

# SHADOW OR ALTERNATIVE REPORTING ON THE SITUATION OF THE RIGHTS OF WOMEN AND GIRLS IN AFRICA:

A FACILITATORS' TRAINING MANUAL FOR CIVIL SOCIETY ORGANIZATIONS



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**ACHPR**  
African Commission on  
Human and Peoples' Rights



**Spotlight  
Initiative**  
To eliminate violence  
against women and girls

Initiated by the European Union and the United Nations



# Foreword



The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) was adopted by the African Union (AU) on 11th July 2003 at its second summit in Maputo, Mozambique. Upon adoption and having been ratified by fifteen (15) Member States, the Protocol entered into force on the 25th of November 2005.

The journey towards the adoption and eventual entry into force of the Maputo Protocol was marked by unified efforts of Non-Governmental Organisations (NGOs), Civil Society Organisations (CSOs), and AU Member States who lobbied tirelessly to attain the requisite number of signatures to bring the Maputo Protocol to life.

It is encouraging that as of April 2022, 43 of the 55 AU Member States have ratified the Maputo Protocol with few countries having made reservations upon ratification.

In fulfilling their responsibility to protect, promote and respect the rights of women and girls, State parties to the African Charter on Human and Peoples' Rights, the Maputo Protocol, and other human rights treaties are required to periodically report to relevant treaty bodies on the progress and measures they have taken to ensure that the rights of women and girls are protected within their respective countries. Within this context, CSOs play a strategic role in supporting treaty monitoring bodies in performing their functions, particularly in assessing the progress made by State parties in implementing their commitments and obligations under International and Regional treaties. Through the development and submission of shadow reports to treaty monitoring bodies on reports produced by Member States, CSOs provide essential information on the situation of the rights of women and girls in their countries which may either supplement the information provided by the State party or furnish information not addressed in the State report. Moreover, the production of alternative reports by CSOs is essential where States fail to comply with their reporting obligations as CSO reporting informs treaty monitoring bodies on the human rights situation in a country instead of the State Party report.

This Facilitators' Training Manual for CSOs on Shadow or Alternative Reporting on the Situation of the Rights of Women and Girls in Africa was developed as part of the

Spotlight Initiative Africa Regional Programme by the United Nations Development Programme (UNDP) and Equality Now and the Solidarity for African Women's Rights Coalition. The manual will be a valuable resource for CSOs to engage with the shadow/alternative reporting processes within the different regional and international mechanisms to advance accountability for human rights commitments and obligations, and ensure greater implementation of the relevant regional and global instruments.

As the Special Rapporteur on the Rights of Women in Africa, I want to express my sincere gratitude and appreciation to UNDP and Equality Now and Solidarity for African Women's Rights (SOAWR) for their resourcefulness and foresight for developing a comprehensive training and reference resource to inform capacity building initiatives, as well as to aid the CSOs in the preparation and submission of periodic reports.

Premised on the above, I look forward to the effective utilization of the Facilitators Training Manual by all relevant stakeholders, most especially CSOs within the African continent, with the prospect of enabling them to provide additional and relevant information that would assist the African Commission to gain a more holistic understanding of the human rights situation of State Parties.

Commissioner Janet Ramatoulie Sallah-Njie,  
Special Rapporteur on the Rights of Women in Africa

# Acknowledgments

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# 1 Introduction

## 1.1 Background

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African states have made significant strides in the ratification of and/or accession to global and regional women's rights instruments, such as the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa ('Maputo Protocol' or 'Protocol'), and the Convention on the Elimination of all Forms of Discrimination against Women ('CEDAW' or 'Convention'). However, these have not translated into universal domestication and implementation of these instruments. States have also been slow to report on the implementation of the women's rights instruments, and they tend not to involve civil society organizations (CSOs) meaningfully in the preparation of their reports. CSOs also tend not to prepare shadow or alternative reports on women's rights, which could provide treaty bodies with further information as they consider national reports.

'Shadow or Alternative Reporting on the Situation of the Rights of Women and Girls in Africa: A Training Manual for Civil Society Organizations' ('Training Manual' or 'Manual') has been prepared by the United Nations Development Programme (UNDP) in collaboration with Equality Now.

The mandate of UNDP is to end poverty, build democratic governance, rule of law, and inclusive institutions. UNDP advocates for change and connects countries to knowledge, experience and resources to help people build a better life.

Equality Now is dedicated to ensuring a just world for women and girls by promoting the use of law to advance the rights of women and girls globally. Equality Now is the Secretariat of the Solidarity for African Women's Rights (SOAWR) coalition, which has undertaken advocacy campaigns for the ratification, domestication and implementation of the Maputo Protocol for nearly two decades. Equality Now and the SOAWR coalition have facilitated training activities on shadow or alternative reporting under both the Maputo Protocol and CEDAW.

The development of this Manual is part of the Spotlight Initiative Africa Regional Programme partnership between the European Union, African Union Commission and UNDP to eliminate all forms of violence against women and girls. The Spotlight Initiative Africa Regional Programme addresses regional bottlenecks and supports regional commitments to eliminate violence against women and girls, including strengthening existing strategies and initiatives, such as the African Union (AU) Gender Strategy, the Gender Observatory, the AU campaigns to End Child Marriage and the AU Initiative on the Elimination of Female Genital Mutilation.



