and Reproductive Health Strategy	2016 - 2020
SRHR Guidelines		
Botswana	Policy guidelines and service standards for sexual and reproductive health	2015
Tanzania	SRHR guidelines and National Adolescent Reproductive Health Strategy	2011 - 2015
Comoros	Adolescent and Youth Health Strategy	2018
No SRHR policy or guidelines		
Angola	Included in the Constitution	1975
DRC	Included in the Constitution	2011

Source: Gender Links.

Table two shows that eight SADC countries have SRHR policies that are more than five years old. Namibia's SRHR policy is 18 years old. These policies need urgent review and revision. South Africa, eSwatini and Madagascar have policies that are less than five years old. Madagascar adopted their SRHR policy in 2017. The new Madagascar SRHR Policy is a welcome development however it is important to note that the new policy prohibits abortion under any circumstances.

Botswana and Tanzania need to review their guidelines and lobby for relevant longer term SRHR policies. The UNFPA[4] shows that Comoros finalised its adolescent and youth Health strategy in 2018. Angola and DRC do not have SRHR policies. These are urgent as both countries are dealing with post conflict conditions.

Figure two: Number of countries reviewing SRHR policies



Source: Gender Links.

4 https://www.unfpa.org/data/transparency-portal/unfpa-comoros

Out of the 13 countries that have stand-alone SRHR policies or guidelines, five (South Africa, Botswana, Namibia, Zambia and Seychelles) are reviewing their SRHR policies. Tanzania has the newest Adolescent and Health Development Strategy 2018-2022.

Moving forward, all SADC countries should align their SRHR policies with the provisions of the SADC Protocol on Gender and Development and the SADC SRHR Strategy 2019-2030. SRHR policies should also take into consideration issues of access under restricted movements such as posed by the Covid-19 pandemic.

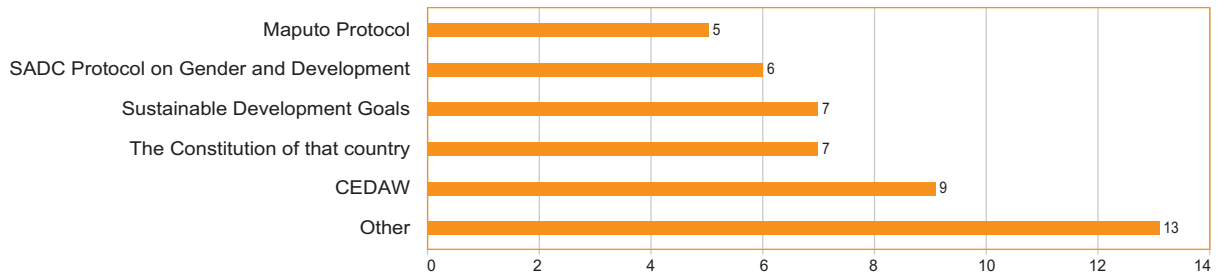
"In many countries, there's already stigma associated with sexual and reproductive health services, says Abebe Shibru, country director for Marie Stopes International in Zimbabwe - and for this reason, women often seek out these services in secret. Lockdowns have made it harder for women in Zimbabwe to discreetly access sexual and reproductive care, he adds, because now family members may want to know where they're going order. Women may also face harassment from police officers enforcing stay-at-home orders."

Source: https://www.npr.org/sections/goatsandsoda/2020/06/08/864970278/lockdown-limits-access-to-legal-abortion-in-colombia-telemedicine-is-now-an-opti

Linking SRHR policies with regional and global instruments

There are several global and regional instruments that address reproductive health, GBV, HIV and AIDS, and women's rights, country specific SRHR policies should refer to and align the targets of existing instruments for easier coordination.

Figure three: Global and regional instruments referenced in SRHR policies



Source: Gender Links.

Figure three shows that countries reference several global and regional instruments as overarching frameworks in their SRHR policies and guidelines. Five include the Maputo Protocol; six countries reference the SADC Protocol on Gender and Development and seven countries make reference to the SDGs and national constitutions. Thirteen countries cite other sources. These include the MDGs; Cairo 1994 International Conference on Population and Development (ICPD); the SADC minimum package for SRHR services; the global Family Planning 2020 framework and the Beijing Platform for action.

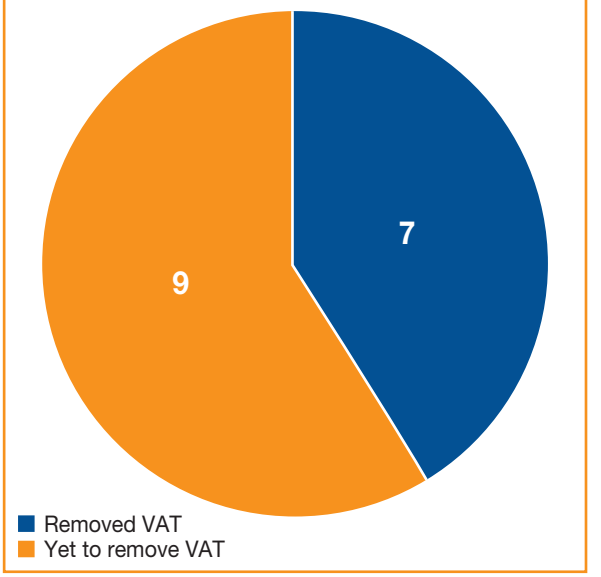
Menstrual Health

Research shows that 800 million women and girls menstruate every day, but menstruation remains shrouded in silence and taboos[5]. A key step towards demystifying menstruation is providing free menstrual products. This will enable girls to go to school and to do everyday activities without restriction.

Only seven SADC countries, Botswana, Lesotho, Madagascar, Seychelles, Zambia and Zimbabwe (currently for rural schools) provide free menstrual products in schools. This affects the menstrual hygiene of girls and puts them at risk of using unhygienic methods[6] such as rags, newspapers. This is not only a health hazard but often leads to poor school performance and in some cases contributes to school drop outs. The provision of free menstrual products must be accelerated in all SADC countries as an integral part of adolescent sexual and reproductive health services.

The challenge that remains however is that out-of-school young women will not have access to free menstrual products. Governments need to plan for the SRHR needs of out-of-school youth. The provision of free menstrual products is the ultimate goal in all countries. While countries work on strategies to achieve this goal the removal of Value Added Tax (VAT) on menstrual products is a positive move in promoting access to affordable menstrual products for women and girls. South Africa adopted a Sanitary and dignity Policy in 2019.

Figure four: Status of VAT free menstrual products in SADC



Source: Gender Links

As illustrated by figure four, by March-2021, only seven SADC countries (Lesotho, South Africa, Zimbabwe, Zambia, Seychelles, Mauritius and Namibia) have now removed VAT on menstrual products, Namibia being the latest country to do so. Nine countries, (Angola, Botswana, Comoros, DRC, Eswatini, Lesotho, Madagascar, Malawi, Tanzania,) are yet to remove the revenue tax on sanitary ware. Tanzania had earlier removed VAT in 2018/19 budget but reversed it in 2019/20 Fiscal year. It is hoped that modalities to restore the earlier positive step can be put in place to allow improved access to sanitary ware by the majority of women and girls. Removal of VAT represents an important first step towards providing affordable menstrual products.

5 https://iwhc.org/2018/07/integrating-menstrual-hygiene-management-achieve-sdgs/
6 https://genderjustice.org.za/article/high-cost-sanitary-pads-puts-south-african-girls-education-risk/

Woman at forefront of scrapping 'tampon tax' in Namibia



Namibia's Deputy Minister of Information and Communication Technology Emma Theofelus.
Photo: Shelleygan Petersen, The Namibian

On 3 March 2021, Deputy minister of information and communication technology in Namibia Emma Theofelus tabled a motion in the National Assembly, for a tax exemption on menstrual products. “I ask that this matter be referred to the relevant standing committee and for the finance ministry to consider bringing an amendment to the tax laws relevant to this motion,” she said.[7]

Theofelus, an advocate for young women to be safe during their menstrual cycle told The Namibian that “Period poverty is one of the undignified processes women and young ladies have to experience. Your period is such a natural process and not something they can opt out of. There are not enough social and economic circumstances to create safety for young women,” she said.

Following the motion being tabled at the beginning of March, the Namibian government eliminated VAT on sanitary products, on 17 March 2020 meaning that women and girls in Namibia will no longer be charged a luxury tax rate of 15% of VAT on sanitary products.

The exemption will take effect in the 2022/2023 financial year, according to Finance Minister Iipumbu Shiimi. “I wish to announce this to enhance affordability by the girl child and urge suppliers and retailers to pass on this relief to consumers once enacted,” Shiimi told the Namibian.

Theofelus, at 25, is one of the youngest cabinet members in the region. She was appointed as Namibia's information, communication and technology deputy minister April 2020. One of her key roles since coming into office has been to help lead communication to the public on preventative steps against the COVID-19 pandemic, which hit Namibia in March.

