# Harmful Practices 7




Amanzimtoti Trauma Centre March during the 16 days activism 2020, Amanzimtoti, South Africa. Photo: Loraine Odendaal

## KEY POINTS

- The COVID-19 pandemic coupled with slow vaccination roll out programmes could further expose women and girls to harmful practices especially child marriages and Female Genital Mutilation (FGM). Vaccine hesitance is itself emerging as a harmful practise.
- To enhance the protection of civilians without invoking state of emergency measures during COVID-19 pandemic, Angola amended the Civil Protection Law.
- In December 2020, the Mauritian government gazetted the Children's Act of 2020.[1] The Act, which now awaits proclamation, seeks to address the issue of child marriages in the country and establishes the Children Coordinating Panel, a body to oversee the implementation of the Act.
- South Africa has the lowest percentage of women married by age 18 (4%) and Mozambique has the highest (53%).[2]
- The Zambian parliament is amending Article 47.2 of the of Constitutional Amendment Bill number 10 of 2019 to enhance the participation of women with disabilities in politics.
- Zimbabwe launched a National Disability Policy which seeks to address the marginalization and discrimination of Persons with Disabilities (PWDs).
- Medical practitioners performed 52 million of the Female Genital Mutilation (FGM) procedures globally.[3]
- Besides FGM and child marriages, women and girls in parts of Zimbabwe and South Africa could be experiencing other less common harmful practices like breast ironing.

[1] Government of Mauritius, 'The Children's Act No 13 of 2020', https://mauritiusassembly.govmu.org/Pages/Acts/Acts2020.aspx, accessed 24 June 2021
[2] UNICEF Child marriage, https://data.unicef.org/topic/child-protection/child-marriage/, accessed 19 June 2021.
[3] UNICEF (2020) Approximately 1 in 4 survivors of female genital mutilation were cut by a health care provider, https://www.unicef.org/press-releases/approximately-1-4-fgm-survivors-were-cut-health-care-provider, accessed 25 June 2021.

Table 7.1: Key Indicators on harmful practices

| INDICATORS | Angola | Botswana | Comoros | DRC | Eswatini | Lesotho | Madagascar | Malawi | Mauritius | Mozambique | Namibia | Seychelles | South Africa | Tanzania | Zambia | Zimbabwe |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Constitution** | | | | | | | | | | | | | | | | |
| Constitution has claw back clauses | No | Yes | Yes | No | Yes | Yes | No | Yes | Yes | No | No | No | No | No<br>Yes | No | No |
| Constitution addresses contradictions between the constitution, laws and practices | Yes | No | No | No | Yes | Yes | Yes | Yes | No | Yes | Yes | Yes | Yes | | Yes | Yes |
| **Early child marriages** | | | | | | | | | | | | | | | | |
| Minimum legal age of consent to marriage for women | 15 | 21 | 18 | 15 | 16 | 16 | 18 | 18 | 18 | 18 | 18 | 15 | 18 | 15 | 21 | 18 |
| Minimum legal age of consent to marriage for men | 18 | 21 | 18 | 18 | 18 | 18 | 18 | 18 | 18 | 18 | 18 | 18 | 18 | 18 | 21 | 18 |
| Exceptions for women | 15 | 18 | A judge can authorise marriage younger than 18 in certain cases and if both parties consent | None | Possible no age | Possible no age | Possible no age | None | 16 | None | Possible no age | Possible no age | None | Country's Supreme Court ordered government to ban marriage of children under 18 years | 16 | None |
| Exceptions for men | 16 | 18 | A judge can authorise marriage younger than 18 in certain cases and if both parties consent | None | Possible no age | Possible no age | Possible no age | None | 16 | None | Possible no age | Possible no age | None | Legislation under appeal | 16 | None |
| Percentage young women married by age 18[4] | 30 | 10 | 32 | 37 | 5 | 16 | 40 | 42 | n/d | 53 | 7 | n/d | 4 | 31 | 29 | 34 |
| Percentage young women married by age 15 | 8 | n/d | 10 | 10 | 1 | 1 | 12 | 9 | n/d | 14 | 2 | n/d | 1 | 5 | 6 | 4 |

*Source: Gender Links (2019) and Girls Not Brides; https://data.unicef.org/country/ accessed 27 June 2021.*

# Introduction

Deep rooted patriarchal beliefs fuel harmful practices including child marriage, marital rape, witchcraft accusations, widow inheritance, breast ironing, virginity testing, and female genital mutilation (FGM). These practices compromise women and girls' sexual and reproductive health and rights (SRHR) and increase exposure to HIV and AIDS. Despite their harmful nature, such practices persist across countries because they have been normalised by the perpetrators and by the victims who have been socialised to follow tradition passively.

[4] UNICEF Child marriage, https://data.unicef.org/topic/child-protection/child-marriage/, accessed 19 June 2021.



Gaabomotho theatre group perform a drama on GBV and Human rights during the 2020 Women's Day commemmorations, Otse, Botswana.
Photo: Mboy Maswabi

Over the years, many SADC governments have made provisions in Constitutions and acts of parliament to provide protections for women and girls as illustrated in Table 7.1 which show that:

- The Constitutions of six SADC countries (Botswana, Comoros, Eswatini, Lesotho, Malawi, and Mauritius) have clawback clauses. This means they provide for gender equality on one hand but make other guarantees that undermine its provision.
- Four Constitutions (Botswana, Comoros, DRC, and Mauritius) have not addressed contradictions between their constitutions and customary laws and practices.
- Ten SADC countries have a minimum legal age of consent to marriage for women set at 18 or older. All SADC countries have set the minimum legal age of consent to marriage for men at 18 or older.
- South Africa has the lowest percentage of women married by age 18 (4%) and Mozambique has the highest (53%).

The disproportionate impact of the COVID-19 pandemic on women and girls in the region is rooted in gender inequalities. Reports show that the closure of schools due to the pandemic has increased the exposure of women and girls to the risk of child marriage in Malawi, Zimbabwe, and South Africa. Malawi witnessed over 13,000 new child marriages in 2020.[5] According to UNICEF the main drivers of child marriage are poverty, cultural and religious traditions, and peer pressure[6]. Child marriage is often associated with limited education and employment opportunities, forcing many girls and women into transactional sex in order to buy food.[7] Growing poverty in the region fuels harmful practices even more.

With the COVID-19 vaccine roll out, vaccine hesitancy has added itself to the list of harmful practices, fuelled by the misinformation, fake news, political figures and faith leaders who are discouraging their followers from taking the vaccine. The University of Johannesburg's Centre for Social Change and Human Sciences Research Council's (HSRC) Developmental, Capable and Ethical State (DCES) division recently conducted an online survey[8] among South Africans to determine public perceptions of the economic, social and political impact of Coronavirus. Findings from the study show that men are less trusting of the vaccine but more willing to be vaccinated than women are.

The prevalence of FGM among women aged 15-49 in Tanzania dropped from 18% in 1996 to 10% in 2016. Only 3% of women aged 15-49 report that they think the practice should continue.[9] The declining trends and shifting attitudes bode well for Sustainable Development Goal (SDG) 5.3 that seeks to eliminate all harmful practices, such as child, early, and forced marriage and female genital mutilation.

Breast ironing or flattening prevalent in West African countries requires further research. Zimbabwe and South Africa have reported the practice but there is still insufficient data about its impact. The United Nations estimates that 3.8 million teenagers are affected by breast ironing globally.[10]

[5] Macho, M. J. T. (2021) 'Gender Equality: A Catalytic Accelerator for Agenda 2030', Spotlight Initiative Bulletin, 2, p. 20.
[6] UNICEF Malawi 'Child Marriage in Malawi', p. 2, https://www.unicef.org/malawi/media/526/file/Child%20Marriage%20Factsheet%202018.pdf, accessed 27 June 2021
[7] 'Children in southern Africa are being forced into prostitution due to drought', Newshub, https://www.newshub.co.nz/home/world/2020/01/children-in-southern-africa-are-being-forced-into-prostitution-due-to-drought.html, accessed 27 June 2021.
[8] 'COVID-19 Vaccine hesitancy South Africa studies 2021',https://sacoronavirus.co.za/wp-content/uploads/2021/04/Report_COVID-19-vaccine-hesitancy_SA-studies_1April2021.pdf, accessed 8 July 2021.
[9] Tanzania Demographic and Health Survey 2016, https://dhsprogram.com/pubs/pdf/FR321/FR321.pdf, accessed 17 June 2021.
[10] Breast ironing: a harmful practice that doesn't get sufficient attention, The Conversation, available at: http://theconversation.com/breast-ironing-a-harmful-practice-that-doesnt-get-sufficient-attention-116206, accessed 25 June 2021.

Despite what often appears to be slow action, there are ongoing law and policy reforms within countries to prevent and mitigate the harrowing effects of harmful practices. There is progress by countries to conform with international and regional norms and standards. Mauritius is the only country not to sign the SADC Protocol on Gender and Development because of its objection to 18 as the minimum age for marriage. During this period the island gazetted the Child Protection Act that prohibits marriage under 18 years. This could open the door for Mauritius to sign the Protocol. The Supreme Court of Tanzania upheld a high court decision to ban marriages of children below 18 years.

Botswana opened 25 specialised courts to expedite cases of GBV and harmful practices. Zimbabwe launched its National Disability Policy in June 2021. The policy seeks to address the marginalisation and discrimination of Persons with Disabilities (PWDs), empower them to improve their quality of life and contribute to national development. Similarly, in the DRC, activists expect a new Disability Rights Bill to bring significant change towards addressing the discrimination and harmful cultural practices directed specifically at women and children with disabilities.

The International Widows Day set aside by the United Nations[11] in 2011 and commemorated annually on 23 June, is a global awareness day that seeks to illuminate the injustices that widows face. The 2021 slogan, "Invisible Women, Invisible Problems,"[12] should help to raise awareness on the issue of widowhood in Southern Africa. Widows, both young and old, face a myriad of challenges ranging from legal, financial and social including property grabbing, and elder abuse. A University of South Africa (UNISA) Senior Lecturer in Adult Education Dr Sizakele Matlabe[13] notes, "Widows are stigmatised for life, shunned and shamed. Yet, many of these abuses go unnoticed and are even normalised."[14] The rights of widows and widowers are even harder to realise for the widowed women living in rural areas with limited service provision especially during pandemics like COVID-19.

The SADC Protocol on Gender and Development requires state parties to end harmful cultural practices and protect women, girls, and children from them and the attendant gender-based violence (GBV). Article 21 (1) states that they must take measures, including legislative measures, to discourage cultural and traditional norms that exacerbate the persistence and tolerance of GBV so as to eliminate such practices. In addition, the Protocol urges "States Parties and policies must ensure that policies and programmes take account of the unequal status of women, the particular vulnerability of the girl child as well as harmful practices and biological factors that result in women constituting the majority of those infected and affected by HIV and AIDS."[15]

This chapter examines the source and impact of harmful cultural practices on the rights of women, girls, and children including people with disabilities in Southern Africa. The chapter explores Constitutional and legal provisions; access to justice; marriage and family rights; child marriages; disability; the rights of widows and widowers and other harmful practices.

Between 2019 and 2021, Gender links administered a gender attitudes survey to measure the perception of men and women on key gender attitudes. Some of these questions give pointers on the patriarchal attitudes that fuel harmful practices. Relevant results are cited in different parts of the chapter. The chapter identifies efforts made by governments, civil society, and communities to end harmful practices. The chapter is framed in the context of the COVID-19 pandemic, the likely impact of the ongoing vaccine rollout, and mitigation strategies.