## 1.2 Purpose and objectives

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This Manual is a resource guide for facilitators/trainers undertaking capacity-enhancement of CSOs in Africa and as a reference document for organizations intent on developing shadow or alternative reports on women's rights under the Maputo Protocol and CEDAW. Additionally, the Manual provides guidance to CSOs seeking to train other organizations engaged in advancing women's rights in the process of shadow or alternative reporting.

The specific objectives of the Manual are:

1. To enhance understanding by CSOs of regional and international instruments on gender equality and women's rights.
2. To increase the capacity of CSOs to develop and submit quality shadow or alternative reports covering the actual exercise of rights by women and girls.
3. To increase the participation of CSOs in the development of shadow or alternative reports on the rights of women and girls.
4. To increase the capacity of CSOs to influence and monitor implementation of recommendations developed by treaty monitoring bodies on women's rights, notably the African Commission on Human and Peoples' Rights ('African Commission' or 'Commission') and the CEDAW Committee.

## 1.3 Structure of the Manual

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The Manual is organized into seven chapters, including this introductory chapter. Chapter 2 provides basic background information on shadow or alternative reporting to treaty bodies on women's rights. Chapters 3 and 4 provide a general overview of the Maputo Protocol and CEDAW, while Chapters 5 and 6 introduce and explain the process, format and content of shadow or alternative reports prepared under the Protocol and the Convention. Chapter 7 explains how CSOs may use follow-up activities to advocate for or support the implementation of the recommendations made to states through reporting under the African Charter and CEDAW. Each chapter includes learning objectives, notes on content, learning activities, checklists, case studies and summaries. The Manual also provides a list of useful resources.

## 1.4 How to use the Manual

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The Manual may be used by trainers to train people on how to undertake shadow or alternative reporting on women's rights in Africa. It may also be used by organizations

preparing shadow or alternative reports on women's rights. Trainees may use the Manual as a reference guide.

Trainers, trainees and/or organizations may use each of the substantive chapters independently of other chapters to fit their specific needs. This could be useful where an organization, for example, opts to undertake training specifically on the Maputo Protocol or on CEDAW.

Users of the Manual should take account of their particular national legal and political contexts and circumstances. For example, a number of African State Parties to CEDAW have entered reservations on certain articles in the Convention which may have implications on the implementation of particular provisions. This is also the case with the Maputo Protocol where some states have lodged reservations on particular provisions in the instrument.

## 1.5 How the Training Manual was prepared

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The preparation of the Training Manual was informed by the need for sustainable and continuous training of CSOs on shadow or alternative reporting on women's and girls' rights in Africa. Following a capacity-enhancement workshop on reporting under international women's rights instruments held virtually from 10–12 August 2021, the development of a training manual was a key recommendation. Subsequently, a consultant was hired to support the development of the Training Manual. The consultant undertook a needs assessment survey (involving 29 CSOs from 19 countries across Africa) to collect quantitative and qualitative data on the training needs of organizations that undertake shadow or alternative reporting on women's rights. The needs assessment survey found that limited technical capacities of CSOs hampered their preparation of shadow or alternative reports for the Commission and the Committee. The Training Manual was finalized, taking into account feedback from two peer reviewers and further feedback from UNDP, Equality Now and other partners. The revisions to the Training Manual also took into account feedback from a workshop undertaken in April 2022 to pre-test a draft of the Manual.

## 1.6 Preparing to undertake training on shadow or alternative reporting

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In undertaking a general or women's rights training workshop, a number of considerations are important.<sup>1</sup>

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<sup>1</sup> Adapted from: Reporting to the United Nations Human Rights Treaty Bodies: Training Guide, Part II Notes for Facilitators (New York and Geneva: United Nations, 2017) [https://www.ohchr.org/Documents/Publications/PTS20\\_HRTB\\_Training\\_Guide\\_NotesforFacilitators\\_PartII.pdf](https://www.ohchr.org/Documents/Publications/PTS20_HRTB_Training_Guide_NotesforFacilitators_PartII.pdf).

## 1.6.1 Training needs assessment

Trainers should undertake a pre-training needs assessment to guide the design of the training workshop. The training needs assessment may be undertaken via discussions with the organization hosting the training. The trainers should also review relevant documents, including reports on the training organization's work, the latest relevant state report, and shadow or alternative reports. They should also review pre-workshop questionnaires given to the potential trainees.<sup>2</sup>

The training needs assessment will enable trainers to fully understand the needs of potential trainees and the context within which they work. Trainers must understand the distinct dynamics and needs of trainees from different countries or localities, including their legal traditions, the pressing concerns of women in each country or region, reporting status and existing capacities of specific organizations and individuals.



**Checklist 1.** The training needs assessment may gather information on:

1. Whether potential trainees have participated in previous reporting initiatives and what other relevant training they have undertaken.
2. The capacity gaps or needs of potential trainees.
3. Ratification status of a State Party, including any reservations on the Protocol or Convention.
4. Whether and when the common core document was submitted to the CEDAW Committee.<sup>3</sup>
5. Country reporting history on the Maputo Protocol and CEDAW, including overdue reports.
6. The scheduling and reporting calendar and procedure for reports awaiting consideration by the African Commission or CEDAW Committee.
7. Whether any concluding observations and recommendations have been issued.

## 1.6.2 Learning objectives

Trainers should develop learning objectives for the training workshop. Learning objectives are outcome statements that identify the knowledge, skills and attitudes trainees

<sup>2</sup> See Annex 1 for sample pre-training questionnaire and Annex 2 for sample post-training evaluation.