Source: The Namibian, 'Theofelus puts sanitary pads in spotlight'

Covid-19 and menstrual hygiene management

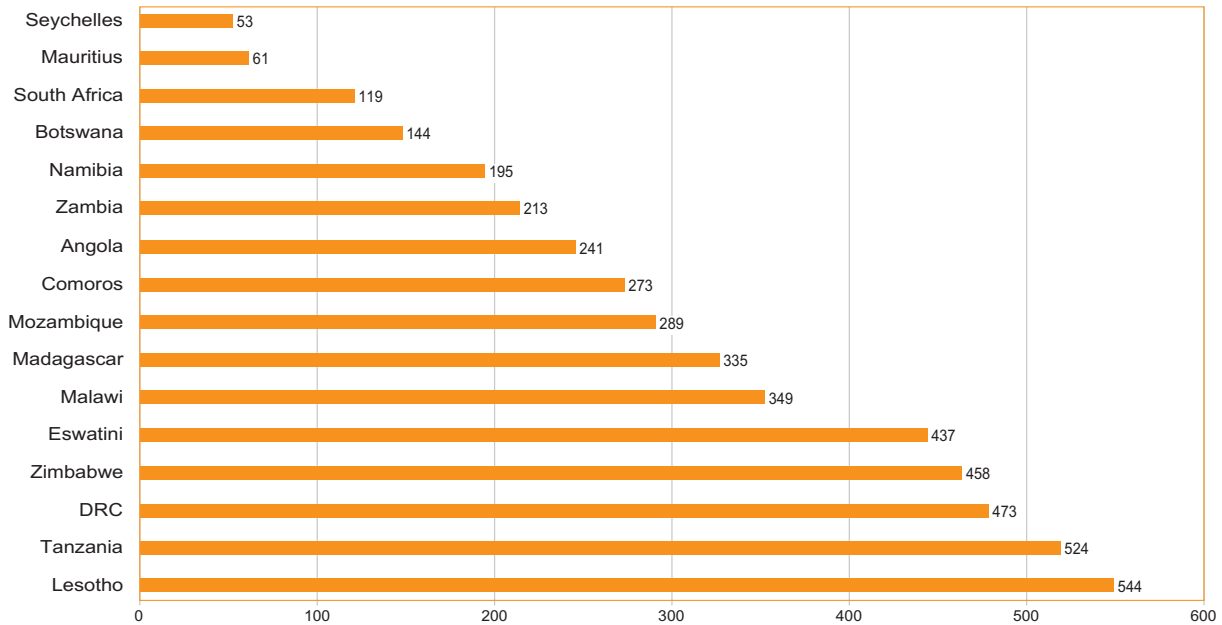
The Covid-19 pandemic has meant that access to sanitary ware products has been limited. It is estimated that before the Covid-19 pandemic, about 500 million girls had no access to what they need to manage their menstruation[8]. The pandemic which has increased levels of unemployment and poverty in the region exacerbates the menstrual challenges that have already been affecting many girls and women around the world. The 2020 theme for the Menstrual Hygiene Day, *Periods in Pandemic* recognised this impact and encouraged women and men around the world to rally around this cause. The campaign noted that many subsidised supply schemes, for example free distribution of menstrual products in schools, have been suspended. The economic impact of COVID-19 forces many women and girls to prioritise other basic needs over safe menstrual products. Disrupted supply chains drive prices up, making menstrual products unaffordable for even more women and girls[9].

7 The Namibian, 'Theofelus puts sanitary pads in spotlight' , 5 March 2021, https://www.namibian.com.na/209330/archive-read/Theofelus-puts-sanitary-pads-in-spotlight accessed 24 July 2021
8 https://menstrualhygieneday.org/
9 https://menstrualhygieneday.org/wp-content/uploads/2020/05/mhday2020-covid19-and-periods-logo.pdf

Maternal Health

The WHO defines maternal health as the health of women during pregnancy, childbirth and the postpartum period[10]. More often, women die because of lack of access to proper reproductive health care. The Maternal Mortality Ratio is an indicator for monitoring Sustainable Development Goal 3 Health and Wellbeing, target 3.1: By 2030, reduce the global maternal mortality ratio to less than 70 per 100,000 live births[11].

Figure five: Maternal Mortality Rate (MMR) per 100,000 by country, 2020



Source: World Health Organization, UNICEF, United Nations Population Fund and The World Bank, Trends in Maternal Mortality: 2000 to 2017 WHO, Geneva, 2019.[12]

Figure five shows that maternal mortality rates (MMR) vary by country. MMR is lowest in Seychelles and highest in Lesotho. Only Seychelles and Mauritius have their MMR below the SDG target of reducing global maternity ratio to less than 70 per 100,000 live births.

Fourteen countries in SADC are above the target with Lesotho being almost six times higher than the required standard. This edition includes Comoros where the UNFPA[13] reports that there has been progress in improving health care services and decreasing maternal mortality. Improvements in SRHR are critical in reducing maternal mortality, as well as ensuring social and economic development for women. There is need for the SADC region to improve health outcomes for women by providing access to comprehensive maternal health care, family planning and HIV and AIDS services.

10 https://www.who.int/maternal-health/en/
11 https://www.africanhealthstats.org/cms/?pagename=country&country=SC
12 https://data.unicef.org/topic/maternal-health/maternal-mortality/ accessed 12 July 2021
13 https://www.unfpa.org/sites/default/files/KM_UNFPA_Results_07_27.pdf

Table three: Provisions for antenatal, post-natal care, and skilled attendants at birth				
Countries	ANC (%)		Post-natal care (%)	Skilled birth attendants (%)
	At least one visit	At least four visits		
	2010 - 2019			
Angola	82	61	23	50
Botswana	94	73		100
Comoros	92	49	49	82
DRC	82	48	43	85
eSwatini	99	76	88	88
Lesotho	91	77	62	87
Madagascar	85	51		46
Malawi	98	51	42	90
Mauritius	-	-		100
Mozambique	94	51		87
Namibia	97	63	69	88
Seychelles	-	-		99
South Africa	94	76	84	97
Tanzania	98	62	34	64
Zambia	97	64	63	80
Zimbabwe	93	72	57	86

Source: UNICEF global databases, 2021, of antenatal care, based on MICS, DHS and other nationally representative household survey data.[14]

Table three shows that between 82 and 99% of pregnant women and girls across all SADC countries have at least one antenatal visit. A much lower proportion of women have at least four antenatal visits. The figures in Botswana, eSwatini, Lesotho, South Africa and Zimbabwe are encouraging with over 70% of pregnant women and girls having at least four antenatal visits.

Only in Mauritius and Botswana do all women have access to skilled birth attendants during delivery. Three SADC countries Malawi, Seychelles and South Africa provide skilled birth attendants to over 90% or more of pregnant women and girls. Angola and Madagascar have exceptionally low proportions of pregnant women having a skilled attendant during delivery, with just 50% and 46%, respectively.

Contraception and family planning

In Southern Africa, women's ability to control their fertility is compromised by high levels of sexual violence, customary laws and lack of access to the contraception and more recently the restricted movements due to the Covid-19 pandemic. Each day as the covid-19 virus spreads and efforts are made to contain it, countries are also struggling with the need to provide contraceptive care for the women and

14 https://data.unicef.org/topic/maternal-health/newborn-care/ accessed 16 July 2021

girls who are under the various versions of lockdowns across the region. The Covid-19 pandemic has compounded access and affordability of contraceptive care among many women and girls. Early pregnancies mostly due to lack of comprehensive sexuality education are severely impacting young women and their futures. There is need to have separate strategies on the provision of contraception and family planning especially during emergencies.

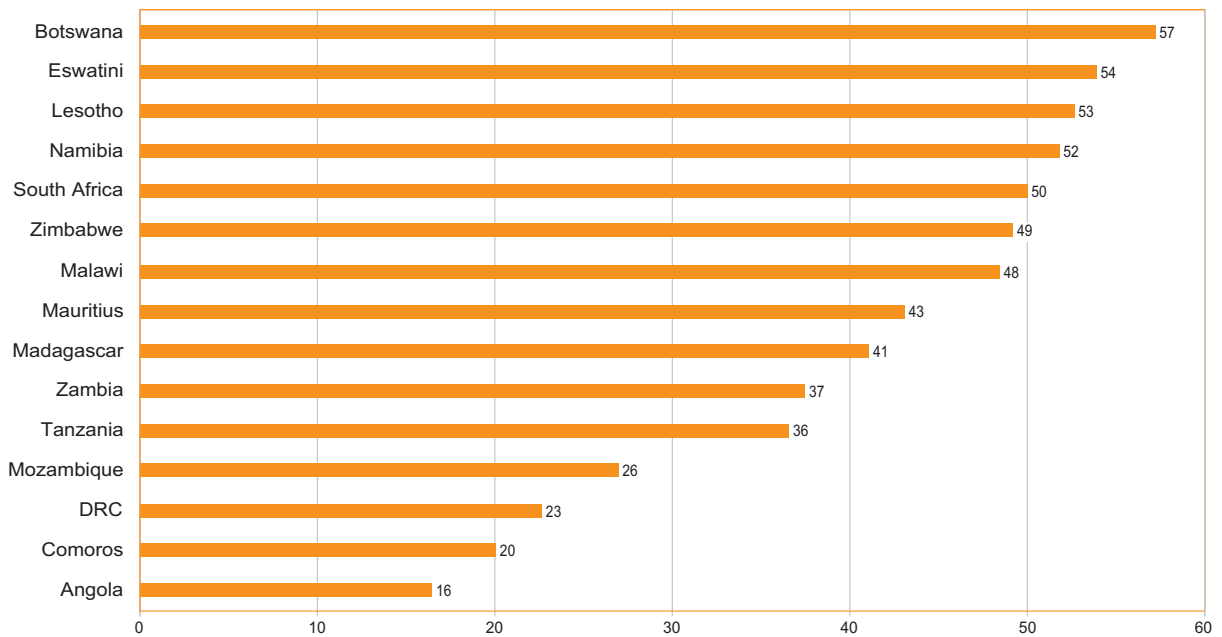
At a global level, the DRC, Comoros, Lesotho, Mozambique, Tanzania, Zambia and Zimbabwe have committed to the Family Planning 2020 (FP2020) initiative. FP2020 works with governments, civil society, multilateral organisations, donors, the private sector, and the research and development community to enable 120 million more women and girls to use contraceptives by 2020.