[11] UNICEF Child marriage, https://data.unicef.org/topic/child-protection/child-marriage/, accessed 19 June 2021.
[12] International Widows' Day 2021: Theme, Importance, History, Activities, Quotes, https://internationaleventday.com/event/international-widows-day/, accessed 22 June 2021.
[13] UNISA, Advocating for widows' rights and recognition, available, https://www.unisa.ac.za/sites/corporate/default/News-&-Media/Articles/Advocating-for-widows%E2%80%99-rights-and-recognition, accessed 22 June 2021.
[14] UNISA, Advocating for widows' rights and recognition, available, https://www.unisa.ac.za/sites/corporate/default/News-&-Media/Articles/Advocating-for-widows%E2%80%99-rights-and-recognition, accessed 22 June 2021.
[15] Article 27 (2), SADC Protocol on Gender and Development

# COVID-19, vaccine roll out and ending harmful cultural practices



## State of vaccine roll-out in SADC is very low and could hinder progress in ending harmful practices in the region

As countries shift between harsher and less strict COVID-19 lockdowns, many women and girls are still confined within their homes and prone to poverty and abuse by perpetrators. The confinement has given perpetrators of harmful practices like child marriages a shield to commit the offenses away from the spotlight of neighbours, schools, and law enforcement agencies. For instance, in Malawi some parents and guardians have resorted to marrying off girls to reduce the financial pressure on their households.[16] Deutsche Welle (DW) the Germany international broadcaster cites the case of Memory Danifolo a Malawian woman who married off her 16-year-old daughter to alleviate financial stress.[17]

The repeated closure of schools which started in March 2020 and is still happening now during the third wave means that the exposure of children especially girls to risky environments continues. Teachers and parents have raised red flags against the repeated closure of schools as idleness is becoming a fertile ground for promoting sexual activity leading to sex with peers and early marriages. The layer of protection offered by schools has been eroded. Appropriate and meaningful assistance for children suffering, or recovering, from harmful cultural practices may be minimal or unavailable.

With the exception of Seychelles, the current state of vaccinations in SADC is very low and could hinder progress in ending harmful practices in the region.

With a handful of COVID-19 vaccines now authorised for distribution, questions are arising over their efficacy. Social media is also awash with myths and facts on these vaccines leading to women and men reacting differently to vaccine information. Some, for religious reasons think that, "vaccines are dangerous", "vaccines are a mark of the beast".[18] The myths and misinformation about vaccines are themselves a harmful practice as they delay the roll out of vaccines. The South African government makes it clear that vaccines have no connection with any religious organisations and cannot be infused with spirits, demons or other abstract ingredients. There is no conspiracy to possess, bewitch or control anybody.[19] Without proper vaccine information, there is a danger that people get vaccinated without adequately weighing information and also carry the risk to themselves and to others if they decide to opt out.

An efficient roll out programme has several implications for reducing harmful practices. The World Health Organisations (WHO) Immunization Agenda (IA) 2030 positions immunization as a "key contributor to people's fundamental right to the enjoyment of the highest attainable physical and mental health and

[16] Deutsche Welle (2020) Fears grow of a surge in child marriages in Malawi, https://www.dw.com/en/fears-grow-of-a-surge-in-child-marriages-in-malawi/a-54009682, accessed 26 June 2021.
[17] Deutsche Welle (2020) Fears grow of a surge in child marriages in Malawi, https://www.dw.com/en/fears-grow-of-a-surge-in-child-marriages-in-malawi/a-54009682, accessed 26 June 2021.
[18] No, the COVID-19 vaccine is not linked to the mark of the beast - but a first-century Roman tyrant probably is, The Conversation, http://theconversation.com/no-the-COVID-19-vaccine-is-not-linked-to-the-mark-of-the-beast-but-a-first-century-roman-tyrant-probably-is-158288, accessed 16 July 2021.
[19] COVID-19 Coronavirus vaccine myths and facts, https://www.gov.za/COVID-19/vaccine/myths, accessed 7 July 2021.

also as an investment in the future, creating a healthier, safer, more prosperous world for all."[20]



The Dorcas Page Foundation is debunking myths on vaccines in Gauteng, South Africa. Photo courtesy of Dorcas Page Foundation

Vaccine roll out assures a gradual return to normalcy in line with Sustainable Development Goals (SDG) Goal 3 target 8 to "achieve universal health coverage, including financial risk protection, access to quality essential health-care services and access to safe, effective, quality and affordable essential medicines and vaccines for all". Economic activities can resume at pre-COVID-19 scales. This reduces poverty levels and reduces the burden on parents who might otherwise would have send their daughters for early marriages.

An efficient roll out strategy could result in children that are already in child marriages getting vaccinated so that they can become economically productive. If teachers are prioritised in roll out campaigns, and other protective measures are put in place, schools can re-open. This would give girls and women a chance to be in school and continue with their education: critical for women's economic empowerment. The continued closure for schools has already seen a surge in early pregnancies and child marriages in Malawi, Zimbabwe and South Africa.

An efficient vaccine roll-out means countries can gradually re-focus their energies away from COVID-19 and vaccine management to meeting regional and global targets on gender equality. Presently almost all countries are focused on procuring vaccines, and strategising on increasing vaccine take up within countries. Gains made on ending harmful practices could be lost if countries remain much longer in the vaccination mode.

# Constitutional and legislative provisions

**Article 4:1:** State parties shall enshrine gender equality and equity in their constitutions and ensure that any provisions, laws, or practices do not compromise these. **Article 6:** State parties shall review, amend, or repeal all discriminatory laws and specifically abolish the minority status of women.

To give effect to the SADC Protocol on Gender and Development, member states need to ensure that key gender provisions are not compromised within their constitutions. Constitutions, being the supreme law of a country, should generally reflect accepted principles of equality and democracy. These include provisions for non-discrimination based on sex, marital status, promotion of gender equality, removal of claw back clauses, and addressing contradictions between the constitutions, laws and practices.

[20] WHO, Immunization Agenda 2030, https://www.who.int/teams/immunization-vaccines-and-biologicals/strategies/ia2030, accessed 7 July 2021.

Table 7.2 overleaf provides a synopsis of some of the key constitutional provisions on gender in all SADC countries. Of particular note:

- All SADC constitutions provide for non-discrimination generally.
- All SADC constitutions (except Seychelles) provide for non-discrimination based on sex, specifically. They also (including Seychelles) provide for non-discrimination on the basis of sex and others, e.g. marital status and pregnancy.
- The constitutions of Botswana and Seychelles do not provide for the promotion of gender equality.

Despite the lack of major constitutional reforms in the period under review, there have been notable law reforms aimed at promoting gender quality and equity.



**Angola** amended the Civil Protection Law, to enable measures to respond to the COVID-19 pandemic, without invoking a state of emergency. The amendments seek to ensure that any measures to deal with emergencies like COVID-19 do not compromise citizen's fundamental rights.



In **Zambia**, the women's movement is rallying support for the enactment of Article 47.2 of Bill 10. The bill seeks to enhance women's participation in parliament by transforming the electoral system from the first-past-the-post (FPTP) to a mixed-member electoral system (MMS). According to experts in the country, the FPTP does not encourage equal and fair representation of women in parliament (presently 19 out of 158 members). Citing similar electoral reforms that improved women's participation in politics in Rwanda, South Africa, Namibia, Uganda, Mozambique and Angola, Gladys Mutukwa suggests that the MMS system will also improve representation of youth and people with disabilities in parliament.[21]



In April 2021, **Zimbabwe** parliament approved Constitutional Amendment Bill Number 2, amid concerns of the rushed process to amend the constitution.[22] Positive measures include the extension a quota that ensures at least 60 women MPs in the National Assembly for another 10 years. Women MPs in the country, including those who take part thanks to this quota, have been instrumental in fighting for the rights of women and girls.[23] A positive gain for local government is that the constitutional amendments seek to extend the system in place at the national level to the local level with 30% seats reserved for women and distributed on a Proportional Representation (PR) basis. The move, which enhances gender parity in all areas of political decision-making came after Zimbabwe President Emmerson Mnangagwa and his cabinet offered their full support and approval of a 30% women's quota at the local level. This follows the first ever Women Councillors Indaba convened by Zimbabwe Local Government Authority (ZiLGA), Women in Local Government Forum (WILGF) in partnership with Gender Links (GL) in December 2020.[24]

Another positive gain from the amendments is the support for the representation of women with disabilities in parliament. Coupled with the new National Disability Policy launched in June 2021, the move to increase representation of women with disabilities in parliament is progressive.

[21] Zambia Daily Mail, Women's movement nods support for Article 47.2 of Bill 10,http://www.daily-mail.co.zm/womens-movement-nods-support-for-article-47-2-of-bill-10/, accessed 28 June 2021.
[22] Veritas, Constitution Watch 1/2021 -Constitution Amendment No. 2 Fast-tracked with Unconstitutional Amendments, http://www.veritaszim.net/node/4929, accessed 28 June 2021.
[23] 'SADC Gender Protocol 2020 Barometer Chapter 7 Harmful Practices', https://genderlinks.org.za/wp-content/uploads/2020/08/Chap7-Baro2020-HARMPRACrev2.pdf, accessed 24 June 2021.
[24] 'Zimbabwe: Local quota for women now in parliament', Gender Links, https://genderlinks.org.za/news/zimbabwe-local-quota-for-women-now-in-parliament/, accessed 7 July 2021.

Table 7.2: Key gender provisions of SADC Constitutions

| Country/Constitution | Angola | Botswana | Comoros | DRC | Eswatini | Lesotho | Madagascar |
|---|---|---|---|---|---|---|---|
| Provides for non-discrimination generally | Yes, Article 23 | Yes, Section 15 | Yes, Article 2 | Yes, Articles 11, 12 and 13 | Yes, Section 20 | Yes, Chapter II, Sections 1 and 18 | Yes, Article 8 |
| Provides for non-discrimination based on sex specifically | Yes, Article 21 | Yes, Section 3 | Yes, Article 2 | Yes, Articles 14, 36 and 45 | Yes, Section 20 | Yes, Section 18 | Yes |
| Provides for non-discrimination on the basis of sex and others e.g. marital status, pregnancy | Yes, Article 21 | Yes, Section 15 | Yes, Article 2 (sex only) | Yes, Articles 40 | Yes, Section 20 (2) | Yes, Section 18 | Yes, Article 8 |
| Provides for the promotion of gender equality | Yes, Articles 21 and 35 | No | Yes, Articles 3, 34, 38, 61 | Yes, Article 14 | Yes, Section 28 | Yes, Chapter III, Sections 26 and 30 | Yes |
| Has other provisions that relate to gender equality | Yes, Articles 36 and 77 | No | Yes, Articles 34, 38, 61 | Yes, Article 16 | Yes, Section 28 | Yes, Section 26 | Yes, Article 17 |
| Has claw back clauses | No | Yes, Section 15 | No | No | Yes, Section 20 | Yes, Section 18 | No |
| Addresses contradictions between the constitution, laws and practices | Yes, Article 239 | No | No | No | Yes, Section 2 and Article 20 | Yes, Section 18 | Yes, Article 160 |

| Malawi | Mauritius | Mozambique | Namibia | Seychelles | South Africa | Tanzania | Zambia | Zimbabwe |
|---|---|---|---|---|---|---|---|---|
| Yes, Section 20 | Yes, Article 3 | Yes, Article 35 | Yes, Article 10 | Yes, Article 27 | Yes, Chapter 1 | Yes, Article 13 | Yes, Article 23 | Equality and Non-Discrimination Section in the Declaration of Rights |
| Yes, Article 20 | Yes, Section 16 | Yes, Article 36 | Yes, Article 10 | No | Yes, Chapter 2, Section 9 | Yes, Article 9 | Yes, Article 23 | Section 23, Declaration of Rights |
| Yes, Sections 13 and 20 | Yes, Section 16 | Yes, Article 39 | Yes, Article 14 | Yes, Article 30 | Yes, Section 9 | Yes, Article 16 | Yes, Article 23 | Section 23, Declaration of Rights |
| Yes, Article 13 | Yes, Article 16 | Yes, Article 120 | Yes, Article 95 | No | Yes, Section 9 | Yes, Article 66 | Yes, 231 | Gender equality a Founding Value and Principles; gender balance a National Objective |
| Yes, Sections 19 and 18 | No | Yes, decrimina-lisation of homo-sexuality and termination of pregnancy | Yes, Article 8 | No | Yes, Section 12 | Yes, Article 13 | Yes, Articles 45, 69 and 231 | The Declaration of Rights in the new Constitution has been expanded to include equality and non-discrimination |
| Yes, Section 26 | Yes, Section 16 | No | No | No | No | No | No | The new Constitution invalidates customary law and practices that infringe on women's rights |
| Yes, Article 5 | No | Yes, Article 143 | Yes, Article 19 | Yes, Article 5 | Yes, Chapter 7, Sections 15 and 30 | Yes, Article 30 | Yes, Article1(1) | Lawmakers began a law review and reform process following the 2013 elections, but progress has been slow in achieving alignment |