<sup>3</sup> See Chapter 6 for meaning and use of the common core document.

should have following training. Learning objectives should be specific, measurable, achievable, relevant and time-bound. Learning objectives should articulate the desired result of the workshop, such as enabling trainees to provide more effective support to their CSOs in submitting shadow or alternative reports on the Protocol or CEDAW. Each session of the training workshop should also have specific learning objectives contributing to the overall objectives of the workshop.

### 1.6.3 Training agenda

The trainer(s) should develop a training agenda guided by the identified training needs and learning objectives. The training agenda should be flexible and adaptable to the needs and availability of trainees.

### 1.6.4 Training workshops

Organizations hosting training workshops should identify well-qualified trainers to administer the training.



**Checklist 2.** Trainer(s) should:

1. Be subject-matter experts.
2. Be familiar with the country's or region's context and participants.
3. Be able to use participatory approaches that encourage participants to share knowledge, ideas and experiences.
4. Have professional credibility and a good reputation.

Trainers should aim to improve the knowledge of trainees on shadow or alternative reporting on women's rights. They should also aim to improve trainees' skills on how to undertake shadow or alternative reporting. To this end, trainers should employ interactive training/adult learning techniques to ensure the effective participation and learning of trainees.



**Checklist 3.** Training methods may include:<sup>4</sup>

1. Presentations and discussions;
2. Panel discussions;

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4 Drawn from: United Nations (2000) *A Manual on Human Rights Training Methodology* available at: <https://digitallibrary.un.org/record/417493?ln=en>.

3. Working groups;
4. Case studies;
5. Problem-solving and brainstorming;
6. Simulation or role-playing;
7. Field trips;
8. Practical exercises (including drafting)
9. Roundtable discussions and visual aids.<sup>5</sup>

Choices of training techniques should be guided by the needs of trainees. The venue and training material should be accessible to all trainees, including persons with disabilities. Training should be conducted in an inclusive manner for persons with disabilities. In this regard, for example, trainers should be judicious in their use of visual aids such as PowerPoint slides.

### 1.6.5 Evaluation of training

Trainers should incorporate an evaluation element before, during and after the training workshop. During the workshop, trainers may employ evaluation techniques such as group exercises, plenary discussions, daily evaluations and recaps. Questionnaires may be used to collect post-workshop evaluations. Products generated by the workshop, such as work plans, may also provide guidance on the workshop's effectiveness.

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5 Ibid.

# 2 Importance of Shadow or Alternative Reporting on Women's Rights

Article 26 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa

1. States Parties shall ensure the implementation of this Protocol at national level, and in their periodic reports submitted in accordance with Article 62 of the African Charter, indicate the legislative and other measures undertaken for the full realization of the rights herein recognized.
2. States Parties undertake to adopt all necessary measures and in particular shall provide budgetary and other resources for the full and effective implementation of the rights herein recognized.<sup>6</sup>

Article 1 of the African Charter on Human and Peoples' Rights

The Member States of the Organization of African Unity, parties to the present Charter shall recognize the rights, duties and freedoms enshrined in the Charter and shall undertake to adopt legislative or other measures to give effect to them.<sup>7</sup>

Article 24 of the Convention on the Elimination of all Forms of Discrimination against Women

States Parties undertake to adopt all necessary measures at the national level aimed at achieving the full realization of the rights recognized in the present Convention.<sup>8</sup>

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6 African Union (2003) *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa* available at: <https://au.int/en/treaties/protocol-african-charter-human-and-peoples-rights-rights-women-africa>.

7 OAU (1981) *African Charter on Human and Peoples' Rights* available at: <https://au.int/en/treaties/african-charter-human-and-peoples-rights>.

8 United Nations (1979) *Convention on the Elimination of all Forms of Discrimination against Women* available at: <https://www.un.org/womenwatch/daw/cedaw/>.





## 2.1 Introduction

This chapter provides basic background information on shadow or alternative reporting to treaty-bodies on women's rights. It introduces reporting on women's rights and focuses specifically on the rationale and benefits of shadow or alternative reporting by civil society organizations.

## 2.2 Learning objectives

By the end of this chapter, learners should be able to:

1. Understand the purposes of treaty-body state reporting.
2. Distinguish between shadow reporting and alternative reporting.
3. Explain the rationale for shadow or alternative reporting.

<b>Reference material</b>	 <p>African Charter on Human and Peoples' Rights (1981) <a href="https://www.achpr.org/legalinstruments/detail?id=49">https://www.achpr.org/legalinstruments/detail?id=49</a></p> <p>Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003) <a href="https://au.int/en/treaties/protocol-african-charter-human-and-peoples-rights-rights-women-africa">https://au.int/en/treaties/protocol-african-charter-human-and-peoples-rights-rights-women-africa</a></p> <p>Convention on the Elimination of all Forms of Discrimination against Women (1979) <a href="https://www.un.org/womenwatch/daw/cedaw/">https://www.un.org/womenwatch/daw/cedaw/</a></p>
<b>Training material</b>	 <p>The Training Manual, slides, flip charts, video/audio recordings and websites</p>
<b>Methodology</b>	 <p>Plenary presentations and breakout groups</p>
<b>Time</b>	 <p>2 hours</p>

## 2.3 Rationale for state reporting on women's rights

Initial or periodic state reports assess the progress made in promoting the enjoyment of rights established in international treaties. As we shall see in the next two chapters, the Maputo Protocol and CEDAW establish a body of women's rights that they obligate states parties to respect and protect. In particular, Article 26 of the Protocol obligates states to ensure its implementation at the domestic level and to adopt all necessary measures, including by providing budgetary and other resources, for the full and effective

implementation of the rights recognized in the Protocol. In the meantime, Article 24 of the Convention requires states to undertake to adopt all necessary measures at the national level to achieve the full realization of the rights established in the Convention.