Achieving the FP2020 goal is a critical milestone to ensuring universal access to sexual and reproductive health services and rights by 2030, as laid out in Sustainable Development Goals 3 and 5. FP2020 is in support of the UN Secretary-General's **Global Strategy for Women's, Children's and Adolescents' Health**.[15]

Contraceptive prevalence rates

The contraceptive prevalence rate (CPR) shows the percentage of women between ages 15 and 49 in marital or consensual unions who are using or whose sexual partner is using a traditional or modern method of contraception. The CPR is an important indicator of health, population, and women's empowerment[16].

Figure six: Contraceptive prevalence rates in SADC countries

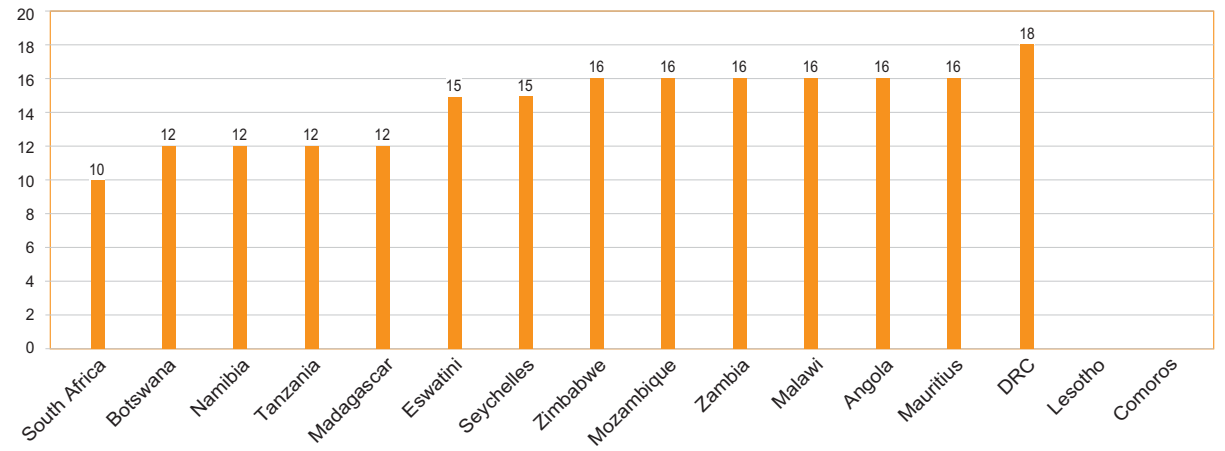


Source: Gender Links.

15 https://www.familyplanning2020.org/about-us
16 https://www.africanhealthstats.org/cms/?pagename=indicator&indicator=RMNCH3

Figure six shows wide disparities in contraceptive prevalence rates across SADC countries. The CPR is highest in Botswana (57%) and lowest in Angola (16%). This edition, shows significant changes in CPR figures from the previous edition of the Audit of Laws and Policies. There were no upward movements by all countries instead each SADC country dropped significantly in this current report. Most notably, Zimbabwe and Mauritius which had the highest figures in the previous report (67% each), dropped substantially to below 50% in the current report. The data points for more advocacy by the alliance SRHR cluster for more campaigns in countries showing a relapse. In addition, sustained efforts to provide contraceptive care in countries showing improvements in CPR are needed. The Covid-19 lockdowns have had huge implications on accessing contraceptives by women and girls. This could subsequently result in an upsurge in unintended pregnancies, unplanned births, abortions, and miscarriages increasing levels of maternal mortality in countries.

Figure seven: Age of access to contraceptives by country



Source: Gender Links.

Figure seven shows that only South Africa conforms to the SADC SRHR Strategy 2019-2030 which provides for contraception from age 10. This is a best practice in the region and is provided for in the South Africa's National Contraception Clinical Guidelines 2019[17]. Four SADC countries (Madagascar, Namibia, Botswana and Tanzania) provide contraceptives to young people from the age of 12. The Seychelles and Eswatini start at age 15. Six countries (Zimbabwe, Zambia, Mauritius, Malawi, Angola, and Mozambique) allow for contraception from age 16 and the DRC at 18. Data for Lesotho and Comoros is yet to be confirmed. Given the high level of early pregnancies the age of consent for contraception should be lowered in the countries where the age of consent for contraception is higher than 12.

Adolescent SRHR

It is imperative that countries in SADC develop focused Adolescent SRHR strategies and policies to address the needs of young people.

17 National Contraception Clinical Guidelines 2019, https://www.knowledgehub.org.za/system/files/elibdownloads/2021-03/National%20Contraception%20Clinical%20Guidelines_Final_2021.pdf, accessed 10 September 2021

Table four: Number of countries with adolescent and youth SRHR policies across SADC[18]	
Country	**Stand-alone policy or strategy**
Angola	No
Botswana	Yes, Adolescent Sexual and Reproductive Health Implementation Strategy 2012-2016
Comoros	Yes, Adolescent and Youth Health Strategy, 2018
DRC	Yes, National Strategic Plan for Health and Wellbeing of Adolescents and Youth 2016-2020
eSwatini	No
Lesotho	Yes, National Health Strategy for Adolescents and Young People 2015-2020
Madagascar	Yes, Adolescent and Youth Health Strategy (2016-2020)
Malawi	Yes, National Youth Friendly Health Services Strategy 2015-2020
Mauritius	No
Mozambique	No
Namibia	No
Seychelles	No
South Africa	Yes, Adolescents and Youth Health Policy 2016 - 2020
Tanzania	Yes, Adolescent and Development Strategy (2018-2022)
Zambia	Yes, National Adolescent and Youth Health Strategy (2016-2020)
Zimbabwe	Yes, Adolescent Sexual and Reproductive Health Strategy (2016-2020

Source: African Health Observatory.

Table four shows that 10 SADC countries have stand-alone Adolescent SRHR policies or strategies, these include Botswana, Comoros, DRC, Lesotho, Madagascar, Malawi, South Africa, Tanzania, Zambia, and Zimbabwe. For other countries, Adolescent SRHR is included in the national SRHR policies, strategies or guidelines. More research is needed to explore how these policies and strategies are transforming the SRHR needs for young people in those countries. This is critical in an evolving SRHR space to allow countries to continuously review and evaluate their effectiveness.

As illustrated in table five below, only five countries (Madagascar, Mozambique, Namibia, South Africa and Tanzania) in SADC do not require parental consent for adolescents to access SRHR services. In Comoros, Lesotho, Malawi and Mauritius parental consent is required if you are under age 14, this applies to Botswana, Zambia and Zimbabwe if you under age 16. In Angola, DRC, eSwatini and Seychelles adolescents cannot access SRHR services. Anyone under the age of 18 cannot access SRHR services without parental consent.

Adolescents and young people face many barriers in accessing sexual and reproductive health services, ranging from the judgmental attitudes of staff towards sexually active unmarried youth, inconvenient opening times and locations, lack of privacy, fear of lack of confidentiality, to costs.[19]

18 aho.afro.who.int/profiles_information/index.php/
19 https://esaro.unfpa.org/sites/default/files/pub-pdf/SYP%20Annual%20Report%202017%20V2.pdf

Lobbying for unrestricted access to SRHR services by adolescents is an important strategy to address key challenges such as increasing HIV infections amongst young people, early pregnancies and early marriages, menstrual health and unsafe abortions.

Table five: Countries with laws and policies requiring parental consent for adolescents to access sexual and reproductive health services, eastern and southern Africa, 2018[20]

Country	Not required	Yes, if under age 14	Yes, if under age 16	Yes, if under age 18
Angola				✗
Botswana			✗	
Comoros		✗		
DRC[21]				✗
eSwatini				✗
Lesotho		✗		
Madagascar	✗			
Malawi		✗		
Mauritius		✗		
Mozambique	✗			
Namibia	✗			
Seychelles				✗
South Africa	✗			
Tanzania	✗			
Zambia			✗	
Zimbabwe			✗	

Source: UNAIDS.

Comprehensive sexuality education

There is growing need to provide comprehensive sexuality education (CSE) to adolescents and young people. CSE is a rights-based approach to sexuality education. It promotes the acquisition of knowledge, skills and positive values of sexuality and reproductive health. Gender Links and the Alliance seek to promote better information and greater freedom of choice for adolescents and young people about their sexuality through schools, community media, and innovative technology.

In 2015, UNESCO conducted a global review of CSE in 48 countries across the world. The sample included 12 SADC countries. The review excluded Madagascar, Mauritius and Seychelles. The findings were published in a report titled, '*Emerging Evidence, Lessons and Practice in Comprehensive Sexuality Education - A Global Review 2015*'.

20 http://www.unaids.org/sites/default/files/media_asset/unaids-data-2018_en.pdf
21 https://www.who.int/bulletin/volumes/97/1/BLT-18-212993-table-T1.html

Table six: Breakdown of CSE in 12 SADC countries[22]							
Country	CSE place in the curriculum	Reflects international standards	Offered at		Mandatory or optional	Teacher training	National policy
			Primary	Secondary			
Angola	In progress - stand-alone	Under review to meet standards	Yes	Yes	Mandatory	Yes	Yes
Botswana	Integrated	Under review to meet standards	Yes	Yes	Integrated into mandatory subjects	Yes	Yes
DRC	Integrated	No	Yes	Yes	Mandatory and examinable	Yes	Yes
eSwatini	Stand-alone	Yes	Yes	Yes	Mandatory and examinable	Yes	Yes
Lesotho	Integrated - primary Stand-alone - secondary	Yes	Yes	Yes	Mandatory	Unknown	Yes
Malawi	Stand-alone	Yes	Yes	Yes	Mandatory and examinable	Yes	Yes
Mozambique	Integrated	Under review to meet standards	Yes	Yes	Mandatory and examinable	Unknown	Yes
Namibia	Stand-alone	Yes	Yes	Yes	Mandatory and assessment	Yes	Yes
South Africa	Stand-alone	Yes	Yes	Yes	Mandatory and examinable	Yes	Yes
Tanzania	Integrated	Yes	Yes	Yes	Mandatory and examinable	Yes	Yes
Zambia	Integrated	Yes	Yes	Yes	Mandatory and examinable	Unknown	Yes
Zimbabwe	In progress	Under review to meet standards	Yes	Yes	Mandatory and examinable	Yes	Yes

Source: UNESCO.