*Source: Gender Links.*

# Access to justice

**Article 7:** Equality in accessing justice

1. State parties shall put in place legislative and other measures which promote and ensure the practical realisation of equality for women. These measures shall ensure:

• Equality in the treatment of women in judicial and quasi-judicial proceedings, or similar proceedings, including customary and traditional courts and national reconciliation processes;

• Equal legal status and capacity in civil and customary law; including, amongst other things, full contractual rights, the right to acquire and hold rights in property, the right to equal inheritance, and the right to secure credit;

• The encouragement of all public and private institutions to enable women to exercise their legal capacity;

• Positive and practical measures to ensure equality for women as complainants in the criminal justice system;

• The provision of educational programmes to address gender bias and stereotypes and promote equality for women in the legal systems;

• That women have equitable representation on, and participation in, all courts, including traditional courts, alternative dispute resolution mechanisms and local community courts; and

• Accessible and affordable legal services for women.

African experts define access to justice as "the ability of people to seek and obtain a remedy through formal or informal institutions of justice, and in conformity with human rights standards."[25] For most women in the region and especially those living in the rural areas, access to the courts remains a challenge. A 2015 report in Malawi for example, observed that the courts that are near the poor are often poorly resourced, poorly managed and offer a limited range of services.[26] For access to justice to be meaningful, availability of courts is not sufficient. The quality of service rendered at the courts is of paramount importance. This ensures that the law can enforce people's rights and responsibilities.

Despite customary courts being closer and more accessible, many women still face challenges in utilising these courts owing to their discriminatory customary laws and practices. In some instances, women are required to be accompanied by a man for a hearing. This makes it difficult for women and girls to testify in cases such as marital rape or sexual assault. To ensure that women get a fair deal these courts require remodelling. The South African National Assembly

Access to courts remains a persistent challenge, especially for those women living in the rural areas

[25] Justice in Transition and the Complexities of Access, ACCORD, https://www.accord.org.za/conflict-trends/justice-transition-complexities-access/, accessed 28 June 2021.
[26] Sustainable Development Goal 16 and access to justice: The case of lay magistrates in Malawi, available at: https://www.southernafricalitigationcentre.org/wp-content/uploads/2017/08/GOAL-16-Book-Ntaba2.pdf accessed 24 July 2021.

has paused on passing the 2017 Traditional Courts Bill to obtain legal opinion on the constitutionality of failing to provide people with a right to opt out of proceedings in traditional courts.[27]



Amanzimtoti participate in a march during the 16 days activism campaign in 2020, Amanzimtoti, South Africa..
Photo: Loraine Odendaal

COVID-19 has resulted in some courts closing or reducing times of hearings compromising fairness. This has left many women facing enormous challenges in accessing justice. To improve access to justice, Botswana has responded by creating specialised courts to expedite gender based violence cases.

## Justice and women

Justice and Women (JAW) is a non-governmental organisation working in the rural parts of KwaZulu-Natal (KZN), South Africa. It started in Pietermaritzburg as a project run in partnership by two non-governmental organisations, Family and Marriage Society of South Africa (FAMSA) and Black Sash.

JAW works to support women to access justice particularly for maintenance and domestic violence orders through the Pietermaritzburg Magistrates Court. In 2011, in response to funding constraints, JAW set up a project in Mthonjaneni/Melmoth in the King Cetshwayo District of KZN. The rural area around Melmoth is part of the Ingonyama Trust and King Zwelithini is the sole beneficiary. He entrusts the land to Traditional leaders, who manage communities according to customary values and practices. The JAW project sought to empower women in these areas to access their rights to equality, freedom from violence and bodily integrity.

As a grantee of the Women's Voice and Leadership South Africa (WVLSA), JAW uses an evidence based model to create awareness of the root causes and consequences of power imbalances between men and women. This project takes on board community members, and equips them with knowledge and skills to identify their own gendered attitudes, abusive behaviors and work towards changing these. The process motivates them to reach out to others within their circle of influence and support them to undergo the same journey. The model builds capacity to address any imbalances of power in traditional communities surrounding KZN.

*Source: Women's Voice and Leadership South Africa*[28]

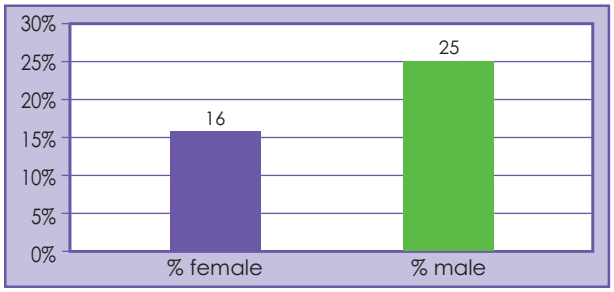
[27] South Africa's efforts to fix traditional courts hit a snag, The Conversation, http://theconversation.com/south-africas-efforts-to-fix-traditional-courts-hit-a-snag-162356, accessed 28 June 2021.
[28] 'Justice and Women', Women's Voice and Leadership SA, http://www.wvlsa.org.za/our-grantees/my-core-grantees/justice-and-women/, accessed 7 July 2021.

# Marriage and family rights

**Article 8**: Marriage and family rights
1. State parties enact and adopt appropriate legislative, administrative, and other measures to ensure that women and men enjoy equal rights in marriage and are regarded as equal partners in marriage.
2. Legislation on marriage shall therefore ensure that:
(a) No person under the age of 18 shall marry;
(b) Every marriage takes place with free and full consent of both parties;
(c) Every marriage including civil, religious, traditional, or customary, is registered in accordance with national laws; and
(d) During the subsistence of their marriage the parties shall have reciprocal rights and duties towards their children with the best interest of the children always being paramount.
3. State parties shall enact and adopt appropriate legislative and other measures to ensure that, where spouses separate, divorce, or have their marriage annulled:
(a) They shall have reciprocal rights and duties towards their children with the best interest of the children always being paramount; and
(b) They shall, subject to the choice of any marriage regime or marriage contract, have equitable share of property acquired during their relationship.
4. States parties shall put in place legislative and other measures to ensure that parents honour their duty of care towards their children, and maintenance orders are enforced.
5. States parties shall put in place legislative provisions which ensure that married women and men have the right to choose whether to retain their nationality or acquire their spouse's nationality.

Laws and practices relating to marriage in SADC are heavily influenced by patriarchal norms that view the man as the head of the family, with everything within that family, including children, belonging to the man. The Gender Attitude Survey asked how respondents reacted to the statement: "*Children belong to a man and his family.*"

Figure 7.1: Children belong to a man and his family




*Source: Gender Links Attitudes Survey 2019-2021.*

Figure 7.1 shows that a quarter of men and 16% of women in SADC agree or strongly agree that children belong to a man and his family. This has profound implications for household decision-making and the dissolution of marriages despite Article 8 of the SADC Protocol on Gender and Development requiring that both women and men to have reciprocal rights and duties towards their children with the best interest of the children always being paramount.



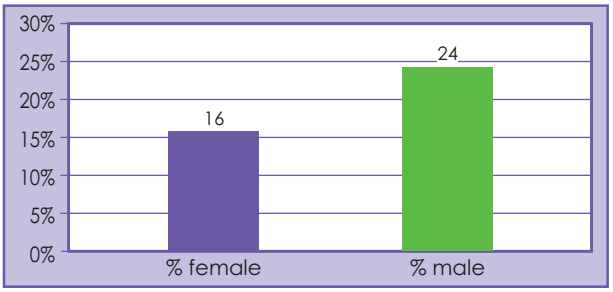
The proposed **Zimbabwe** Marriages Bill 2019 seeks to harmonise all types of marriages under one Act. There are currently three types of marriages in Zimbabwe: civil marriages, registered customary marriages, and unregistered customary law unions. The regimes come with different hierarchical and often

discriminatory rights during a marriage, at divorce, and in terms of inheritance.

Civil marriage has the most rights and unregistered customary law union the least rights. The proposed Marriage Bill 2019 has now gone through its third reading in parliament amid stormy debates. The recognition of civil partnerships as a type of union for realising justice between the parties upon the dissolution of the relationship has re-ignited the issue of property rights: a central issue in any marriage whether civil or customary. The proposed Marriages Bill bans same-sex marriages excluding the LGBTIQ community from this harmonisation of laws to remove discrimination in marriage.

An unintended consequence of recognising civil partnerships is the potential increase in formalised polygamous unions, which could undercut women's rights. Traditional leaders opposed a clause stating that the payment of bride price could not prevent marriage between two consenting adults, if they satisfy other requirements of the law. The chiefs maintain that the payment of lobola is a cornerstone of marriage in customary unions in Zimbabwe.

Figure 7.2: If a man has paid Lobola (bride price) for his wife, he owns her



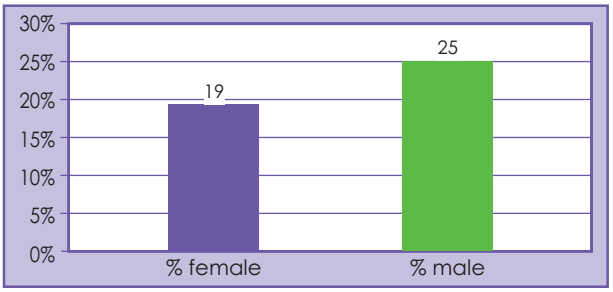

*Source: Gender Links Attitudes Survey 2019-2021.*

Figure 7.2 shows that in response to the statement: "*If a man has paid Lobola (bride price) for his wife, he owns her*" nearly one quarter of the men in the sample supported the statement, compared to 16% of women. This shows that although attitudes towards practices such as bride price are changing, a significant proportion of the population still support such practices in the SADC region.

# *Polygamy*

Although polygamy is slowly dying out in Southern Africa, it is still practiced in some traditional settings. Polygamy became highly visible during the tenure of the openly polygamous President Jacob Zuma in South Africa from 2009 to 2018. Polygamy is self-evidently discriminatory against women because while a man can marry many wives, a woman cannot marry many husbands. Critics of polygamy point out that women in such relationships are at increased risk of exposure to HIV and AIDS. Polygynous relationships have also been associated with relatively poor child health and poor economic independence for the women. Wives in such settings often have very little access to their husbands' estate with the possible exception of the first wife.