State parties are obliged to submit reports regularly (in the case of the Protocol, to the African Commission and in the case of the Convention, to the CEDAW Committee) to show they are meeting their obligations to respect, protect and fulfil their treaty obligations. In this regard, Article 26 of the Protocol obligates states to submit periodic reports to the African Commission, indicating the legislative and other measures undertaken for the full realization of the rights in the Protocol. Article 18 of CEDAW similarly obligates states to submit to the Committee a report on the legislative, judicial, administrative or other measures adopted to give effect to the Convention's provisions.

State reports provide countries with opportunities to review their laws and practices, to identify and develop better understanding of the character of identified problems, and to evaluate progress made in the implementation of treaties. In these regards, the objectives of state reporting include:<sup>9</sup>

1. Ensuring that states undertake a comprehensive review of national policies, legislation and administrative rules, procedures and practices for the fullest possible compliance with treaties. In the course of preparing the reports, a state should reflect holistically on how it is implementing its treaty obligations and how it might address identified gaps.
2. Regularly monitoring of the actual status of each right established in the treaties and the extent to which it is being enjoyed by all individuals. The enjoyment of each right by all individuals is important and should be assessed accordingly.
3. Ensuring that states conduct comprehensive reviews of the measures they have taken to harmonize domestic policies and laws with treaty provisions. A state is in violation of its treaty obligations when disharmony exists with its national policies and laws.
4. Providing a basis on which states and treaty-bodies may effectively evaluate progress towards the realization of the obligations under the treaties. In this regard, state reporting on women's rights provides the African Commission and the CEDAW Committee with opportunities to engage with states in what is referred to as 'constructive dialogue' to guide, evaluate and assist states on how best to implement their obligations under the Protocol and the Convention.

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<sup>9</sup> Adapted from: General Comment No 1, 'Reporting by States Parties' (CESCR, 1989) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fGEC%2f4756&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fGEC%2f4756&Lang=en).





### Learning activity 1.

Identify and discuss the three most prevalent human rights violations against women in your country. What steps has the state taken to stop and prevent these violations? How effective have those steps been? What further steps should the state take to prevent those violations?



### Learning activity 2.

When did your country submit its last report to the CEDAW Committee, and when is its next periodic report due? Did you participate in preparing a shadow or alternative report on your country's last report, and/or are you participating in preparing a shadow or alternative report on your country for the CEDAW Committee?



### Learning activity 3.

When was the last time your country included a report on the Maputo Protocol in its state report to the African Commission, and when is its next report due? Did you participate in preparing a shadow or alternative report on that country report, and/or are you participating in preparing a shadow or alternative report covering the Protocol on your country for the African Commission?



### Learning activity 4.

Both the African Commission and the CEDAW Committee have undertaken dialogues with states and made recommendations for stopping women's rights violations. Using the latest recommendations made to your country by the Commission and the Committee, discuss the impact of these interventions in the exercise of rights by women.

## 2.4 Rationale for shadow or alternative reporting on women's rights

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Human rights monitoring is the active collection, verification, analysis and use of information to assess and address human rights concerns.<sup>10</sup> State reporting stands at the intersection of human rights monitoring at the international level and human rights monitoring at the domestic level. The monitoring of the Protocol and the Convention at the international level is principally undertaken by the Commission and the Committee respectively, and CSOs assist these bodies in monitoring the implementation of the Protocol and the Convention. At the same time, CSOs perform distinct human rights monitoring functions at the domestic level alongside independent monitoring bodies such as national human rights institutions.<sup>11</sup> Hence, shadow or alternative reporting is an essential element of human rights monitoring.

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10 *A Practical Guide for Civil Society: How to Follow Up on United Nations Human Rights Recommendations* (OHCHR, 2013) <https://www.ohchr.org/en/aboutus/pages/civilsociety.aspx>.

11 Established in accordance with the Principles Relating to the Status of National Institutions (the Paris Principles). A/Res/48/134, 85th Plenary Meeting 20 December 1993, National Institutions for the Promotion and Protection of Human Rights, Annex (1993) <https://www.ohchr.org/Documents/HRBodies/OPCAT/StatRatOPCAT.pdf>.

Shadow or alternative reporting on women's rights offers CSOs and other national and international actors with opportunities to provide input and scrutiny on state conduct with respect to protecting and promoting human rights. What, then, is the distinction between shadow and alternative reports?

Shadow reports provide the African Commission and the CEDAW Committee with information on women's rights to supplement or critique the information in state reports. CSOs prepare shadow reports to provide direct explanations and critiques in response to a state's initial or periodic reports. Shadow reports are, therefore, prepared only when CSOs have access to state reports.

CSOs submit alternative reports on the status of women's rights in a country when they have no access to state reports. This happens where the government has not written a state report, where the government has not shared the state report with CSOs, or where the state report is posted late on the treaty body's website.

CSOs use shadow or alternative reports, also referred to as 'parallel reports', to provide treaty-monitoring bodies with information on the extent to which states are implementing their commitments. They provide information on the status of the realization of substantive treaty rights, and the gaps that undermine the implementation of treaty obligations. They supplement the information provided by states in their reports to treaty-monitoring bodies by highlighting or providing critical analysis and context on issues either not addressed or downplayed in the state reports.