The summary of the UNESCO review in table six shows that 12 SADC countries offer CSE in primary and secondary schools and have national CSE policies in place. Despite the strong CSE framework, levels of teenage pregnancy and HIV infections among young women are rising. It is estimated that the current SADC population is over 330 million, and two thirds of these under age 35.[23] The burgeoning youth population requires urgent attention. The quality and delivery of CSE is of concern.

Young people out of school are harder to reach with CSE and this requires greater effort. The out-of-school CSE framework will complement the in-school CSE curriculum and by so doing, support a holistic approach to ensuring consistency of rights-based and gender-sensitive information provided to all young people.[24]

22 https://unesdoc.unesco.org/ark:/48223/pf0000243106
23 https://ineng.co.za/list-of-sadc-countries-in-2018/
24 https://esaro.unfpa.org/en/news/empowering-out-school-youth-cse

Teenage pregnancy

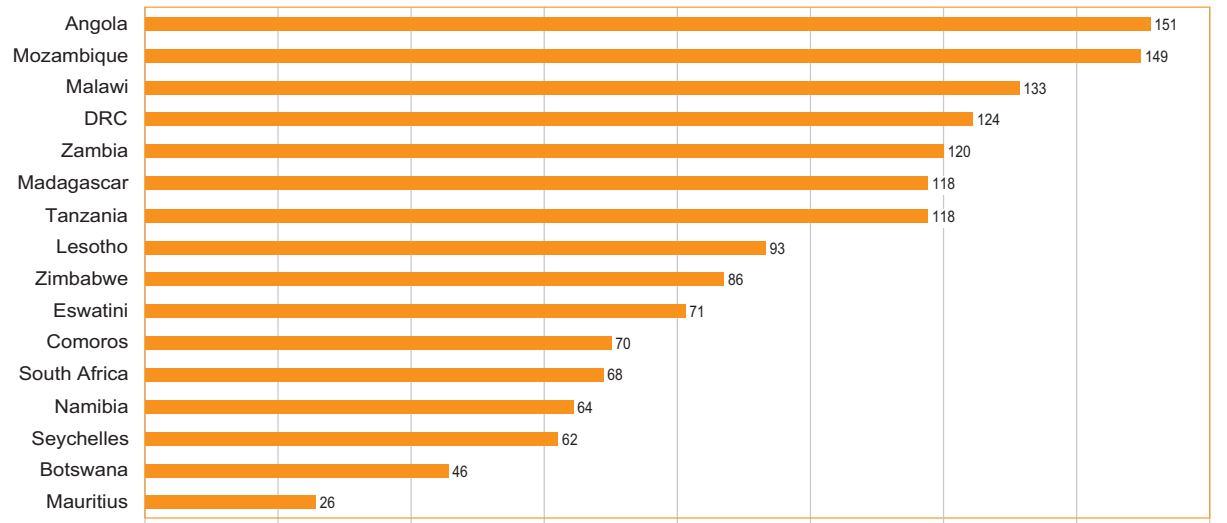
Southern Africa has the highest level of adolescent pregnancy. It is estimated at 101 births per 1000 woman. The UNFPA, estimates that every day in developing countries, 20 000 young girls under 18 give birth. This amounts to 7.3 million births a year.

In many countries where the SRHR needs of adolescents have not been prioritised, the Covid-19 pandemic has even placed great danger to adolescent girls who have not been attending school due to the lockdown regulations. This implies that there will be a surge in school drop-out rates and an increase in vulnerability to poverty and exclusion for the majority of girls. The most drivers of Teenage pregnancy are that these girls often have little say over decisions affecting their lives. Rather, early pregnancy is a consequence of little or no access to school, information or health care.[25] The Human Rights Watch[26] also add that the lack of comprehensive sexual education exacerbates the risk of teenage pregnancy.



Young woman nursing her child in Sinazongwe, Zambia.
Photo: Gender Links

Figure eight: Adolescent live births per 1000 population



Source: Gender Links.

25 https://www.unfpa.org/adolescent-pregnancy
26 https://www.hrw.org/report/2018/06/14/leave-no-girl-behind-africa/discrimination-education-against-pregnant-girls-and

Figure eight clearly illustrates that in seven SADC countries (Tanzania, Madagascar, Zambia, DRC, Mozambique, Malawi and Angola) over 100 adolescent girls of every 1000 are having children. This represents 10% of adolescent girls of every 1000 whose education and future are compromised very early in their lives. Despite having lower figures, the Adolescent births rates in Lesotho, Namibia, eSwatini and Seychelles are also of concern as the adolescent mothers are at high risk of low birth weight and mortality.

Table seven: Breakdown of teenage pregnancy and school policies in SADC[27]

Protect pregnant girls' right to stay in school	Conditional re-entry	Expulsion	No policy
• DRC	• Botswana	• Tanzania	• Angola
• Lesotho	• Madagascar		• Mauritius
	• Malawi		• Seychelles
	• Mozambique		• Comoros
	• Namibia		
	• South Africa		
	• eSwatini		
	• Zambia		
	• Zimbabwe		

Source: Human Rights Watch.

The DRC and Lesotho have policies in place that protect pregnant girls' rights to stay in school. Botswana, Madagascar, Malawi, Mozambique, Namibia, South Africa, eSwatini, Zambia and Zimbabwe provide for conditional re-entry of pregnant girls. Tanzania expels pregnant girls and Angola, Comoros, Mauritius and Seychelles have no clear policies in place for pregnant girls.

The policies on teenage pregnancy deal primarily with the girl with little focus on the father. In addition, while re-entry is possible in most SADC countries young mothers face many challenges including economic constraints and social barriers. All policies on teenage pregnancy must provide for social protections as well as economic support. Some countries like South Africa provide social and financial support for adolescent mothers[28]. Likewise, Zimbabwe's National Adolescent Sexual and Reproductive Health Strategy II, (2016-2020), identified the economic empowerment of adolescents as a solution pathway to mitigate against poverty, with the intention of reducing adolescent vulnerabilities to ASRHR risks.

27 Human Rights Watch (2018) Leave No Girl Behind in Africa: Discrimination in Education against Pregnant Girls and Adolescent Mothers, https://www.hrw.org/report/2018/06/14/leave-no-girl-behind-africa/discrimination-education-against-pregnant-girls-and, accessed 11 September 2021.
28 Ibid

Tackling economic and social barriers to learner retention

Some governments have focused on tackling these barriers, as well as the root causes of teenage pregnancies and school dropouts, for example by:

- Providing social and financial support for adolescent mothers, as in South Africa;
- Providing girls with a choice of access to morning or evening shifts, as in Zambia;
- Providing school-based counselling services for pregnant girls and adolescent mothers, as in Malawi; and
- Facilitating access to sexual and reproductive health services, including comprehensive sexuality education at school and in the community, as in Ivory Coast, and access to a range of contraceptive methods, and in South Africa, safe and legal abortion.

Despite these positive steps by some African countries, a significant number still impose laws and policies that directly discriminate against pregnant girls and adolescent mothers in education. For example, Equatorial Guinea, Sierra Leone, and Tanzania expel pregnant girls from school and deny adolescent mothers the right to study in public schools. In most cases, such policies end a girl's chances of ever going back to school, and expose her and her children to child marriage, hardship, and abuse. In practice, girls are expelled, but not the boys responsible for the pregnancy where they are also in school.

Source: Human Rights Watch[29]

Tanzania: Discriminatory Policies Against Pregnant Girls and Young Mothers

The United Nations High Commissioner for Human Rights, the African Committee on the Rights and Welfare of the Child, and the African Commission's Special Rapporteur on the Rights of Women in Africa, among others, have called on the government of Tanzania to cease its discriminatory ban on pregnant girls. Human rights experts have called on the government to urgently ensure pregnant girls and adolescent mothers can resume education in public schools.

Prior to President John Magufuli's 2017 public ban on pregnant girls and young mothers in schools, senior government education officials contended that pregnant girls do not belong in school and may exert negative influence on other girls, “normalizing” pregnancy in school. The expulsion of pregnant girls from schools



Mercy Jaravani, WCoZ programs officer participating in a SRHR workshop in Zimbabwe. *Photo: Tapiwa Zvaraya*

29 Human Rights Watch (2018) Leave No Girl Behind in Africa: Discrimination in Education against Pregnant Girls and Adolescent Mothers, https://www.hrw.org/report/2018/06/14/leave-no-girl-behind-africa/discrimination-education-against-pregnant-girls-and, accessed 11 September 2021.

is permitted under Tanzania's education regulations, which state that "the expulsion of a pupil from school may be ordered where … a pupil has … committed an offence against morality" or "entered into wedlock." The policy does not explain what offences against morality are, but school officials often interpret pregnancy as such an offense. Secondary school officials routinely subject girls to forced pregnancy testing as a disciplinary measure to expel pregnant students from schools. In 2018, the government has been preparing new guidelines that will outline entry into an existing parallel public basic education system for young mothers, similar to an existing track for out-of-school children. Human Rights Watch found that this system is deficient, comes at a high cost for students, and does not equip students with the same skills or provide similar accreditation. Students pursuing this route have to pay fees that can amount to about 500,000 Tanzanian shillings (TZS) (US$220) annually, whereas students in public schools do not pay tuition or indirect costs. Access to good vocational training is only provided in a handful of colleges spread across the country. Moreover, adolescents who leave secondary school prematurely lack the accreditation and studies needed to pursue an official vocational education and skills training degree.