Figure 7.3: A man can marry as many wives as he wants but a woman can only marry one man




*Source: Gender Links Attitudes Survey 2019-2021.*

Figure 7.3 from the regional Gender Attitude Survey shows that 25% men (compared to 19% women) agree or strongly agree with the statement that "a man can marry as many wives as he wants but a woman can only marry one man."

In a controversial move, the **South Africa**n Department of Home Affairs (DHA) has put forward a green paper[29] that details proposed alignment of the country's marriage laws to the constitution. Section 4 of the green paper addresses polygamous marriages. The Recognition of Customary Marriages Act 120 of 1998 (RCMA) provides for the conclusion of polygamous marriages between a man and more than one women. South Africa is seeking to make this "fair" by providing for women to be able to marry several husbands. The obvious flaw in the argument is that polyandry is highly unlikely to ever happen in reality, even if this may appear to be "fair" on paper.

Speaking on Newzroom Afrika, a television news channel in South Africa, the Chief Director of Policy at the Department of Home Affairs, Sihle Mithiyane said the government is still to consider the green paper. He added that it is an opportune time for the nation to debate the matter. Mithiyane noted that traditional leaders in the country overwhelmingly agree that polygamy is for men. He added that some religious leaders support polygamy while others reject it totally.

According to the DHA, the South African law does not recognise the right of a woman to take more than one husband, otherwise known as Polyandry, therefore in this view, the Marriage Act is discriminatory and does not promote gender equality. The department argues that to protect the rights of women in polyandrous relationships, there is need to align the Marriages Act with Section 9 of the Constitution. Since the publication of the Green paper, there has been intense debate around whether South Africa is ready for polyandry.

Polyamory activists (those that advocate for open and non-monogamous relationships) argue that the proposals by the DHA are progressive. Elizabeth Reitif a member of Polyamory South Africa says: "it's high time this happened... and maybe eventually this will come around to polyamorous marriages because polygamy and polyamory are actually quite contradictory ways of life, while it actually might seem the same on the surface."[30] In her view also, the reason why most men are vocal on the issue is that polyandry challenges tenets that are at the heart of patriarchy namely male dominance and control over women's sexuality. Protagonists argue that women's agency and the ownership of property are also improved.

Most gender activists regard the move as retrogressive and suggest that it affects the fragile gains made in championing women's rights in the country. Speaking on the South African Broadcasting Corporation (SABC) News, GL Policy and Movement Building manager Shamiso Chigorimbo said polyandrous relationships do not give agency to women in a patriarchal society where practices like lobola still occur. She argues that polygamous marriages should be abolished.

# Child marriages






**SDGs 5.3**: Eliminate all harmful practices, such as child, early, and forced marriage and female genital mutilation.
**CEDAW Article 16(b)** The same right freely to choose a spouse and to enter into marriage only with their free and full consent; Article 16 (2) The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation,

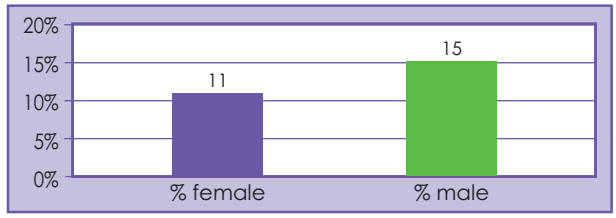
[29] Department of Home Affairs - Know Your Green Paper on Marriages in South Africa, http://www.dha.gov.za/index.php/notices/1449-know-your-green-paper-on-marriages-in-south-africa, accessed 21 June 2021.
[30] South Africa government considers new marriage law that recognises women with multiple husbands, CapeTalk, https://www.capetalk.co.za/articles/416021/sa-govt-considers-new-marriage-law-that-could-see-women-have-multiple-husbands, accessed 21 June 2021.

shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.
**ICPD 6.11**: Countries should create a socio-economic environment conducive to the elimination of all child marriages and other unions as a matter of urgency and should discourage early marriage.
**Maputo Protocol Article 6(a)** no marriage shall take place without the free and full consent of both parties; Article 6(b) the minimum age of marriage for women shall be 18 years.
**SADC Protocol Article 8.2a**: No person under the age of 18 shall marry.
**SADC UN CSW RESOLUTION** calls upon all governments to enact and intensify the implementation of laws, policies, and strategies to eliminate all forms of gender-based violence and discrimination against women and girls in the public and private spheres and harmful practices, such as child, early, and forced marriage, female genital mutilation and trafficking in persons, and ensure the full engagement of men and boys in order to reduce the vulnerability of women and girls to HIV.
**The SADC Model Law on Child Marriage** defines "child marriage" as "a statutory or customary union in which one party is a child or both of the parties are children.[31] The same Model Law defines a child as any person under the age of 18 years in line with other international human rights instruments.[32]

# Poverty and religion are the main drivers of child marriage

Child marriage, defined as marriage of children under 18 years of age is a global problem and a human rights violation affecting millions of children and especially girls.[33] Statistics show that levels of child marriage are high in Sub -Saharan Africa where 35% of young women are married before the age of 18.[34] Poverty and religion are the main drivers of child marriage. Many families marry off their girl children early to avoid poverty. Feeding, clothing, and educating girls is often considered expensive. However, research shows that the social and health consequences of child marriage are devastating. It affects children's sexual and reproductive health and rights, exposing them to STI and HIV infection because hymeneal, vaginal, or cervical lacerations increase the transmission rate. Many of these young girls lose their virginity to HIV-infected husbands.[35]

Figure 7.4: Families should spend less money on the education of daughters as on the education of sons




*Source: Gender Links Attitudes Survey 2019-2021.*

Figure 7.4 shows that 15% of men and 11% of women in SADC believe that families should spend less money on the education of girls than that of the boy child. It is encouraging that the majority of respondents did not subscribe to this view. However, the preference for boys' education over girls is an indicator of the kinds of attitudes that fuel early marriages of the girl child. Child marriage also results in girl children abandoning school to assume new roles as wives and mothers. This has dire health and financial consequences.

[31] 'SADC Model Law on eradicating Child Marriage and Protecting Children already in Marriage', https://www.girlsnotbrides.org/documents/484/model-law-on-eradicating-child-marriage-and-protecting-children-already-in-marriage.pdf, accessed 28 June 2021.
[32] Article 1 of the Convention on the Rights of the Child defines a child as every human being below the age of 18 years
[33] UNICEF Child marriage, https://data.unicef.org/topic/child-protection/child-marriage/, accessed 19 June 2021.
[34] UNICEF Child marriage, https://data.unicef.org/topic/child-protection/child-marriage/, accessed 19 June 2021.
[35] Nour, N. M. (2006) 'Health Consequences of Child Marriage in Africa', Emerging Infectious Diseases, 12(11), pp. 1644-1649. doi: 10.3201/eid1211.060510.

# COVID-19 and child marriages

Child rights experts at Plan International and the United Nations Education Scientific and Cultural Organisation (UNESCO) say COVID-19 forced school closures in 185 countries. This has the potential for increased drop-out rates which will "disproportionately affect adolescent girls, further entrench gender gaps in education and lead to increased risk of sexual exploitation, early pregnancy and early and forced marriage'[36].

"While many girls will continue with their education once the school gates re-open, others will never return to school. Education responses must prioritise the needs of adolescent girls' at the risk of reversing 20 years of gains made for girls' education," writes Stefania Giannini, UNESCO Assistant Director-General for Education, and Anne-Birgitte Albrectsen, Chief Executive Officer, Plan International[37].



## COVID-19 and child marriages in Malawi

Malawi closed schools in 2020 as the pandemic raged through the country. In some cases, parents and guardians have resorted to marrying off girls to reduce financial pressure on their own households. Many families are struggling to make ends meet after losing their incomes because of the COVID-19 lockdown.

In Katchitsa village, the elders worry the school closures are affecting efforts to end child marriage. They want the Malawian government to implement working measures to re-open schools and protect young women from entering marriages too soon. "About thirteen girls from my area have married during this period," village representative Samuel Mtenje said. "Stakeholders should lobby the government to put up these measures as a way of serving the girls."[38]

According to Henderson Nazombe, a teacher at Ntepuwa Primary School in Mulanje, most learners in the area get married because of culture and lack of motivation. He says the closure of schools has worsened the situation.

"Most young people are married off just after writing their end of primary examination and now that schools have closed, they have just taken advantage. Maybe there should have had something to keep them busy," said Nazombe, whose youngest students are aged 13. "In my school, there haven't been any initiatives to help or engage the students during the closure. It might be too late but charities and government need to hold awareness campaigns and instil hope in the students. Some of them think that it has closed forever," he said adding that even some boy students are also marrying. He ruled out an option of online teaching, or using radio lessons to reach the students saying that most of the families are too poor to afford and maintain a radio receiver. Moreover, some parents are not literate to take the learners through the lessons, he said.

Maggie Kathewera Banda, Director for Women Legal Resource Centre (WOLREC), a local charity, has received reports of the increase of pregnancies and child marriages across the country after the schools were closed in March this year. She added that there has been an increase in gender based violence targeting young girls.

"Girls who were in boarding schools were protected from would-be-perpetrators. Since

[38] Deutsche Welle (2020) Fears grow of a surge in child marriages in Malawi, https://www.dw.com/en/fears-grow-of-a-surge-in-child-marriages-in-malawi/a-54009682, accessed 26 June 2021.

they are now confined they have become more vulnerable," she said adding: "And on the economic side, you find that most families that were doing business have lost income and because of that they can't cater for their families and this is forcing some girls to get into relationships to get support."

Stephano Akuzike Joseth, Blantyre District Social Welfare Officer said apart from child marriages and pregnancies, young people have adopted some bad habits including gambling and patronising video shows, whose content of the movies may not befit their age. "We're seeing an increase in cases of child marriages, defilement and pregnancies. We get reports on monthly basis and we're able to measure through our Child Protection Case Management. Starting from March this year, we have seen a significant rise of these cases which can be attributed to closure of schools due to COVID-19," Joseth said.

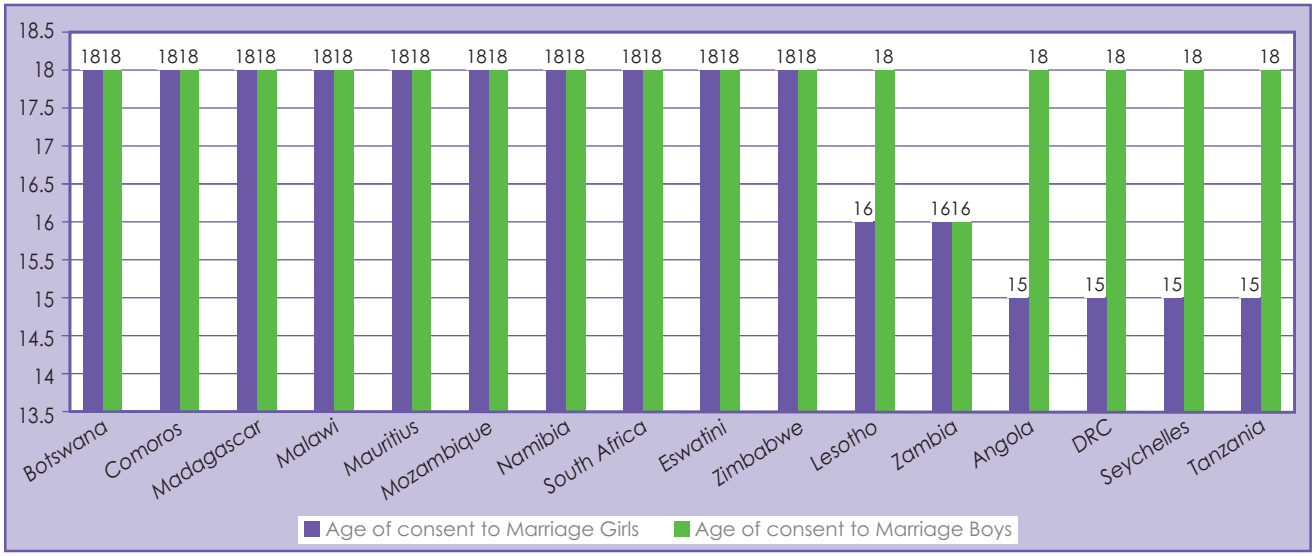
His office is conducting awareness campaigns through child protection workers. They are trying to reach out to community leaders who play a significant role in protecting the children. "I think most of the awareness that we've had was to do with corona virus and social distancing but we also need to look at how the community can protect children in this atmosphere and that's where our focus is right now."