### Case study 1.

In Mauritius, NGOs called on CEDAW to urge the state to:

1. Raise the legal age of marriage from 16 years to 18 years in conformity with Mauritian statutes under which a person below the age of 18 is a child.
2. Support the realization of the equal participation of women in decision-making by ensuring equal representation (50–50) of women in the constitutions of political parties.<sup>12</sup>



### Case study 2.

A coalition of local and international NGOs submitted a shadow report on Nigeria to the CEDAW Committee specifically focusing on women with disabilities. Their concern was

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<sup>12</sup> Gender Links, Young Queer Alliance, Media Watch Organization and SOS Femmes (2018) <https://youngqueeralliance.com/wp-content/uploads/2020/02/11-joint-shadow-report-to-the-71st-session-of-the-cedaw-mauritius-gender-links-young-queer-alliance-media-watch-organisation-and-sos-femmes.pdf>.

that Nigeria's state report did not refer to women with disabilities or measures taken to ensure their rights in conformity with the Committee's General Recommendation No. 18 on Disabled Women,<sup>13</sup> which requires states to take special measures to ensure that the rights of women with disabilities are respected, protected and fulfilled.<sup>14</sup>

Shadow or alternative reports benefit treaty-monitoring bodies in a number of ways: <sup>15</sup>

1. They help treaty bodies to raise issues that may not be presented in state reports.
2. They help treaty bodies to check on the validity or veracity of information in state reports.
3. Shadow or alternative reports also counter-balance the information provided to the treaty bodies during constructive dialogues with states.

Shadow or alternative reporting can have a number of other benefits:<sup>16</sup>

1. It provides CSOs with international legal forums where they can raise their concerns.
2. The process of developing shadow reports enables CSOs to work in coalition with other organizations.
3. Shadow reports can be used as national education, publicity or advocacy tools on the human rights situation in a country.
4. Shadow reporting can build the capacities of civil society activists on how treaty bodies work; provide new opportunities for advocacy, conducting research and gathering evidence; and increase learning about accountability mechanisms.

## 2.5 Summary

This chapter has provided basic background information on shadow or alternative reporting to treaty bodies on women's rights. It introduced reporting on women's rights. It focused specifically on the rationale and benefits of shadow or alternative reporting by CSOs.

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13 General Recommendation No. 18, Disabled women (CEDAW Committee, 1991) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCEDAW%2fGEC%2f4729&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCEDAW%2fGEC%2f4729&Lang=en).

14 NGO Submission to the CEDAW Committee Pre-Sessional Working Group for Nigeria, October 2016, submitted by Women Enabled International (WEI), Advocacy for Women with Disability Initiative (AWWDI), Legal Defence and Assistance Project (LEDAP) and Inclusive Friends Association.

15 'Guidelines for Writing on Women's Economic, Social and Cultural Rights in Shadow/Alternative Reports' (International Women's Rights Action Watch Asia Pacific, 2010) <https://www.iwraw-ap.org/resources/participation-in-icescr-and-cedaw-reporting-processes-guidelines-for-writing-on-womens-economic-social-and-cultural-rights-in-shadow-alternative-reports/>.

16 *The Missing Piece of the Puzzle: The How and Why of Shadow Reporting for HIV Activists* (AIDS and Rights Alliance for Southern Africa, 2020) <https://arasa.info/wp-content/uploads/2021/12/shadow-report-tool-proof-1.pdf>.

# 3 Overview of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa

Preamble to the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa:

RECOGNISING the crucial role of women in the preservation of African values based on the principles of equality, peace, freedom, dignity, justice, solidarity and democracy;

CONCERNED that despite the ratification of the African Charter on Human and Peoples' Rights and other international human rights instruments by the majority of States Parties, and their solemn commitment to eliminate all forms of discrimination and harmful practices against women, women in Africa still continue to be victims of discrimination and harmful practices; FIRMLY CONVINCED that any practice that hinders or endangers the normal growth and affects the physical and psychological development of women and girls should be condemned and eliminated;

DETERMINED to ensure that the rights of women are promoted, realized and protected in order to enable them to enjoy fully all their human rights; ...<sup>17</sup>

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<sup>17</sup> Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa' (African Union, 2003) <https://au.int/en/treaties/protocol-african-charter-human-and-peoples-rights-rights-women-africa>.





### 3.1 Introduction

This chapter provides a general overview of the Maputo Protocol, explains the purpose of the Protocol and introduces the Protocol’s content.

### 3.2 Learning objectives

By the end of the chapter, learners should be able to:

1. Explain the purpose of the Maputo Protocol;
2. Explain the content of the Maputo Protocol; and
3. Describe how the Maputo Protocol seeks to ensure the rights of women.