Source: Human Rights Watch[30]

Safe abortion

Unsafe abortion accounts for 10% to 13% of maternal mortality in the SADC region[31]. Women's lack of voice, choice and control in SRHR reflects in their failure to access safe abortion services despite several virtual and physical campaigns in the recent past. To increase their agency and choice for reproductive health outcomes all women including adolescent girls need access to contraception care and unrestricted abortion. The provision of post abortion care is crucial in reducing the maternal and infant mortality rates.

A snapshot of the provisions on abortion in the SADC region

- All SADC countries provide for abortion in some circumstances. This ranges from **South Africa** and **Mozambique**, where abortion is available on demand, to **Zimbabwe, Zambia, Botswana, Lesotho, Mauritius** and **Namibia**, where abortion is only available in certain circumstances; to **Seychelles, Tanzania, Eswatini, Malawi, Angola** and **DRC** where abortion is only available in extremely limited circumstances, to **Madagascar**, where abortion is totally outlawed.
- In **South Africa**, despite strong pro-abortion laws, access to the service remains a challenge, with only 7% of the country's health facilities providing abortions.[32] Research shows that many health workers refuse to perform the procedure, with government unable to do anything about it. Information about where and how to acquire the service remains limited.[33]

30 Ibid
31 http://genderlinks.org.za/news/press-release-sadc-organisations-call-for-safe-and-legal-abortion/
32 Skosana, I (2017), 'Less than 7% of health facilities nationwide offer abortions - Amnesty International', available at: http://bhekisisa.org/article/2017-02-14-00-only-260-healthfacilities-nationwide-offer-abortions-amnesty-international/ (accessed 26 February 2019)
33 Amnesty International (2018), Amnesty International Report 2017/2018, Amnesty International, London

- **Mozambique** amended the Penal Code decriminalising abortion in 2015. The country has not popularised the new law nor has it operationalised the service.
- In **Lesotho**, government acknowledges the devastating effects of unsafe abortions on girls and women. Instead, it surreptitiously advises women to go across the border into South Africa where abortion is legal. The irony is not lost on human rights lawyer Lineo Tsikoane, who has said of the Ministry of Health: “They know abortion is illegal, but they're telling us to advise girls to go elsewhere, and [yet] won't change our own law.”
- The most common circumstances in which abortion is provided for are incest and rape; related to that, threat to the mother's mental well- being. Evidence of possible child deformities may also be grounds for abortion.
- While allowing for abortion in limited circumstances, **Zimbabwe** passed a law in 2012 that allows for post-abortion care. A much more cost- effective option would be to provide for safe abortion.
- It is clear that many of the laws governing abortion in SADC are inherited from the colonial era and are out of sync with modern rights-based laws. For example, the Abortion and Sterilization Act 2 of 1975 in **Namibia** dates back to 1975. One of the few grounds for abortion is where “a woman has been deemed to be an idiot or an imbecile as per the Immorality Act of 1957, which makes sex with her illegal.”
- On 24 February 2018, **Angola**'s parliament approved an amendment to the abortion law, making all abortions, without exception, illegal and punishable by between four to ten years' imprisonment. This is part of the process of replacing Angola's 1886 penal code. Parliamentary debate on the amendment stalled following a public outcry over it, leading to the ruling party proposing a revised version of the legal amendment. The revised version retained the legality of abortion in cases of rape or maternal health risk.[34]



Some world leaders have called on African countries to recognise the rights of LGBTI people. *Photo: Luiz DeBarros*

Sexual diversity

Most SADC countries criminalise homosexuality. This impacts the ability of LGBTI+ communities in accessing sexual and reproductive health services and to fully realise their sexual and reproductive rights.

34 The Citizen (2017), 'Angola Backs Down on Total Abortion Ban' available at https://citizen.co.za/news/news-africa/1542075/angola-backs-total-abortion-ban/ (accessed 23 March 2019)

Table eight: Status of homosexuality in SADC countries[35]		
Homosexuality decriminalised	Homosexuality criminalised	
	Up 14 years in prison	Up to 30 years in prison
Angola	Eswatini	Tanzania
Botswana	Comoros (up to 5 years and/or fine)	Zambia
DRC	Namibia	
Lesotho	Madagascar for people 21	
Madagascar people over 21	Malawi	
Mozambique	Mauritius	
Seychelles	Zimbabwe	
South Arica		

Source: The Citizen, South Africa; Gender Links.

Eight countries up from seven in the previous edition (Angola, Botswana, DRC, Lesotho, Madagascar for over 21's, Mozambique, Seychelles and South Africa) have decriminalised homosexuality. After Angola, Botswana is the latest country to decriminalise homosexuality in SADC. Nine countries have laws in place criminalising homosexuality, in Madagascar homosexuality is a crime for people under 21. The Comoros[36] LGBTI+ persons can face up to 5 years and a fine.

Of the eight countries that have decriminalised only South Africa provides social protections and equal rights for LGBTI+ communities. Same sex couples are able marry. LGBTI+ communities may adopt children and have equal access to all SRH services.

Strategic litigation is an important to challenge discriminatory laws and policies in countries that criminalise homosexuality. However, these initiatives must be accompanied by social protection strategies for LGBTI+ communities.



Hwange Local Board HPV vaccination. Zimbabwe. *Photo: Gender Links*

35 HIVOS, 2019
36 https://web.archive.org/web/20120611181908/http://old.ilga.org/Statehomophobia/ILGA_State_Sponsored_Homophobia_2012.pdf

Sex work

Sex work is a crime in all the 16 SADC countries. Mozambique decriminalises organising sex work and solicitation.[37] Female sex workers face many barriers to accessing sexual and reproductive health (SRH) care because of stigma and discrimination, which increase their vulnerability and impede their right to access health services. Other factors contributing to poor SRH outcomes include high sexually transmitted infections (STI) prevalence, HPV infection and thus risk for cervical cancer, unintended pregnancies, repeated physical and emotional abuse, high mobility and frequently an illegal immigrant status.

Sex worker populations are heterogeneous. Local health programmes must prioritise services that reflect the variety and complexity of sex worker needs and behaviours, and should be designed in consultation with sex workers. Segmenting sex worker populations according to age, country of origin and place of service delivery, and training healthcare providers accordingly, could help prevent new HIV infections, improve adherence to antiretroviral treatment and increase uptake of SRH services.[38] The Global Fund Key populations programme has supported countries initiate Pre Exposure Prophylaxis (PreP) among sex workers. Studies on PreP have shown that it reduces the risk of exposure to HIV from sex by about 99% when taken consistently. Under the programmes, the Zimbabwe's National Aids Council initiated 1817 sex workers out of a targeted 2200 on PreP during the first quarter of 2020.



37 https://www.nswp.org/sex-work-laws-map
38 https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5498862/

SECTION TWO
HIV and AIDS, and STIs

Southern Africa continues to bear the burden of HIV and AIDS, and STIs. Worsened by the Covid-19 pandemic impact on access to treatment and the already weak health systems in the region, the ability of SADC countries to meet the SDGs and other regional commitments faces a huge challenge. Sound SRHR policies hinge upon the effective management of the impact of HIV and AIDS, and STIs. Thus, in order for countries to address SRHR issues in a holistic manner, there is need to have adequate and up to date policies that are also responsive to evolving conditions posed by new global emergencies and pandemics like the Covid-19.

HIV and AIDS Policies

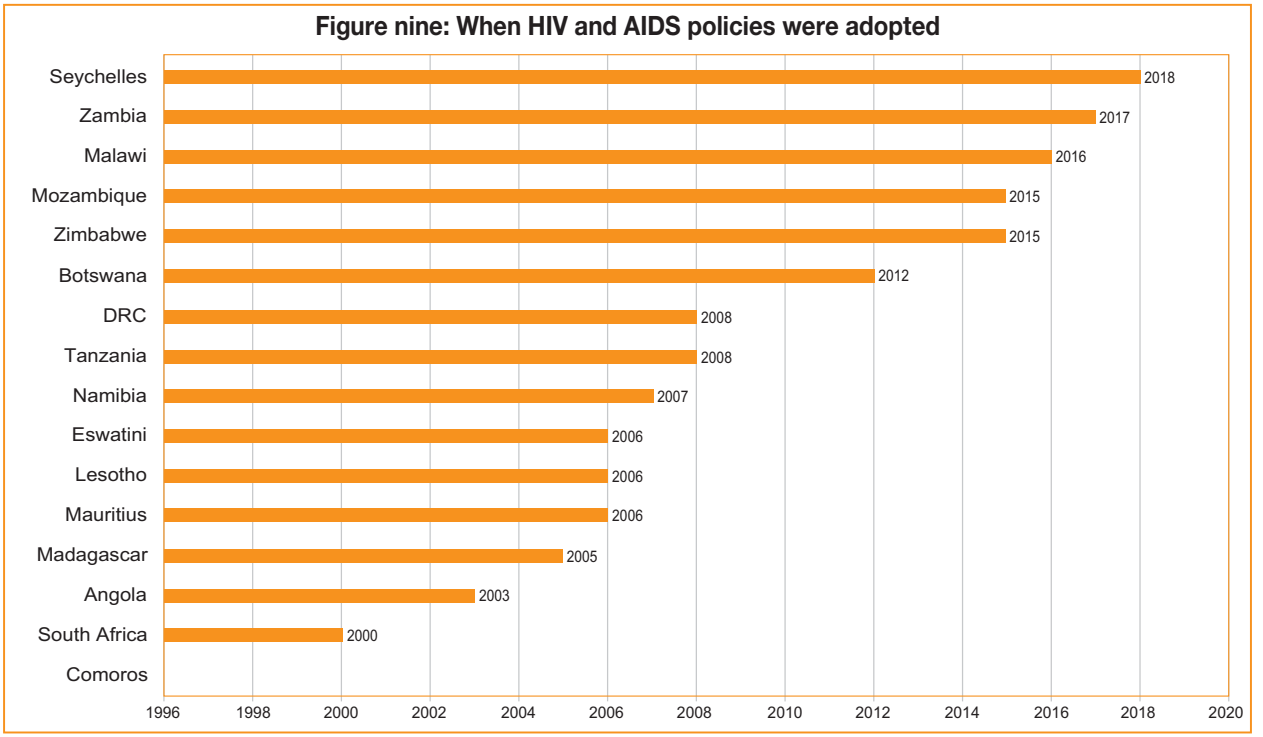
Table nine: No of countries with a stand-alone HIV and AIDS policy or strategy