*Source: Charles Pensulo, Gender Links News Service Gender and COVID-19 series*[39]

# Minimum age of marriage

The SADC Model law on Child marriage defines "child marriage" as "a statutory or customary union in which one party is a child or both of the parties are children."[40] The same model Law defines a child as any person under the age of 18 years in line with other international human rights instruments. In line with the SDG 5.3, The Maputo declaration, SADC Protocol Article 8.2a, and the SADC Model law on Child Marriage, most SADC countries have set the minimum age of consent to marriage at 18 years but some are yet to review the minimum age limits.

Figure 7.5: Age of consent to marriage for girls and boys by country




*Source: Gender Links, SADC SRHR Laws and Policies Audit 2019.*

[39] Pensulo, C. (2020) 'School closure exposing girls to child marriage', Gender Links, https://genderlinks.org.za/news/girls-exposed-to-child-marriages-as-schools-remain-closed/, accessed 26 June 2021.
[40] 'SADC Model Law on eradicating Child Marriage and Protecting Children already in Marriage', https://www.girlsnotbrides.org/documents/484/model-law-on-eradicating-child-marriage-and-protecting-children-already-in-marriage.pdf, accessed 28 June 2021.

Figure 7.5 shows that most SADC countries have set the age of consent to marriage at 18. Six countries - Angola, DRC, Lesotho, Seychelles, Tanzania, and Zambia - have lower ages of consent to marriage for girls, boys, or both. The lower ages of consent are not in line with regional expectations for countries to domesticate the SADC Model Law on Child Marriages that seeks to end all forms of child marriage.



Article 24 of the **Angola**n Family Code[41] is an example of the exceptions found in some SADC laws. It states that "Only those over 18 years old can marry." However, the law goes on to say that, "Exceptionally, a man who has completed 16 years and a woman who has completed 15 years may be authorised to marry when, considering the circumstances of the case and taking into account the interests of minors, marriage is the best solution." Such authorisation "will be granted by the parents, guardians or whoever holds the responsibility, and may be supplied by the Court, after hearing the opinion of the Family Council, when the non-authorization proves unjustified".



## Mauritius: Legislation bolsters long-standing fight to end child marriage

In December 2020, the Mauritian government gazetted the Children's Act of 2020.[42] This will increase the legal age of marriage from 16 to 18 years old, effectively ending child marriages.

The Act is a victory for the movement 'Sitwayin Angaze', including GL Mauritius, Young Queer Alliance, Media Watch Organisation and SOS Femmes, all operating under the umbrella of the SADC Gender Protocol Alliance.

Mauritius did not sign the SADC Protocol on Gender and Development because the civil code of the country allows children to marry below the age 18. The 2020 Voice and Choice SRHR Barometer found that Mauritius is among eight SADC countries in which "more than half of women between ages 15 and 49 do not have a say in decision-making about contraceptive use".[43]

Section two of the Children's Bill prohibits the marriage of children under the age of 18. As part of consequential amendments, Section 73(1)(b)(ii) of the same Act also stipulates that "no religious marriage shall be celebrated unless the parties to the religious marriage are aged 18 or above". Part III of the Act prohibits any person to marry or cause a child to marry civilly or religiously.




Ending child marriage represents a key component of SRHR in Africa, Mauritius.

Since the Act aims to protect all children, child or early marriages will be monitored more closely as it will constitute a legal offence. According to official statistics, 705 girls, aged 15 to 19 years, were married between the years 2015 to 2017 in Mauritius. The Children's Bill is a huge step towards the protection and safeguarding of children in Mauritius.

[41] 'Angola National Legislation', https://www.icmec.org/wp-content/uploads/2018/07/ICMEC-Angola-National-Legislation.pdf, accessed 23 June 2021.
[42] Government of Mauritius, 'The Children's Act No 13 of 2020', https://mauritiusassembly.govmu.org/Pages/Acts/Acts2020.aspx, accessed 24 June 2021
[43] Lowe Morna, C., Rama, K. and Chigorimbo, S. (eds) (2020) SADC Gender Protocol 2020 Barometer. 13th edn. Johannesburg: Gender Links. Available at: https://genderlinks.org.za/what-we-do/sadc-gender-protocol/sadc-protocol-barometer/sadc-gender-protocol-barometer-2020/, accessed 18 June 2021

Key changes include the protection of young children from early child marriage based on parental consent due to harmful religious and cultural customs. In 2018, Gender Links and the Southern African Gender Protocol Alliance went to CEDAW with a shadow report[44] emphasising that the age of marriages both civil and religious should be 18.[45]

The Act establishes the Children Coordinating Panel, a body to oversee the implementation of the Act and deter the public from forcing children into marrying early. Furthermore, advocacy and awareness campaigns on child marriage can change patriarchal ideologies and cultural or religious beliefs.

According to statistics from the Ministry of Health, the infant mortality rate has risen to 14.3 per 1000 live births while maternal deaths stood at 0.66 per 1000 live births. Extensive discussions of the Children's Bill aim to make parents and children aware of the adverse impacts of early marriage. A legal ban on child marriage will ultimately aim to protect every child under the age of 18. The Children's Act will create awareness about child marriages in general.

With governmental priorities shifting towards alleviating the toll on the healthcare system and immediate COVID-19 relief, the vaccination programme and COVID-19 related Bills are taking precedence. Sustained efforts to end child marriage through awareness campaigns and advocacy need to be sustained. As noted in the 2020 SADC Gender Protocol Barometer, often the same patriarchal systems and individuals that drive traditional harmful practices such as child marriage are key decision-makers in religious settings and therefore make similar decisions and dictations in both settings.[46]

*Source: Anushka Virahsawmy, Mauritius Alliance and COE, SRHR Most Significant Result 2021*[47]



Key proposals put forward by the **South Africa**n Department of Home Affairs in a Green paper[48] submitted to cabinet seek to remove the inconsistencies and exceptions that exist regarding the legal age of marriage. Currently, whilst the legal age of marriage is 18, a minor can get married with the consent of his or her parents. The Green paper proposes that no person under the age of 18 be allowed to marry. In addition, where the presence of both spouses is not required for religious marriages such as Hindu and Muslim marriages, the new proposal suggests that no marriage take place without the full and free consent of the intending spouses. The envisaged reforms are in line with global and regional child marriage laws that seek to have a uniform age of marriage at 18 without any exceptions. This provision will give protection to minors under the age of 18 and women in religious marriages.[49]



There is little progress in amending the Law of Marriage Act in **Tanzania**.[50] It is now two years since the Court of Appeal upheld a 2016 High Court judgment that outlawed child marriage and declared it unconstitutional.[51] Specifically, the upper court gave the government a one year ultimatum to amend sections 13 and 17 of the Marriage Act that allows a girl as young as 15 to be married with parental consent and a 14 year old girl to marry with court consent. Child rights activists in Tanzania worry that continued delays in closing the legal loophole leaves room for discrimination and marginalisation of girls and women.

[44] Treaty bodies Sessions, Office of the United Nations High Commissioner for Human Rights (OHCHR), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?Lang=en&SessionID=1172, accessed 24 July 2021
[45] Mauritius : #ChildnotBride - The fight is on to end Child Marriage in Mauritius, Gender Links, https://genderlinks.org.za/what-we-do/sadc-gender-protocol/mauritius/mauritius-childnotbride-the-fight-is-on-to-end-child-marriage-in-mauritius/, accessed 24 July 2021
[46] 'SADC Gender Protocol 2020 Barometer Chapter 7 Harmful Practices', https://genderlinks.org.za/wp-content/uploads/2020/08/Chap7-Baro2020-HARMPRACrev2.pdf, accessed 24 June 2021.
[47] Mauritius Alliance and COE SRHR Most Significant Result 2021, Gender Links, https://genderlinks.sharepoint.com/:w:/r/programmes/alliance/_layouts/15/Doc.aspx?sourcedoc=%7B268E2579-884C-4773-B5CC-0D05C8CBE702%7D&file=Mauritius_ALLIANCEANDCOEMSR_Preetima072021.docx&action=default&mobileredirect=true, accessed 8 July 2021.
[48] Government of Mauritius, 'The Children's Act No 13 of 2020', https://mauritiusassembly.govmu.org/Pages/Acts/Acts2020.aspx, accessed 24 June 2021
[49] Department of Home Affairs - Know Your Green Paper on Marriages in South Africa, http://www.dha.gov.za/index.php/notices/1449-know-your-green-paper-on-marriages-in-south-africa, accessed 21 June 2021.
[50] Msichana Initiative (2021) 'Ending child marriage: Stakeholders' collective efforts in reviewing of the Law of the Marriage Act.', February, https://msichana.or.tz/ending-child-marriage-stakeholders-collective-efforts-in-reviewing-of-the-law-of-the-marriage-act/, accessed 23 June 2021.
[51] The Attorney General v Rebeca Z, Gyumi, Civil Appeal Number 204 of 2017, October 2019.

# Advocacy on ending child marriages

The SADC Gender Protocol obliges state parties to introduce and support gender sensitisation and public awareness programmes aimed at changing behaviours and eradicating GBV.[52]

Various stakeholders are working in Malawi to end child marriages. As the cases study below will show, there is progress in challenging gender norms that perpetuate harmful practices.



## Malawi: Local youth organization saves girls from early marriages

Sifati Mustafa, 15, an orphan in Machinga district is a victim of COVID-19 induced early marriage as her uncle married her off and her three siblings all under-aged. "My uncle found men and married us off. I could not believe it. Perhaps he had problems taking care of all of us. Since he depends on rain-fed agriculture, life was tough; he struggles to harvest enough food for the whole year. We had no choice but to comply with his idea of marrying us off. It seems he collected some money from these men," says Mustafa.

COVID-19 shattered the school calendar, isolating learners from friends, denying them network support. Pandemic-related travels restrictions and physical distancing have also made it difficult for girls to access health care, social services and community support that protect them from child marriages, unwanted pregnancies and Gender Based Violence (GBV).

Through the UN Spotlight Initiative, Forum for Youth and Development (FOYODE) is implementing a project aimed at eliminating violence among women with an emphasis of transforming the social norms that perpetuate this violence. FOYODE is also implementing a programme to bring back school girls from early and child marriages.

To date, FOYODE has annulled 108 chid marriages in three Traditional Authorities (T/As), Ngokwe, Nkoola and Nyambi in Machinga district. Out of these annulled marriages, 68 girls are now back in school. The other girls are expected to go back to school next term. This initiative has been done in conjunction with chiefs in all the T/As, community facilitators and other stakeholders working for the betterment of women and girls.[53]

The programme is already making an impact by engaging community influencers such as chiefs, legislators and religious leaders to take a leading role in ending child and early marriages. Chiefs and faith leaders are taking active role in ending harmful practices. Group Village Headman Kwacha in the district managed to rescue three girls who were married off.