<b>Reference material</b>	 African Charter on Human and Peoples’ Rights (1981) <a href="https://www.achpr.org/legalinstruments/detail?id=49">https://www.achpr.org/legalinstruments/detail?id=49</a>  Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (2003) <a href="https://au.int/en/treaties/protocol-african-charter-human-and-peoples-rights-rights-women-africa">https://au.int/en/treaties/protocol-african-charter-human-and-peoples-rights-rights-women-africa</a>  Soft-law instruments of the African Commission on Human and Peoples’ Rights <a href="https://www.achpr.org/statereportsandconcludingobservations">https://www.achpr.org/statereportsandconcludingobservations</a>  State reports and concluding observations issued by the African Commission <a href="https://www.achpr.org/resources">https://www.achpr.org/resources</a>
<b>Training material</b>	 Training Manual; slides; flipcharts; video and audio recordings; websites
<b>Methodology</b>	 Plenary presentations; breakout groups
<b>Time</b>	 3 hours

### 3.3 Purpose of the Maputo Protocol

The Maputo Protocol (adopted by the African Union (AU) in Maputo, Mozambique on 11 July 2003 and came into force on 25 November 2005) was prepared collaboratively by the African Commission, the Organization of African Unity (OAU) and its successor the AU, and NGOs. Its preparation was informed by the need to promote gender equality in conformity with the commitment by states to the Constitutive Act of the African

Union (2000)<sup>18</sup> to ensure the full participation of African women as equal partners in development. As of January 2022, 42 states were party to the Maputo Protocol. This means that only the following 13 states or non-state parties had not ratified or acceded to the Protocol: Botswana, Burundi, Central African Republic, Chad, Egypt, Eritrea, Madagascar, Morocco, Niger, Sahrawi Arab Democratic Republic, Somalia, South Sudan and Sudan.<sup>19</sup>

The Protocol affirms and clarifies the rights of women in Africa and establishes state obligations towards ensuring that those rights are promoted and protected. It supplements the African Charter on Human and Peoples' Rights ('African Charter' or 'Charter'), which was adopted by the OAU in 1981 as the continent's principal human rights instrument. Article 66 of the Charter anticipates that states may adopt protocols or agreements as necessary to supplement the Charter's provisions.

The African Charter guarantees non-discrimination on the basis of sex. Article 2 provides that:

Every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or any status.

The other specific reference to women in the Charter is in Article 18 (3), which provides that:

The State shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of women and the child as stipulated in international declarations and conventions.

Stakeholders on the continent felt that the provisions in the Charter were not adequate for purposes of the protection and promotion of women's rights. The Charter indeed does not identify specific violations of women's rights. Invariably, it uses phrasing such as 'every individual', 'every human being' and 'every citizen'.



### Learning activity 1.

Discuss how the gender-biased or gender-neutral phrasing of the following articles in the African Charter undermines the exercise of the ascribed rights by women:

#### 1. Article 3:

1. Every individual shall be equal before the law.

<sup>18</sup> Constitutive Act of the African Union (African Union, 2000) <https://au.int/en/constitutive-act>.

<sup>19</sup> Combined 50<sup>th</sup> and 51<sup>st</sup> Activity Reports of the African Commission on Human and Peoples' Rights (ACHPR, 2022) para. 32 <https://www.achpr.org/activityreports>.

2. Every individual shall be entitled to equal protection of the law.

**2.** Article 5:

Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man, particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.

**3.** Article 17:

1. Every individual shall have the right to education.
2. Every individual may freely take part in the cultural life of his community.
3. The promotion and protection of morals and traditional values recognized by the community shall be the duty of the State.

Hence, the Maputo Protocol was adopted to supplement the African Charter by establishing the normative and institutional basis for the further protection and promotion of women's rights. The Protocol addresses the specific problems and concerns of women. It provides for civil and political rights, economic, social and cultural rights, and group rights. It contextualizes and localizes women's rights to take account of African specificities. The Protocol also innovatively establishes norms that are not provided in other women's rights instruments such as CEDAW. As Professor Frans Viljoen, Director of the Centre for Human Rights at the University of Pretoria, notes:

Compared to CEDAW, the Protocol speaks in a clearer voice about issues of particular concern to African women, locates CEDAW in African reality, and returns into its fold some casualties of quests for global consensus, resulting from the adoption of CEDAW. More specifically, the Protocol expands the scope of protected rights beyond those provided for under CEDAW and it deals with rights already covered in CEDAW with greater specificity. Importantly, it emphasizes the private sphere as an important domain in which rights are to be realized and it underlines the need for "positive action."<sup>20</sup>

The Protocol, consequently, addresses issues not included in CEDAW, including the right to medical abortion and women's rights in relation to HIV and AIDS.<sup>21</sup>

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20 Frans Viljoen, 'An Introduction to the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa' (*Washington and Lee Journal of Civil Rights and Social Justice*, 16(1), 2009).

21 Ibid.

## 3.4 Content of the Maputo Protocol

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The Maputo Protocol comprises 32 articles. Article 1 defines the key terms. Articles 2–24 set out the substantive rights established in the Protocol. Articles 25–32 establish the Protocol’s institutional and enforcement mechanisms.

### 3.4.1 Equality and non-discrimination (Articles 1 and 2)

Under the Protocol, discrimination against women is:

... any distinction, exclusion or restriction or any differential treatment based on sex and whose objectives or effects compromise or destroy the recognition, enjoyment or the exercise by women, regardless of their marital status, of human rights and fundamental freedoms in all spheres of life.

This means discrimination may be direct or indirect, and it relates to all spheres of life, both public and private.

The Protocol obligates states to combat all forms of discrimination against women through legislative, institutional and other measures. It requires states to legislate and apply the principle of equality between men and women. States are obligated to integrate a gender perspective in their policies, laws and programmes. The Maputo Protocol also envisages that states may take affirmative action measures to correct discrimination against women in law or in fact.

### 3.4.2 Civil and political rights (Articles 3, 8 and 9)

The Protocol affirms civil and political rights for women, including:

1. Their right to dignity.
2. Their right to access justice and the equal protection and benefit of the law.
3. Equal participation in the political life of their country.