Country	Country has stand-alone HIV and AIDS policy or strategy	HIV and AIDS policy includes other STIs
Seychelles	Yes	Yes
Comoros	Yes	Yes
Zambia	Yes	Yes
Malawi	Yes	Yes
Mozambique	Yes	Yes
Zimbabwe	Yes	Yes
Botswana	Yes	Yes
DRC	Yes	Yes
Tanzania	Yes	Yes
Namibia	Yes	Yes
Eswatini	Yes	Yes
Lesotho	Yes	Yes
Madagascar	Yes	Yes
Angola	Yes	Yes
South Africa	Yes	Yes
Mauritius	Yes	No

Source: Gender Links

Table nine shows that all the SADC countries have a stand-alone HIV and AIDS policy. With the exception of Mauritius, the HIV and AIDS policies for all countries include other STIs. Having all countries with stand-alone HIV policies is a positive finding for the region, which is in line with the SDG 3.3 to end HIV and AIDS as a public health threat by 2030.

Figure nine: When HIV and AIDS policies were adopted

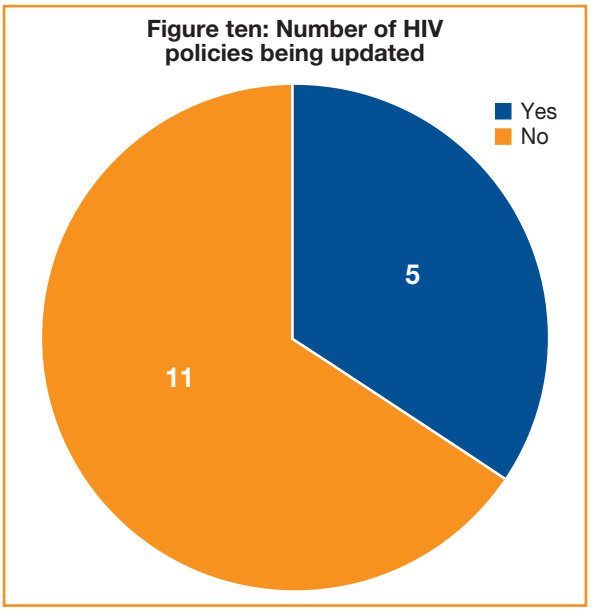


Source: Gender Links.

Figure nine shows that countries adopted stand-alone HIV and AIDS policies between 2000 and 2018. Seychelles is the only country to adopt a new stand-alone HIV and Policy in 2018. By 2000, South Africa had already adopted a stand-alone HIV and AIDS policy. This graph has been revised to include Comoros but there is no readily available data to determine when the country adopted its first HIV and AIDS policy. However, in 2014, the Comoros passed a new law that strengthen the protection for people living with HIV and AIDS. In light of this progressive development, the UNAIDS encouraged," More countries to follow the bold and inclusive example of the Comoros, ensuring that no one is denied opportunities because of their HIV status"[39].



39 UNAIDS



Source: Gender Links.

Figure ten shows that there are only five countries currently updating their HIV and AIDS policies. These are Seychelles, Botswana, the DRC, Namibia, and Angola.

Criminalising HIV transmission

Criminalising people for having HIV is a violation of human rights that undermines public health efforts to control the epidemic. Prosecutions for HIV-specific crimes often flout core legal principles such as intent and causation. There is no evidence that applying the criminal law to HIV reduces its spread. Rather, such approaches promote fear and stigma about HIV. This can adversely affect relationships between patients and health-care providers, and can discourage people from seeking HIV testing and treatment.

Table ten: Countries that have criminalised HIV transmission and have prosecuted for HIV transmission[40]

Countries with laws criminalising HIV transmission	Countries that have prosecuted people for HIV transmission between 2013 and 2015
Angola	✓
Botswana	✓
DRC	✓
Madagascar	
Mozambique	
Zimbabwe	✓

Source: HIV Justice Network.

HIV criminalisation has particularly profound effects on women. Because women are often the first in a household to learn their HIV status, they can become vulnerable to blame and violence. The threat of prosecution is a potential disincentive for women to leave abusive relationships, and some laws are so broad that they criminalise transmission of HIV during pregnancy and breastfeeding.[41]

In response to calls from parliamentarians that the women are the worst affected by the current status, and to align laws with global public health best practices, Zimbabwe has since 2019, started processes to decriminalise HIV transmission, however further parliamentary processes are still needed to ensure the scrapping of the law. Before this, conviction would attract a 20year jail sentence.

40 http://www.hivjustice.net/news/new-report-shows-hiv-criminalisation-is-growing-global-problem-but-advocates-are-fighting-back/
41 https://www.thelancet.com/journals/lanhiv/article/PIIS2352-3018(18)30219-4/fulltext

Zimbabwe moves to decriminalise HIV transmission

"When this legislation came into effect, the thinking was that we need to control the spread of HIV by criminalising those who transmit it to partners willingly", The Minister of Justice, Ziyambi Ziyambi said in an address to Parliament. "But the global thinking now is that law stigmatises people living with HIV and Aids and studies have shown that it does not produce the results that were intended. What the Ministry (of Justice) is going to do is to repeal that section of the law and ensure that we keep up to speed with modern trends in the world."

Source: https://www.fairplanet.org/story/zimbabwe-moves-to-decriminalise-hiv-transmission/

New infections

As the world battles the new Covid-19 pandemic there is also the scourge of HIV that has been known for over 3 decades now. As countries start to emerge from the lockdowns, there is a high risk of a spike in new infections.

Table eleven: New HIV infections amongst women and men as at 2018[42]

Country	Women over age 15	Men over age 15
South Africa	140000	77000
Mozambique	55000	30000
Tanzania	37000	21000
Zambia	39000	21000
Malawi	12000	5800
Zimbabwe	13000	7300
Angola	11000	5200
DRC	8500	2300
Lesotho	4600	2700
Botswana	5400	3300
Eswatini	2900	1500
Namibia	3400	1799
Madagascar	2500	2900
Comoros	Less than 100	Less than 100
Mauritius	Less than 500	Less than 1000
Seychelles	-	-
Total	**334300**	**181799**

Source: Compiled from UNAIDS 2021 data https://aidsinfo.unaids.org/

Table eleven illustrates the differences in new HIV infections amongst women and men over aged 15 and over in 12 SADC countries. Consistent with findings in the previous edition of this publication, this evidence shows that in SADC, the number of new infections amongst women remains substantially higher. Women make up 65% of new infections as opposed to 35% for men. Interventions targeting women are urgently to reduce new HIV infections in SADC.

42 https://aidsinfo.unaids.org/

SECTION THREE
CHILD MARRIAGES

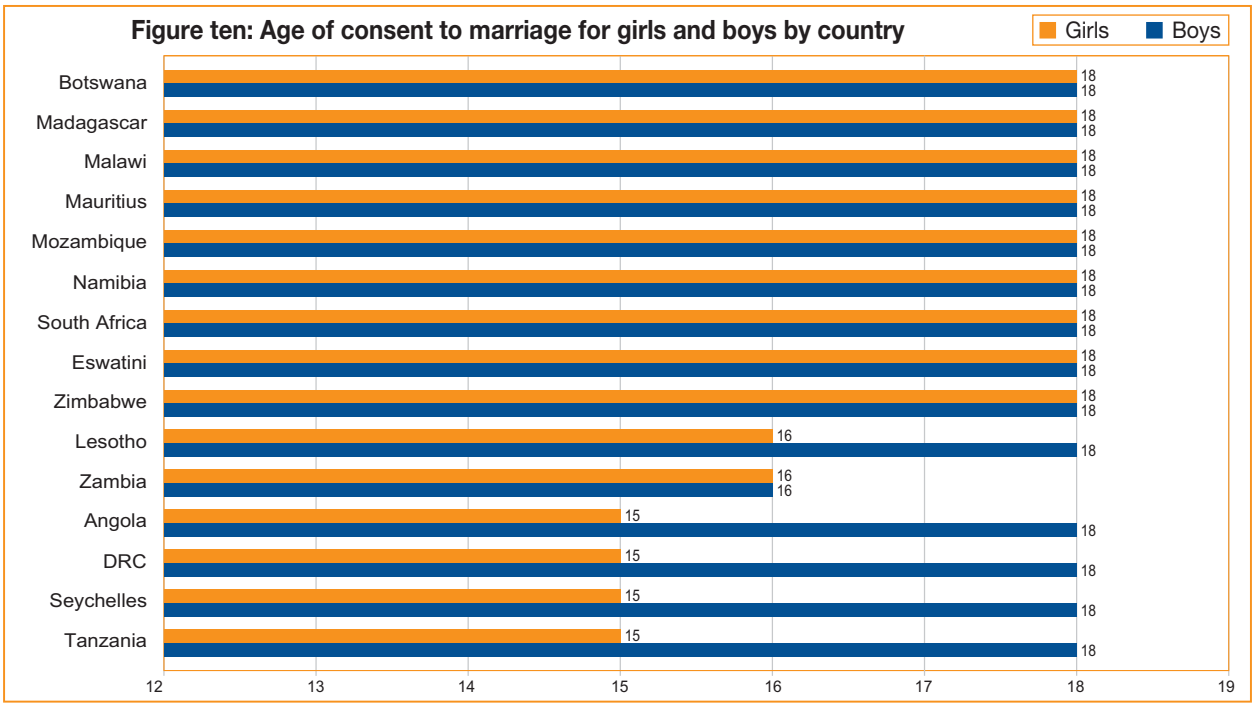
Article 20.1b of the SADC Protocol on Gender and Development, and the SADC Strategy on SRHR urges governments to remove political, cultural, social and economic barriers so that all people, in particular women and girls, are able to make decisions about their bodies including eliminating child marriage and gender-based violence.