"When I heard that Sifati and her sister`s marriages, I immediately reported the matter to the police. The Police Victim Support Unit (VSU) investigated the matter and arrested the uncle", says Kwacha.

According to UNICEF (2013) roughly 700 million women alive today were married before the age 18. Sadly, Malawi is among the top 20 countries with the highest percentages of

[52] SADC Protocol on Gender and Development, Article 21 (2)
[53] Macho, M. J. T. (2021) 'Gender Equality: A Catalytic Accelerator for Agenda 2030', Spotlight Initiative Bulletin, 2, p. 20.

women aged 20-24 married before they reached ages of 15 and 18. Poverty, patriarchal ideals of society, long distances to and from school and harmful cultural practices (that regard menstruation as a sign of womanhood), are major contributors to child marriages.

These barriers prevent young girls from attaining their goals and dreams. This also retards national development as the country spends resources to mitigate impacts of child marriages such as high population growth, fistula, HIV/AIDS and Violence Against Women and Girls (VAWG).

COVID-19 has pushed these figures higher in Malawi. Lockdown has forced even more girls into early marriages to cope with economic hardships of the pandemic. According to the Ministry of Education, during the 2019/20 academic year, 4,092 learners (3, 923 girls and 169 boys) dropped out of school due to early pregnancies and marriages. Over one quarter (1,106) of the girls got married.

FOYODE uses the "barbershop toolkit" which puts men and boys at the centre stage by creating a space for them to participate in the conversation of ending inequalities and be part of the solution. Barbershop events encourage men and boys to become actively engaged in promoting gender equality by better understanding how inequality limits the ability of individuals, businesses and communities to reach their full human, economic and social potential.

The long-term goal is to have more girls in school and ensure that communities appreciate the need for more girls to complete their education and become active citizens at family, community and national levels. By engaging community leaders to take ownership of social change and become part of the solution a lot of people will comply hence long-term impact.

*Source: Joseph Kayira, Malawi Alliance and COE, SRHR Most Significant Result 2021*[54]

# Persons with disabilities





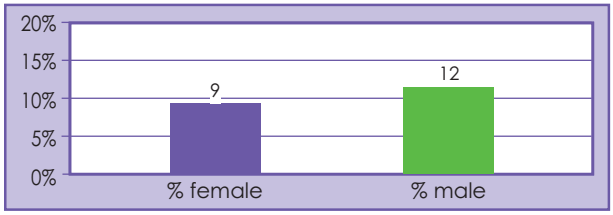

**Article 9**: Persons with disabilities: State parties shall, in accordance with the SADC Protocol on Health and other regional and international instruments relating to the protection and welfare of people with disabilities to which member states are party, adopt legislation and related measures to protect persons with disabilities that take into account their particular vulnerabilities.

**Seven SDG targets** specifically mention persons with disabilities (education, accessible schools, employment, accessible public spaces and transport, empowerment and inclusion, and data disaggregation).[55]

People with disabilities face a myriad of challenges including lack of access to SRHR information, goods, and services. Additionally, the ability to make decisions about one's own body and life, are rights often overlooked for women and girls with disabilities as compared to other groups. Many are without sufficient government support as they face exclusion from programmes that are relevant for them.

[54] Malawi Alliance and COE SRHR Most Significant Result 2021, Gender Links, https://genderlinks.sharepoint.com/:w:/r/programmes/alliance/_layouts/15/Doc.aspx?sourcedoc=%7B2F53F6CE-7D30-4B0C-8FD2-5C79B888A2D9%7D&file=Malawi_KAYIRA_JOSEPH_ALLIANCEMSRHarmfulPractices.docx&action=default&mobileredirect=true, accessed 8 July 2021.
[55] United Nations Convention on the Rights of Persons with Disabilities.

Figure 7.6: Disabled boys should have priority over disabled girls to special needs facilities and services




*Source: Gender Links Attitudes Survey 2019-2021.*

Figure 7.6 shows regional gender differences regarding the welfare of children living with disabilities. Twelve percent of male respondents, compared to 9% female respondents agree or strongly agree with the statement that "disabled boys should have priority over disabled girls to special needs facilities and services". While it is heartening that the majority of respondents disagreed with the statement, the findings show the attitudinal barriers that affect the inclusion of children especially girls with disabilities in accessing special needs facilities and services. According to UNICEF widespread under-estimation of the abilities and potential of children with disabilities creates a vicious cycle of under expectation, under-achievement and low priority in the allocation of resources.[56]

A 2021 study by the UNFPA, and Women Enabled International (WEI) on the Impact of COVID-19 on people with disabilities notes that the COVID-19 pandemic brought harrowing experiences for many people with disabilities who required special care during the pandemic and in lockdown. For instance, interpreters were barred due to social distancing restrictions.[57] Such experiences limit the ability of women and girls with disabilities to access justice.



## South Africa: Concerns over the plight of people living with disabilities

The topic of coronavirus vaccines is dominating almost every conversation at the moment. Anti-vaxxers and COVID-19 denialists have been disputing basic vaccine science, disseminating damaging fake information on social media platforms. Others, among them healthy older people who qualify for immediate access, are postponing vaccination to "wait and see", stating they are "undecided".

Those living with disabilities and serious underlying conditions do not have such luxury of choice, and for many it is much more of a life-and-death matter. Since April 2021, people over 60 in South Africa have been permitted to register for COVID-19 vaccinations, and yet, only half of the estimated number of senior citizens have registered[58], and fewer have received the vaccine. From 1 July 2021, those over 50 have also been invited and earlier in June, the government approved the vaccination roll-out to be extended to journalists[59] next, while higher education minister Blade Nzimande announced that the vaccination of university staff[60] might also start soon.

But what of that most marginalised sector of the global population and our country, people with disabilities?

[56] UNICEF (2007) Promoting the rights of children with disabilities (2007). Florence: Innocenti Research Centre (Innocenti digest, 13), https://www.un.org/esa/socdev/unyin/documents/children_disability_rights.pdf, accessed 15 July 2021
[57] UNFPA and Women Enabled International (2021) The Impact of COVID-19 on Women and Girls with disabilities, https://www.unfpa.org/featured-publication/impact-COVID-19-women-and-girls-disabilities, accessed 14 June 2021.
[58] Two months later, only half of over-60s have registered for their COVID-19 vaccinations, available at: https://www.businessinsider.co.za/only-half-of-south-africa-elderly-registered-for-vaccines-on-the-evds-2021-6, accessed 16 July 2021.
[59] Sanef welcomes government decision to vaccinate journalists, available at: https://www.polity.org.za/article/sanef-welcomes-govt-decision-to-vaccinate-journalists-2021-06-29, accessed 16 July 2021.
[60] 'Vaccination of university staff to start "soon" in South Africa' (2021) Research Professional News, 1 July. Available at: https://www.researchprofessionalnews.com/rr-news-africa-south-2021-7-vaccination-of-university-staff-to-start-soon-in-south-africa/, accessed 16 July 2021.

At least 12% and possibly as much as 20% of South Africa's population experience activity limitations[61]. Limitations include a spectrum of disabilities, such as complete or partial immobility, restricted communication, sensory deprivation, and psychosocial and neurological complications.

Some people have more than one impairment, increasing their inability to function optimally in society or even attend to their own basic needs. Many people with disabilities have weak immune systems and comorbidities, making them more susceptible to the coronavirus. In his monthly televised speeches to the nation during the pandemic, President Cyril Ramaphosa rarely acknowledges the plight of people with disabilities or shows compassion for their circumstances. He has voiced concern about gender-based violence, but not a word about those living with disabilities during COVID-19[62].

In his closing remarks to the Presidential Working Group on Disability (PWGD) on the International Day of Persons with Disabilities in 2020[63], Ramaphosa made statements about empowerment, employment, inclusion and protection of people with disabilities in South Africa. Yet, he failed to mention how best to serve them and address specific needs and challenges during the COVID-19 pandemic. He further failed to report on how the government was implementing the 2015-2030 Implementation Matrix[64] of the white paper on the rights of persons with disabilities, specifically Section 3.5 covering "protection during situations of risk and disaster". Subsection 3.5.3 is particularly relevant during a pandemic:

> *"Provide accessible emergency services: Municipal emergency services must put in place reasonable accommodation, support systems and trained emergency personnel to ensure equitable and immediate access to these services for persons with disabilities."*

But Section 3 has been neglected by the Department of Cooperative Governance and Traditional Affairs (COGTA) and its Minister Nkosazana Dlamini-Zuma, responsible for the Disaster Management Council and disaster regulations. COGTA documents state that people with disabilities are part of the population and, therefore, covered by all disaster regulations, implying that they don't need any special treatment.

However, many people with disabilities experience weakened immune systems and respiratory conditions. Such comorbidities profoundly affect those with conditions such as spinal injuries, congenital heart defects, osteogenesis imperfecta (a bone disorder), and Friedreich's ataxia (a movement disorder). They also negatively impact many other disabled people, making them, like the elderly, more vulnerable to COVID-19 infection and complications.

Disabled children do not escape the virus, and parents have a real fear of children contracting the virus.

Within months after the start of the 2020 lockdown, several reports highlighted how ill-prepared the National COVID-19 Command Council and its provincial agencies were to accommodate the diverse and specific needs of people with disabilities in our country.

A Stellenbosch University 2020 study[65] found that many disabled people could not access food parcels because of their immobility or the expenses of getting to the distribution points. There is still no official or sustained plan to distribute food parcels, medical supplies and other COVID-19 essentials to the homes of people with disabilities.

[61] Disability Analysis of the National Development Plan 2030, available at: http://www.women.gov.za/images/Disability-Analysis-of-the-National-Development-Plan-2030.pdf, accessed 15 July 2021
[62] Pandemic Takes Unique Toll on South Africa's Disabled, available at: https://www.voanews.com/COVID-19-pandemic/pandemic-takes-unique-toll-south-africas-disabled, accessed 16 July 2021.
[63] President Cyril Ramaphosa: International Day of Persons with Disabilities 2020. available at: https://www.gov.za/speeches/working-group-disability-3-dec-2020-0000, accessed 16 July 2021).
[64] White paper on the rights of persons with disabilities Implementation matrix 2015 - 2030, available at: https://www.sada.org.za/wp-content/uploads/2020/08/WPRPD-Implementation-Matrix-Cabinet-Approved.pdf, accessed 16 July 2021.
[65] Swartz, L., McKinney, D. E. L. and McKinney, D. V. (2020) 'COVID-19 and disability considerations: report on the experiences of people with disabilities in South Africa', p. 30. http://www.sun.ac.za/english/faculty/healthsciences/centre%20for%20rehabilitation%20studies/documents/report%20-%20covid%2019%20and%20disability%20considerations_edited_13%20october%202020%20(2).docx.pdf, accessed 16 July 2021.

House visits become the responsibility of the various non-profit disability sector organisations (DSOs), funded almost exclusively by philanthropists. Such a situation gives little credence to the government's claims to foster public and private partnerships during the crisis.

The Stellenbosch study highlights the dependency and abuse experienced by people with disabilities during the first months of the lockdown. A recent Daily Maverick article by An Wentzel highlights the psychosocial impact[66] of COVID-19 on people with disabilities and their caregivers, namely the genuine fear, anxiety and emotional distress about possible exposure to the virus. This distress can only add to the mental health services burden in a country where 30% of the population experience common mental health[67] problems during their lifetime.

*Source: Daily Maverick[68]*



Despite the challenges, governments in SADC have been responsive in reforming legislation and policies around disability. In the **DRC** where approximately 10 million people or close to one in eight persons are disabled[69] the new Disability Rights Bill is expected to bring significant change. It will address the discrimination and harmful cultural practices directed specifically at women and children with disabilities. Children with disabilities in the DRC are often accused of witchcraft.[70] The new law is a critical piece of legislation aimed at addressing this issue and providing these children with protection. However, more needs to be done to reduce preventable diseases such as polio, road accidents and violent conflict that are among the main causes of disability in the country.