### 3.4.3 Protection from violence (Articles 1, 2, 3, 4 and 5)

The Protocol protects women from violence that involves actual or threatened acts perpetrated against women in the public or private spheres that cause or could cause them physical, sexual, psychological and/or economic harm. The Protocol also entitles every woman to respect for her life and the integrity and security of her person and prohibits torture and other ill-treatment. It obligates states to legislate and enforce the prohibition, prevention, punishment and eradication of all forms of violence against women. It obligates states to establish mechanisms and services to provide



rehabilitation and reparation for victims of violence against women. Other prohibited forms of violence include trafficking in women, medical or scientific experimentation on women without their informed consent, application of the death sentence on pregnant or nursing women, and sexual or verbal violence.



### Case study 1.

The African Commission has, in its General Comment No. 3 on the Right to Life, stressed that regardless of the offense one may have committed, the execution of a pregnant or nursing woman will always amount to a violation of the right to life.<sup>22</sup> In 2021, the Commission also adopted a resolution calling on states that retain the death penalty to commute the sentences of female convicts on death row, to limit the use of shackles or other restraints on women on death row, and to prohibit absolutely their use on pregnant women and nursing mothers. The resolution also called on states to provide gender-specific health services for women on death row, including training staff to recognize and address symptoms of mental illness, ensuring the women have access to free sanitary products, and housing them close to their geographic homes and communities.<sup>23</sup>



### Learning activity 2.

Review the African Commission's Guidelines on Combatting Sexual Violence and its Consequences in Africa.<sup>24</sup> Discuss how stakeholders may use the Guidelines to combat sexual violence against women and girls.

The Protocol also requires states to eliminate harmful practices, such as female genital mutilation, which negatively affect the human rights of women. It establishes that the elimination of harmful cultural practices involves the modification of social and cultural patterns of conduct of women and men through public education and information. Harmful practices are behaviours, attitudes and/or practices which negatively affect the fundamental rights of women and girls, such as their right to life, health, dignity, education and physical integrity.

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22 General Comment No. 3 on the African Charter on Human and Peoples' Rights: The Right to Life' (Article 4) (ACHPR, 2015) <https://www.achpr.org/legalinstruments/detail?id=10>.

23 'Resolution on the Need for Better Protection of Women Sentenced to Death in Africa' (ACHPR/Res. 483 (EXT.OS/XXXIII), 2021) <https://www.achpr.org/sessions/resolutions?id=514>.

24 Guidelines on Combatting Sexual Violence and its Consequences in Africa (ACHPR, 2017) <https://www.achpr.org/legalinstruments/detail?id=4>.

### 3.4.4 Marriage (Articles 6 and 7)

The Maputo Protocol obligates states to ensure that women and men enjoy equal rights as equal partners in marriage or in case of separation, divorce or annulment of marriage. The Protocol establishes that:

1. Marriage should take place on the basis of the free and full consent of both parties.
2. The minimum age of marriage for women is 18 years.
3. Monogamy is the preferred form of marriage, but the rights of women in polygamous marriages too shall be promoted and protected.
4. All marriages shall be registered.
5. A married woman has the right to retain her maiden name and to use it jointly or separately with her husband's surname.
6. A married woman has the right to retain her nationality or to acquire the nationality of her husband.
7. A woman and man have equal rights over the nationality of their children.
8. A woman has the right during a marriage to acquire and administer her own property.
9. A woman and man have the right to an equitable share of marital property in case of separation, divorce or annulment of marriage.

#### Case study 2.

The African Court on Human and Peoples' Rights has made a significant determination in relation to the provision in the Protocol that the minimum age of marriage is 18 years. Mali's Family Code had set the minimum age of marriage at 16 years for girls and 18 years for boys; allowed girls to be married under exceptional circumstances at 15 years; and provided that a woman would receive only half of the inheritance received by a man. The African Court determined that the Family Code violated Articles 6 (a) and (b) and 21 of the Maputo Protocol regarding the minimum age of marriage, consent to marriage and right to inheritance. The Court noted that the way in which religious marriages took place in Mali posed serious risks that could lead to forced marriages and perpetuate traditional practices that violated international standards. Islamic law regarding inheritance and customary practices was not in conformity with the instruments ratified by the state,



as Article 21 of the Maputo Protocol guarantees equality of treatment for women and children without any distinction.<sup>25</sup>



### Case study 3.

The African Commission has developed General Comment No. 6 to provide further guidance on the property rights of women during separation, divorce or annulment of marriage. The General Comment clarifies the right to an equitable sharing of marital property and how marital property should be shared fairly and in a manner consistent with the notion of substantive equality between women and men.<sup>26</sup>



### Case study 4.

The African Commission and the African Committee of Experts on the Rights and Welfare of the Child have prepared a Joint General Comment on Ending Child Marriage which elaborates on the prohibition of child marriage established both in the Maputo Protocol and the African Charter on the Rights and Welfare of the Child (1990).<sup>27</sup> The scope of the General Comment includes child marriage, children at risk of child marriage and women who were married before the age of 18.<sup>28</sup>

## 3.4.5 Health and reproductive rights (Article 14)

The Protocol obligates states to respect and promote women's right to health, including sexual and reproductive health and reproductive rights. At issue are the rights of women to control their fertility; to decide whether to have children, the number of children and the spacing of children; to choose any method of contraception; to protect themselves against sexually transmitted infections, including HIV and AIDS; and to have family planning education. States are obligated to take measures to protect the reproductive rights of women by authorizing medical abortion in cases of sexual assault, rape, incest, and where the continued pregnancy endangers the mental and physical health of the mother or the life of the mother or the foetus.