Status of the age of marriage across SADC

Table twelve: Status of marriage age across SADC	
Marriage age over 18 for girls and boys without exceptions	**Marriage age for girls and boys not 18 or with exceptions**
Botswana; DRC; Madagascar; Malawi; South Africa; Zimbabwe	Angola; Eswatini; Lesotho; Mauritius; Mozambique; Namibia; Seychelles; Tanzania; Zambia

Source: Gender Links

Seven SADC countries stipulate that the minimum age of marriage girls and boys is 18. In Eswatini and Mauritius there are exceptions. Girls and boys can marry before 18 with parental consent or permission from the relevant court authority.



Source: Gender Links.

In Lesotho the minimum age for marriage is 16 for girls and 18 for boys. In Zambia the minimum age for marriage for boys and girls is 16. In Angola, DRC, Seychelles and Tanzania the minimum age for marriage for girls is 15 and 18 for boys. The marriage age in Zambia is 21, however, girls and boys can marry with consent from parents if aged between 16-21 years. Girls and boys below 16 need the consent of a court judge. The lower ages of consent (which are backed by exceptions) are not in line with regional expectations for countries to domesticate the SADC Model Law on Child Marriages which seeks to end all forms of child marriage.

Child marriage remains a problem in Southern Africa due to a variety of factors. In at least five countries in the Southern African Development Community (SADC), almost 40% of children are married before they are 18 years of age. Malawi and Mozambique are amongst 10 countries in the world with the highest rates of child marriage. In both countries over 50% of children are married before they are 18 years of age.[43]

Child marriage laws

To date, no SADC country has a specific law on child marriage. Instead, child marriages are criminalised through other legislation such as the law on Sexual Assault in the DRC, the Constitution in Malawi and the Marriage Acts in various countries. The challenge in 15 SADC countries except South Africa, is the existence of dual legal systems. There is no harmony between Statutory and Customary law. Laws on child marriages must regulate statutory and customary legal provisions on marriage.

SADC states adopted the model Law on Child Marriages in June 2016. Member states need to domesticate the provisions of the model law as a matter of urgency.

Table twelve: Guide to implementing the SADC Model on Child Marriages[44]

AREA OF GOVERNMENT	GOVERNMENT ACTOR	ROLES AND RESPONSIBILITIES
Legislative branch	Parliament or legislature	Legislative Branch Parliament or legislature The Legislative Branch is the state sphere where laws are created or reformed. It materialises in the form of parliaments and congresses and each country has established specific parliamentary processes for the creation or reform of laws.

Some of the actions that the legislative branch can take to prohibit child marriage and protect children from the harmful effects of child marriage are:

- Enact laws to prohibit child marriage and the betrothal of girls and boys and allow for the voidance of child marriages under certain circumstances;
- Enact laws that specify the minimum age for marriage;
- Enact laws that guarantee the right to registration at births and marriage;
- Enact laws that prohibit discrimination against a child on any grounds;
- Enact laws that guarantee reproductive rights and access to reproductive health services for girls and boys;
- Enact laws that ensure children are treated equally before national laws and are accorded equal protection and rights regardless if they were born inside or outside marriage;

43 https://www.girlsnotbrides.org/resource-centre/sadc-model-law-child-marriage/
44 https://www.girlsnotbrides.org/wp-content/uploads/2018/12/SADC-Model-Law-Toolkit.pdf

- Enact laws that protect children from abuse, neglect and harmful practices;
- Enact laws that ensure the right to education;
- Enact laws to ensure that girls can stay in school after marriage, during pregnancy and after having children; and
- Enact laws to guarantee the right privacy and confidentiality of the child.

AREA OF GOVERNMENT	GOVERNMENT ACTOR	ROLES AND RESPONSIBILITIES
Executive Branch	Office of the President or Prime Minister, Government Ministries, Institutes and Agencies	The Executive Branch is the state sphere where Government actions are carried out. This is called public policy. Public policy may include sectoral plans or policies that can involve more than one Ministry, or Government programs or actions. The Executive Branch includes the various Government Ministries and agencies whose role is to transform social problems through public policies and budgets to address them.
National Institute of Statistics and data collection and production sections of relevant Ministries	The National Institute of Statistics and the data collection arms of Ministries are responsible for verifying, approving, administering and publishing basic national statistical data and to regularly disseminate it to the general public. Some of the actions that data collection agencies can take prevent child marriage and protect children from the harmful effects of child marriage are: Collect and publish disaggregated data on the prevalence of child marriage, number and status of children already in marriage, causes of death of girls aged between 12 and 18 years of age, maintain an up-to-date record of information on the nature and magnitude of child marriage and keep track of emerging child marriage concerns to inform the development, implementation and monitoring and evaluation of public policies.	
Ministry responsible for registration of births	Needs to come up with criteria to determine the age of the person that is to get married when no birth certificate is available.	
Ministry responsible for labour	The Ministry or Department of Finance is responsible for developing and implementing economic policies.	

Some of the actions that the Ministry of Labour can take to prevent child marriage and address the needs of children in marriage and those that are victims of child marriage:

- Develop and implement youth centred macroeconomic policies that includes regulation of the informal economy, ensure children are appropriately trained to take part in the formal labour market and get appropriately-timed career guidance and establish measures to ensure full participation in economic life for children in marriages and victims of child marriages; and
- Promote entrepreneurship for children in marriages and victims of child marriages.

AREA OF GOVERNMENT	ROLES AND RESPONSIBILITIES
Ministry responsible for social protection	The Ministry responsible for social protection is responsible for putting in place policies, measures and interventions to ensure that a child has access to adequate social protection and social security services.
Ministries in charge of enforcing prohibition on child marriage	To ensure implementation of laws that prohibit child marriage, the Ministries should appoint public officers as child marriage prohibition officers or as a committee that can prevent child marriage. They should: • Collect evidence to prosecute people who break the law; • Raise awareness and sensitise communities of the consequences and effects of child marriage and advise them not to promote, help, or allow child marriage; • Gather and share statistics on children in marriage, including areas with high prevalence.
Ministry responsible for Education	The Ministry of Education is responsible for the design, implementation, monitoring and evaluation of educational legislations, policies and programs and ensuring that all children have access to free and compulsory primary and accessible secondary

AREA OF GOVERNMENT	ROLES AND RESPONSIBILITIES
	education. In some countries it oversees the structures, human resources, budget and administrative and management of the education sector.

Some of the actions that the Ministry of Education can take to prevent child marriage and address the needs of children in marriage and those that are victims of child marriage:

- Ensure that every child has access to free and compulsory primary and accessible secondary education;
- Enact policies and programs to ensure that pregnant girls continue and complete their education and take measures to ensure all children have equal access to education, including eradicating discrimination against a pregnant or married child, or victim of child marriage;
- Ensure that the curriculum for all educational institutions integrates principles of equality and equity, incorporates life skills and comprehensive sexuality education; and introduces subjects that enhance the integration of the girl child in male dominated disciplines.

AREA OF GOVERNMENT	ROLES AND RESPONSIBILITIES
Ministry responsible for Health	The Ministry of Health is the Government agency responsible for protecting and promoting public health and providing welfare and other social security services. They are responsible for the design, implementation, monitoring and evaluation of health policies, programs and guidelines.

Some of the actions that the Ministry of Health can take to prevent child marriage and address the needs of children in marriage and those that are victims of child marriage:

- Put in place child centred health policies that ensure access to health and medical services including quality comprehensive sexual and reproductive health services and information;
- Enact programs to reduce infant and child and adolescent mortality, combat disease and malnutrition and abolish harmful practices;
- Enact policies and programs that provide comprehensive maternal health services including ante-natal, post-natal and obstetric care, post abortion care, immunisation and nutrition programs to a child - who is pregnant or has given birth;
- Prevent mother to child transmission of HIV and AIDS by enacting policies and programs to ensure access to HIV and AIDS counselling, testing, treatment and family planning for pregnant and in marriage children and victims of child marriage; and
- Ensure and uphold the child's right to privacy and confidentiality of his or her personal information.