New disability policy for Zimbabwe sets standards for the inclusion of Persons with Disabilities in all facets of life




Launch of the National Disability Policy, June 2021, Harare, Zimbawe.
Photo courtesy of UNESCO



The new National Disability Policy for **Zimbabwe** launched in June 2021 is set to reform the lives of many people living with disabilities in the country. The policy seeks to address the marginalization and discrimination of Persons with Disabilities (PWDs), empower them to improve their quality of life and enable them to contribute towards national development. It sets standards for the gender and disability responsive policy framework on disability across all sectors, including the public, private and development sectors[71]. The policy aims to end harmful discrimination, marginalisation and exclusion of PWDs from participating in different sectors of the economy. During the launch President Emmerson Mnangagwa said: "The reality is that no one plans to be born with a disability or desire to acquire a disability. Hence, everyone has an

[66] Wentzel, A. (2021) CORONAVIRUS: People living with disabilities struggle to overcome severe disruptions to life and health caused by the pandemic, Daily Maverick, available at: https://www.dailymaverick.co.za/article/2021-06-20-people-living-with-disabilities-struggle-to-overcome-severe-disruptions-to-life-and-health-caused-by-the-pandemic/, accessed 16 July 2021.
[67] Mental Health Information Network: Analysis of Mental Health Campaigning and Advocacy in South Africa, available at: https://gospeakyourmind.org/sites/default/files/2020-10/SouthAfrica_1_0.pdf, accessed 15 July 2020
[68] Wentzel, T. H., Narnia Bohler-Muller and Therina (2021) Vulnerable but overlooked: The COVID-19 vaccine plight of people with disabilities in South Africa, Daily Maverick, https://www.dailymaverick.co.za/article/2021-07-05-vulnerable-but-overlooked-the-COVID-19-vaccine-plight-of-people-with-disabilities-in-south-africa/, accessed 14 July 2021.
[69] New bill offers hope to people with disabilities in DR Congo, France 24, https://www.france24.com/en/africa/20201203-new-bill-offers-hope-to-people-with-disabilities-in-dr-congo, accessed 24 June 2021.
[70] 'SADC Gender Protocol 2020 Barometer Chapter 7 Harmful Practices', https://genderlinks.org.za/wp-content/uploads/2020/08/Chap7-Baro2020-HARMPRACrev2.pdf, accessed 24 June 2021.
[71] UNESCO (2021) Zimbabwe launches National Disability Policy, UNESCO, https://en.unesco.org/news/zimbabwe-launches-national-disability-policy, accessed 24 June 2021.

equal chance of becoming a person with some kind of disability at any time. Guided by the values of Ubuntu, Hunhu and the legislative obligations, both state and non-state actors have the collective obligation to do all which is possible for the fulfilment of the aspirations of this sector."[72]

As countries roll out vaccines in their jurisdictions, it is important that roll out plans are all inclusive. To ensure SRHR for women, girls, gender non-conforming persons and persons with disabilities in the recovery from COVID-19, the UNFPA, WEI, (2021) suggest the following checklist and key actions for countries.

**Create an enabling legislative and policy framework**

There is a robust legal framework in place to ensure the respect, protection, and fulfilment of SRHR and disability rights:

- The full range of international human rights treaties and any relevant regional human rights treaties have been ratified.
- Reports to U.N. and regional treaty monitoring bodies contain specific information about women, girls, and gender non-conforming persons with disabilities, including their SRHR, and have been developed in consultation with these groups.
- There is a law, policy, or national action plan on SRHR that:
  - Provides for access to the full range of SRH information, goods, and services in line with international human rights obligations.
  - Specifically recognizes the intersection of gender and disability and enumerates specific steps to ensure access to SRH for women, girls, and gender non-conforming persons with disabilities.
  - Has a specific and sufficient budget allocated for implementation, including for disability inclusion.
- There is a law on disability rights modelled on the Convention on the Rights of Persons with Disabilities that:
  - Specifically addresses gender, including as related to SRH.
  - Has a specific budget allocated to implementing this law and resulting policies?

**Ensure access to disability inclusive services**

- Barriers that women, girls, and gender non-conforming persons with disabilities face to available, accessible, acceptable, and quality SRH information, goods, and services have been identified and addressed.
- Guidance has been provided to SRH facilities on how to ensure that SRH facilities and equipment are physically accessible, services and goods are economically accessible, patients are provided with information in accessible formats, and sign language interpreters or other trained support people are provided.
- A nationwide accessibility audit has been conducted to assess the full range of accessibility measures in SRH facilities.
- An action plan has been put in place to address gaps in accessibility.
- SRH providers and staff are required to undergo training on human rights, particularly gender and disability rights, including as part of medical education. This training includes:
- Information to counter the incorrect assumption that persons with disabilities are asexual or incapable of making healthcare decisions.
- Information on the diversity of disability and on providing respectful care to persons with disabilities.
- An awareness-raising programme in the community is in place about the need for SRH for persons with disabilities, including about their rights in this context, and to counter stigma and stereotypes around disability and sexuality.

**Development, Implementation and Monitoring of SRH Programmes**

Women, girls, and gender non-conforming persons with disabilities participate and are included in SRH programme development, implementation, and monitoring.

[72] UNESCO (2021) Zimbabwe launches National Disability Policy, UNESCO, https://en.unesco.org/news/zimbabwe-launches-national-disability-policy, accessed 24 June 2021.

- Government entities routinely work with independent, human rights-based organizations led by women, girls, and gender non-conforming persons with disabilities to develop, implement, monitor, and evaluate policies and programmes related to SRH.
- Disaggregated data is collected on women, girls, and gender non-conforming persons with disabilities surrounding SRH.
- Disaggregation includes gender, disability, age, sexual orientation, socio-economic status, and living environment, among other relevant statuses.

*Source: UNFPA*[73]

# The rights of widows and widowers

**Article 10**: Widows' and widowers' rights
1. State parties shall enact and enforce legislation to ensure that widows and widowers:
(a) Are not subjected to inhuman, humiliating, or degrading treatment;
(b) Automatically become the guardians and custodians of their children when their husband/wife dies unless otherwise determined by a competent court of law;
(c) Have the right to an equitable share in the inheritance of the property of their spouses;
(d) Have the right to remarry any person of their choice; and
(e) Have protection against all forms of violence and discrimination based on their status.

**CEDAW, Article 16(b)** provides for widows, the same right freely to choose a spouse and to enter into marriage only with their free and full consent; among other protections that are given to widows.

On 23 June, the global community commemorated International Widows Day under the theme, "Invisible Women, Invisible Problems."[74] Widows, young and old, face a myriad of challenges ranging from legal, financial to social. The rights of widows and widowers are even harder to realise for the widowed women living in rural areas with limited service provision. Challenges include:

- Neglect and maltreatment by society and family members;
- Struggle with witchcraft accusations;
- Lack of voice and choice after the death of the husband;

> Widows are stigmatised for life, shunned and shamed. Yet, many of these abuses go unnoticed and are even normalised

- Disinheritance by family members;
- Denied inheritance rights to their spouse's estate or forced into unwanted marriages;
- Stigma associated with being a widow;

[73] UNFPA (2021) COVID-19, Gender, and Disability Checklist: Preventing and Addressing Gender-Based Violence against Women, Girls, and Gender Non-Conforming Persons with Disabilities during the COVID-19 Pandemic, https://www.unfpa.org/resources/COVID-19-gender-and-disability-checklist-preventing-and-addressing-gender-based-violence, accessed 11 July 2021.
[74] International Widows' Day 2021: Theme, Importance, History, Activities, Quotes, https://internationaleventday.com/event/international-widows-day/, accessed 22 June 2021.

- Traumatising widowhood rituals during mourning and at burial sites;
- Lack of economic resources, jobs and markets;
- Limited access to justice, legal aid and representation;
- Vulnerability to gender based violence;
- Widows with disabilities face a higher risk of abuse and neglect.

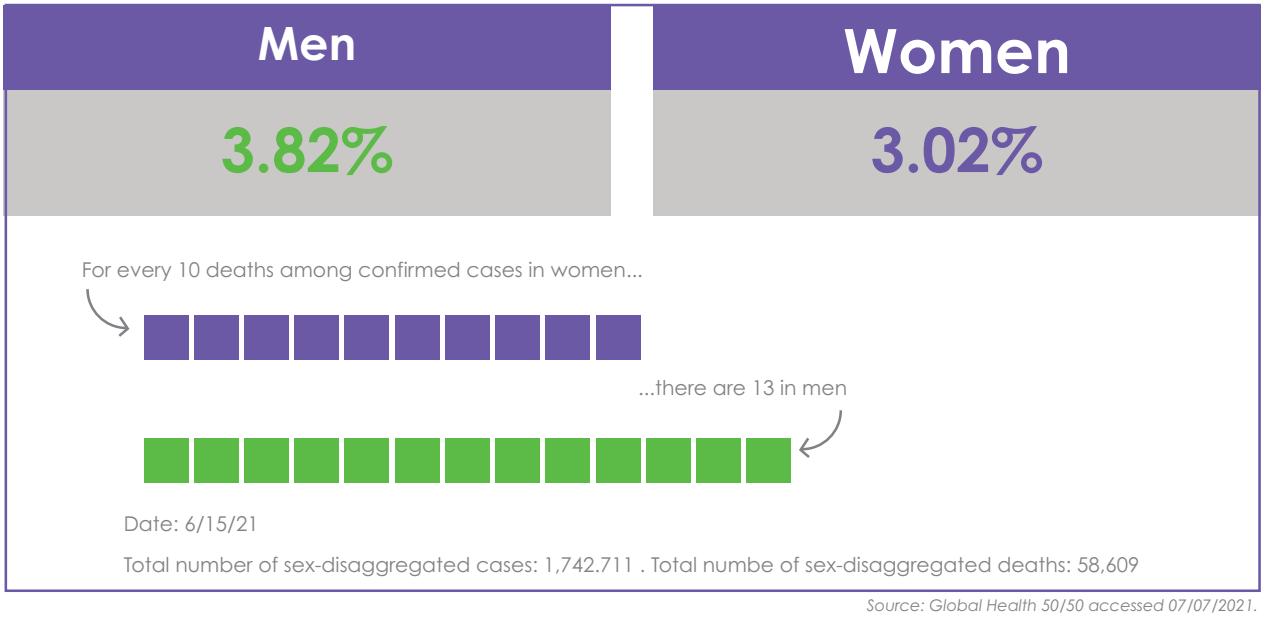
In her research that advocates for widows' rights and recognition, University of South Africa (UNISA) based Lecturer, Dr Sizakele Matlabe, notes that: "Widows are stigmatised for life, shunned and shamed. Yet, many of these abuses go unnoticed and are even normalised."[75]

Our perception of widows needs to change. They are not witches but women who have lost their partners, they are heartbroken, and in most cases they are economically disadvantaged. Society has a responsibility to support them. It is a fallacy to believe that all widows are elderly or are looked after by their children or close family members. There are young widows too who face similar challenges as the elder widowed women. Many of them have young families to look after and they need access to jobs, markets, health, and legal representation. They also need to be protected from gender based violence especially from abusive intimate partners, and family members.

Securing widows rights for example through land rights empowers widows and is critical to achieving the sustainable development goals. Society must know that widowhood contributes significantly to intergenerational poverty.[76] Due to poverty, children of widows are often denied education and economic opportunities for them to thrive. To improve strategies, as well as support and response systems, governments must encourage more research into widowhood.