AREA OF GOVERNMENT	GOVERNMENT ACTOR	ROLES AND RESPONSIBILITIES
Judicial System	Court System	The Court System is responsible for interpreting the laws passed by the Legislative Branch and enforced by the Executive Branch. They are responsible for the administration of justice.

Some of the actions that the Judicial System and Courts can take to prevent child marriage and address the needs of children in marriage and those that are victims of child marriage: Courts should/can:

- Define rules and procedures for the distribution of property acquired during a prohibited marriage and the dissolution/annulment of a voidable child marriage;
- Issue a restraining order to anyone that knows or is about to engage or marry a child, independently of what customary or religious laws and practices say; and
- Provide legal aid and legal services to victims of child marriage.

Courts should ensure the rights of child brides are respected including:

- On petition of a child, adult person or third-party dissolve/annul the marriage that was contracted before the commencement of the law;
- Provide custody, access and maintenance to the offspring; and
- Ensure respect of citizenship acquired through marriage.

Zimbabwe: Review of Marriages Bill

The parliament of Zimbabwe is seized with the review of the Marriages Bill to repeal and replace the current Customary Marriages Act [Chapter 5:07] and the Marriage Act [Chapter 5:11]. Among other provisions that the bill seeks to amend is the issue of *lobola* (bride price). The Justice Minister said, "The payment of *lobola* will no longer be regarded as a barrier in solemnising marriage between two consenting adults if they satisfy other requirements of the law. The government noted that some guardians were commodifying the institution of marriage and were sometimes withholding their consent until the full bride price has been paid." While this will be a welcome development for those advocating for the removal of the bride price, it remains to be seen how the statutory and customary dynamics of the law will be implemented.

Source: https://www.herald.co.zw/new-law-on-bride-price/

Apart from the clause on *Lobola*, the Zimbabwe Marriages Bill seeks to protect and promote the SRHR rights of children. The following are some of the Constitutional precepts which the Marriages Bill takes into account;

- gender equality (section 3(1)(g) of the Constitution);
- recognition of the rights of women, youths and children (section 3(2)(i)(iii) of the Constitution);
- the recognition of the rights of cultural groups (section 3(2)(i)(i));
- the preservation of cultural values and practices which enhance the dignity, well-being and equality of people (section 16(1));
- section 26 of the Constitution with respect to the requirement of free and full consent to marriage by the intending spouses; the ban on the pledging of children in marriage; the equality of rights and obligations of spouses during marriage and at dissolution; provision for the protection of any children of a marriage upon the dissolution of marriage whether by divorce or on death;
- the paramountcy of the best interests of the child (section 19(1) and 81(2) of the Constitution), a child being a person under the age of 18 years (section 81(1) of the Constitution);
- the right of any person who has attained the age of eighteen to found a family, not to be compelled to enter into marriage against their will and the prohibition of same sex marriages (section 78 of the Constitution); and
- protection of children from sexual exploitation (section 81(1)(e).

As the momentum to review and update laws and policies in the region gathers, South Africa has sought to address patriarchal norms entrenched in some of its laws.

South Africa: National Assembly passes Sexual Offences Amendment Bill

The amendment bills, namely, Prescription in Civil and Criminal Matters (Sexual Offences) Amendment Bill and Recognition of Customary Marriages Bill will head to Parliament for consideration. The Prescription in Civil and Criminal Matters, popularly known as the Sexual Offences Amendment Bill, paves the way for the prosecution of all sexual offences, regardless of the lapse of time. The Sexual Offences Bill seeks to empower survivors, who often suffer in silence and either never disclose the offences at all - with the perpetrator escaping all consequence - or they only disclose over varying periods of time. According to the 2018/19 Statistics South Africa Victims of Crime Report, the percentage of victims of sexual offences, who reported at least one incident, is 88%. “The Ministry of Justice and Correctional Services believes that amendments such as these will encourage survivors of sexual offences to report these matters, even if the incidents took place many years ago, so that perpetrators of sexual offences are not met with impunity. “It means that these crimes can be prosecuted, irrespective of when the crime took place,” said the Justice Department. The amendment bill also ensures that crimes, which relate to the common law offence of bribery and the offence of corruption in terms of the Corruption Act, are also no longer subject to a time limitation in order to institute a prosecution.

Recognition of Customary Marriages Bill

In terms of section 7(1) of the Recognition of Customary Marriages Act (RCMA), customary marriages entered into before the commencement of the RCMA are governed by customary law. In terms of this Act, wives have no right of ownership and control over marital property, which right is reserved solely for the husband. The amendment of the RCMA now provides that where a person is a spouse in more than one customary marriage, entered into before the start of the Act, will have joint and equal ownership and other rights, as well as equal rights of management and control over marital property. With the amendment, all monogamous customary marriages, whether they were entered into before or after the commencement of the RCMA, are in community of property, unless the spouses specifically determine otherwise by means of an ante-nuptial contract. “Our constitutional democracy places emphasis on equality. This must permeate all aspects of our society. As the Women's Charter declares, the level of civilisation, which any society has reached, can be measured by the degree of freedom that its members enjoy. “As a free and democratic society, we must forge ahead with great speed to ensure that in all facets of society, the status of women is attuned to the expectations of our constitutional democracy,” said Lamola on the passing of the bills by the National Assembly.

Source: https://www.bizcommunity.com/Article/196/717/205028.html

SECTION FOUR
GENDER VIOLENCE

The SADC Regional Strategy and Framework of Action for Addressing Gender Based Violence 2018 - 2030 notes that GBV legislation has significantly improved but coordination of GBV interventions remains a challenge at all levels largely because of the absence of an established SADC - wide programme monitoring standard or framework. Despite the presence of GBV laws and policies, GBV is on the rise in SADC. The increase in GBV cases has also been attributed to the Covid-19 induced lockdowns leaving a lot of women and girls vulnerable.

Table thirteen: Overview of laws on GBV across SADC

Country	Human trafficking law	Sexual assault/ offences law	Domestic violence law	Sexual harassment law
Angola	Yes	No	Yes	No
Botswana	Yes	Yes	Yes	Yes
Comoros	Yes	Yes	Yes	Yes
DRC	Yes	Yes	No	Yes
Eswatini	Yes	Yes	Yes	Yes
Lesotho	Yes	Yes	No	Yes
Madagascar	Yes	Yes	Yes	Yes
Malawi	Yes	Yes	Yes	Yes
Mauritius	Yes	Yes	Yes	Yes
Mozambique	Yes	Yes	Yes	Yes
Namibia	Yes	Yes	Yes	Yes
Seychelles	Yes	No	Yes	Yes
South Africa	Yes	Yes	Yes	Yes
Tanzania	Yes	Yes	No	Yes
Zambia	Yes	Yes	Yes	Yes
Zimbabwe	Yes	Yes	Yes	Yes
Yes	**16**	**14**	**13**	**15**
No	**0**	**2**	**3**	**1**

Source: Gender Links.

All 16 SADC countries have Human Trafficking laws in place. Angola does not have a Sexual Assault/Offences or Sexual Harassment laws. Seychelles has not adopted a Sexual or Offences law. Three countries (DRC, Lesotho and Tanzania) do not have Domestic Violence laws. Lesotho awaits a cabinet approval on a draft domestic violence bill. All SADC countries have National GBV Action Plans in place to eradicate GBV.

The Covid-19 pandemic has put a spot light on the vulnerability of women and girls to domestic violence during the enforced lockdowns across the region. With the absence of domestic violence and sexual offences laws in some jurisdictions, justice of the abused women and girls remains a distant reality. In line with SDG goals and targets to end GBV by 2030, it is imperative that governments like Lesotho, DRC and Tanzania speed up efforts to enact GBV legislation in their countries.

CONCLUSIONS AND RECOMMENDATIONS

- Countries with very old SRHR polices need to urgent review to keep in line with changing needs and to align with regional and international instruments and targets.
- Almost all SADC countries have stand-alone policies on SRHR and GBV but there is a low focus on safe abortion, menstrual health and harmful practices. All national SRHR policies must be updated in line with the SADC SRHR Strategy 2019-2030.
- The absence of child marriage laws in all SADC countries is a setback for the adolescent SRHR in SADC. All SADC countries need to adopt specific laws on child marriage using the SADC Model law on Child Marriages as a guide.
- The minimum age for marriage must be standardised in line with the SADC Protocol on Gender and Development at 18 in statutory and customary legal systems with no exceptions.
- Abortion is essential health service therefore unrestricted abortion must be available in all countries to mitigate high levels of teenage pregnancies and reduce maternal mortality.
- Removal of VAT on sanitary ware and the provision safe water and sanitation in all schools in must be the new normal for comprehensive menstrual hygiene management in SADC post Covid-19.
- The study shows high-unmet need for contraception for Southern Africa countries. Compounded by the restricted movements under Covid-19 pandemic, the failure to provide contraceptive care has huge implications for unintended pregnancies, unplanned births, abortions, and miscarriages. The provision of contraceptives is central to women's and girls' right to exercise voice and choice over their bodies.
- There is a fair coverage of comprehensive sexuality education in both primary and secondary schools across SADC, but this needs to be strengthened in order to provide accurate sexual information and strategies put in place to support teacher training.
- All countries should move towards policies that protect the right of pregnant learners to stay in school.
- Covid-19 lockdowns have worsened the extent of GBV as women and girls are forced to stay with their abusers at home. As countries emerge from the lockdowns it is necessary to for them to urgently review their prevention efforts and put strategies that empower women to end violence.
- Homosexuality must be decriminalised in all SADC countries. This must be accompanied by concerted social protection campaigns for LGBTI+ communities. This will promote a holistic approach to sexual diversity needed in order to ensure gender equality and adequate reach of SRHR services to key populations.

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