The COVID-19 pandemic adds to these challenges. The Global Fund for Widows maintains that the virus will expose and exacerbate the plight of widows throughout the developing world[77] especially as men are dying at a dramatically faster rate than women.[78]

Figure 7.7: Proportion of Covid-19 deaths by gender in South Africa




*Source: Global Health 50/50 accessed 07/07/2021.*

[75] UNISA, Advocating for widows' rights and recognition, https://www.unisa.ac.za/sites/corporate/default/News-&-Media/Articles/Advocating-for-widows%E2%80%99-rights-and-recognition, accessed 22 June 2021.
[76] 'Widows for Peace through Democracy (WPD) Recommendations for CSW62', http://www.widowsforpeace.org/wp-content/uploads/2018/04/WPD-RECOMMENDATIONS-CSW62-1.pdf, accessed 22 June 2021.
[77] 'Covid and Widowhood', https://uploads-ssl.webflow.com/5fce889a3c0f6e35f56692ce/5fce889a3c0f6e0e0f669306_COVID-and-Widowhood-MAY-2020.pdf, accessed 7 July 2021.
[78] Including widows in the work to "build back better" from COVID-19, UN Women, https://www.unwomen.org/en/news/stories/2020/6/statement-ed-phumzile-including-widows-in-COVID-19-recovery, accessed 7 July 2021.

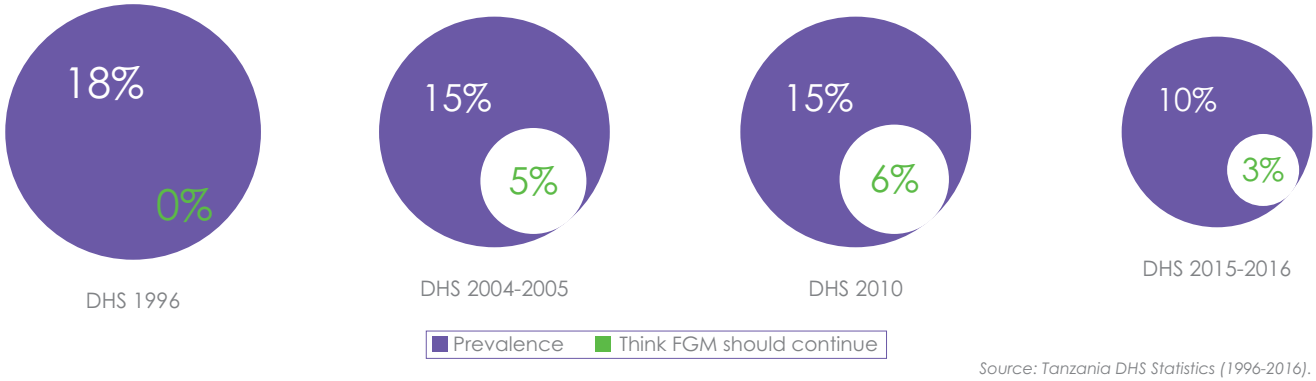
By June 2021, out of the 16 SADC countries, only South Africa had sex-disaggregated data on COVID-19 deaths.[79] Figure 7.7, illustrates the disproportionate impact of COVID-19 deaths to men which support the proposition that many women could have been widowed as a result of the corona virus outbreak.

# Female Genital Mutilation (FGM)

SDGs 5.3 Eliminate all harmful practices, such as child, early, and forced marriage and female genital mutilation (FGM).

Female genital mutilation (FGM) refers to, "all procedures involving partial or total removal of the female external genitalia or other injury to the female genital organs for non-medical reasons." Global estimates show that at least 200 million girls and women have undergone FGM in 31 countries. These figures are based on data drawn from Demographic and Health Surveys (DHS) and Multiple Indicator Cluster Surveys (MICS). In Africa, the practice is most prevalent in Somalia, Djibouti, and Guinea. In Southern Africa, Tanzania has the highest number of FGM cases.[80] But attitudes towards FGM in Tanzania are changing.

Figure 7.8: Prevalence of FGM and perceptions on the practice among women and girls aged 15-49 in Tanzania




*Source: Tanzania DHS Statistics (1996-2016).*

Figure 7.8 illustrates that the prevalence of FGM among women aged 15-49 in **Tanzania** has dropped from 18% in 1996 to 10% in 2016. Also, a declining percentage of women and girls who have heard about FGM, think that the practice should continue. This trend from 1996 is a promising one towards the achievement of SDG Goal 5.3 which seeks to eliminate all harmful practices, such as child, early, and forced marriage and female

[79] Global Health 50/50 (no date) 'The COVID-19 Sex-Disaggregated Data Tracker', https://globalhealth5050.org/the-sex-gender-and-COVID-19-project/the-data-tracker/, accessed 7 July 2021.
[80] Female Genital Mutilation (FGM) Statistics, UNICEF DATA, https://data.unicef.org/topic/child-protection/female-genital-mutilation/, accessed 25 June 2021.

genital mutilation. Advocacy and awareness-raising work by government, civil society, and development partners is commendable. More targeted interventions are needed to discourage both health personnel and traditional practitioners from performing FGM.

The growth in the medicalisation of FGM stems from a misguided belief that the dangers of FGM are medical, rather than a fundamental violation of a girl's rights. Medicalising the practice of FGM does not eliminate the danger it poses to women as it still removes and damages healthy and normal tissue and interferes with the natural functions of a girl's body. "Doctor-sanctioned mutilation is still mutilation. Trained health-care professionals who perform FGM violate girls' fundamental rights, physical integrity and health," said UNICEF Executive Director Henrietta Fore. "Medicalising the practice does not make it safe, moral, or defensible."[81] Legal and policy interventions that prohibit medical personnel from performing FGM are urgently needed.[82]

> Doctor-sanctioned female genital mutilation is still mutilation

# Other harmful practices



Some girls are also made to wear an extremely tight strap around their chest.
Photo courtesy of BBC News

**Breast ironing: a harmful practice that does not get sufficient attention**

Breast ironing or flattening is a practice done to prevent the development of girls' breasts with the intention of reducing the sexual attention she may receive. It involves using an object to massage, pound, or press the breast flat. In her research in Cameroon, Tascott noted that the practice can include the use of grinding stones, spatulas, brooms and belts to tie or bind the breasts flat.[83] Tools include leaves believed to have medicinal or healing qualities; plantain peels; hot stones and electric irons. According to the United Nations, 3.8 million teenagers globally have experienced breast flattening. The practice is little known and often overshadowed by FGM and child marriages.

In Cameron an estimated one in three girls have been subjected to breast ironing. Several reports link the practice to some parts of Zimbabwe and South Africa.[84] However, a large scale quantitative study is required to better understand this phenomenon.

Sadly, mothers, midwives and healers carry out the practise, sometimes as a source of income (see also earlier section on FGM). Some mothers begin ironing the breasts of their daughters as a way of trying to prevent early marriage and

[81] UNICEF (2020) Approximately 1 in 4 survivors of female genital mutilation were cut by a health care provider, https://www.unicef.org/press-releases/approximately-1-4-fgm-survivors-were-cut-health-care-provider, accessed 25 June 2021.
[82] UNICEF (2020) Approximately 1 in 4 survivors of female genital mutilation were cut by a health care provider, https://www.unicef.org/press-releases/approximately-1-4-fgm-survivors-were-cut-health-care-provider, accessed 25 June 2021.
[83] 'Understanding-breast-flattening.pdf', https://fic.tufts.edu/assets/Understanding-breast-flattening.pdf, accessed 26 June 2021.
[84] Knopova, E. (2016) The breast ironing: Possible solutions to an unknown form of child abuse in Africa. doi: 10.13140/RG.2.2.11369.03689.

keep daughters in school for longer.[85] The tragedy is that a practise meant to protect girl children itself violates their rights.

Breast ironing can result in burns; scars and uneven skin including deep breast tissue injuries.[86] "One mother burned her own hand so badly that she came to the hospital. Only when she saw what happened to her own hand did she realise how painful the practice must be for her daughter, who was feeling this hot stone on her breasts, which are much more sensitive than the palm."[87] The combination of severe injuries by repeated heat and pressure can lead up to uneven breast growth, breast malformation, breast sagging, breast-feeding difficulties, tumours, cysts and even breast cancer many years after.[88] Victims may also later have trouble with breastfeeding, which may lead to stigma and social rejection.



## Breasts ironing, "I" story from Zimbabwe

I remember being 11 almost 12 and I had started developing breasts. Because of my small frame and my preference for male, rather than female, friends my mother worried that I would start getting involved in sexual activities. So she invited my grandmother to come have a talk with me and take some precautions so as to preserve my womanhood as they put it. My grandmother came; spoke to me about my body changing took a cooking stick, which she used to hit my developing breasts. This was meant to slow down the rate at which my breasts would grow and let us just say I think it worked because even though I am in my 30s I still have hope they will grow. These bee stings I have cannot be my fully developed breasts!

The other version of that traditional practice and how it is practiced in other African countries (breast ironing) is horrifying. The thought of it makes me cringe. Breast Ironing is a heinous practice. This insane activity involves the flattening of little-developing breasts of young girls to "protect" them from rape or any sexual harassment.

Though many organisations are working tirelessly for the awareness amongst the people, I wonder how people can punish little girls just to accommodate the lustfulness of men. Can't they educate their men and let these girls enjoy the budding and blossoming of their bodies? Why are we constantly accepting men's ills at the expense of fellow women and children? Why don't they punish these criminals who rape and harass these little girls instead of punishing these girls? I guess I have more questions than answers but my heart bleeds for these little girls.

*Source: Pakasipiti Zimbabwe*[89]

[89] Dee, L. (2016) 'Breast Ironing', pakasipitizimbabwe, 21 April, https://pakasipitizimbabwe.wordpress.com/2016/04/21/breast-ironing/, accessed 26 June 2021).

# Next steps

- **Scrapping discriminatory laws:** The government of Tanzania must uphold the Supreme court ruling to amend the Law of Marriage Act in line with the SADC Model Law on Child marriage. Continued delays in closing the legal loophole leaves room for discrimination and marginalisation of girls and women in the country.
- **Access to justice:** To ensure equality of women as complainants in accessing justice, remodelling of customary court structures in the region is important.
- **Campaigns and advocacy:** Innovative ways to end marriage including the role of traditional leaders and teen mothers in advocacy and campaigns against child marriages should be strengthened.
- **Enforcing child marriage laws:** As opposed to rhetoric, sufficient law enforcement and monitoring to delay marriage and protect the rights of women and girls is needed if changes in age-at-marriage laws are to achieve the desired outcomes.
- **Policy support:** Alternative policies need to be devised to ensure that girls' later-life outcomes, including their participation in higher education and society, are ensured, encouraged, and protected.
- **Evidence gathering:** More research is needed to establish the extent of breast ironing practices in the region. The few reports that mention presence of the practice are insufficient to draw scientific conclusions about the practice in the SADC region.
- **Institutional support:** Implement clear and unequivocal mandates for institutions that advance women's rights to address harmful practices, especially in the roll out of vaccines to vulnerable groups such as women with disabilities.
- **Response:** The setting up of specialised and dedicated GBV courts in Botswana during the COVID-19 lockdown is a best practice in the region which can be replicated by other governments in the region.
- **Support to People with disabilities:** To address the specific needs and challenges during the COVID-19 pandemic. Countries should put systems in place including accessible emergency services that provide protection to people with disabilities during situations of risk and disaster.




Women celebrate the launch of the 2020 SADC Gender Protocol Barometer in Tanzania. Photo: Gender Links Alliance

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