### Learning activity 3.

Review the General Comments (listed below) prepared by the African Commission to provide guidance on how states and other stakeholders should implement Article 14 of the Maputo Protocol. Discuss how the general comments may support your country in fully implementing Article 14 of the Protocol:

25 *Association Pour Le Progres Et La Defense Des Droits Des Femmes Maliennes (APDF) and The Institute for Human Rights & Development in Africa (IHRDA) v. Republic of Mali* (African Court on Human and Peoples' Rights, Application 046/2016, 2016) [https://www.african-court.org/en/images/Cases/Case%20Summaries/Case\\_summary\\_46-2016.pdf](https://www.african-court.org/en/images/Cases/Case%20Summaries/Case_summary_46-2016.pdf).

26 General Comment 6 on the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa: The Right to Property During Separation, Divorce or Annulment of Marriage' (Article 7(d)) (ACHPR, 2020) <https://www.achpr.org/legalinstruments/detail?id=75>.

27 African Charter on the Rights and Welfare of the Child (OAU, 1990) <https://au.int/en/treaties/african-charter-rights-and-welfare-child>.

28 'Joint General Comment of the African Commission on Human and Peoples' Rights and the African Committee of Experts on the Rights and Welfare of the Child on ending Child Marriage' (ACHPR and ACERWC, 2017) <https://www.acerwc.africa/general-comments/>.

1. General Comment No. 1 on Article 14(1) (d) and (e) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.<sup>29</sup>
2. General Comment No. 2 on Article 14(1) (a), (b), (c) and (f) and Article 14(2) (a) and (c) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.<sup>30</sup>



### Case study 5.

A number of states have lodged reservations or interpretive declarations on the applicability of Article 14 of the Protocol. Kenya stated it was not bound by Article 14(2) (c) of the Protocol which it deemed inconsistent with its laws on health and reproductive rights.<sup>31</sup> Uganda declared that it was not bound by the provision except to the extent domestic legislation expressly provided for abortion.<sup>32</sup> The Commission has noted that Uganda's reservation on Article 14 impedes the full enjoyment of health and reproductive rights by women, particularly the right to medical abortion.<sup>33</sup>

### 3.4.6 Economic and social welfare rights (Articles 12–13 and 15–19)

The Maputo Protocol guarantees women the right to work as well as rights at work. Under the right to work, women have equality of access to employment. States should also create conditions to promote and support the occupations and economic activities of women, particularly in the informal sector, and recognize the economic value of the work of women in the home. The Protocol provides for rights at work, such as: equal remuneration for work of equal value; transparency in the recruitment, promotion and dismissal of women; combatting and punishing sexual harassment in the workplace; guaranteeing adequate and paid pre- and post-natal maternity leave; and recognizing and enforcing the right of salaried women to the same allowances and entitlements as those granted to men for their spouses and children.

The Protocol also legislates other economic, social and cultural rights for women, including:

1. The right to education (Article 12).
2. The right to food security (Article 15).
3. The right to equal access to housing and acceptable living conditions in a healthy environment (Article 16).

29 'General Comment No. 1 on Article 14(1) (d) and (e) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa' (ACHPR, 2012). <https://www.achpr.org/legalinstruments/detail?id=14>.

30 'General Comment No. 2 on Article 14.1 (A), (B), (C) and (F) and Article 14. 2 (A) and (C) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa' (ACHPR, 2014) <https://www.achpr.org/legalinstruments/detail?id=13>.

31 'The Maputo Protocol Turns 18 Today. But What Does This Mean For Women And Girls In Africa?', (Equality Now) 11 July 2011. [https://www.equalitynow.org/news\\_and\\_insights/maputo\\_protocol\\_turns\\_18/](https://www.equalitynow.org/news_and_insights/maputo_protocol_turns_18/).

32 Ibid.

33 'Concluding Observations and Recommendations on the 5th Periodic State Report of the Republic of Uganda (2010–2012)', para. 77 (ACHPR, 2015) <https://www.achpr.org/sessions/concludingobservation?id=94>.

4. The right to live in a positive cultural context and to participate in the determination of cultural policies (Article 17).
5. The right to live in a healthy and sustainable environment (Article 18).
6. The right to sustainable development (Article 19).



### Case study 6.

The Guidelines on the Right to Water in Africa, adopted by the Commission in 2019, require states to take action to reduce the disproportionate burden and amount of time women bear in water collection, to guarantee safe access to water for women and girls at any time of the day and to strengthen customary and statutory institutions and mechanisms for defending or protecting women’s rights to water.<sup>34</sup>

### 3.4.7 The right to peace (Article 10)

The Maputo Protocol establishes the right of women to a peaceful existence and their right to participate in the promotion and maintenance of peace. It obligates states to ensure women’s participation in the structures and processes for conflict prevention, management and resolution, and post-conflict reconstruction and rehabilitation. Of particular note, too, the Maputo Protocol requires states to reduce military expenditure significantly in favour of spending on social development and the promotion of women’s development.



### Learning activity 4.

Discuss the value of Article 10(3) of the Protocol, which requires states to “take the necessary measures to reduce military expenditure significantly in favour of spending on social development in general, and the promotion of women in particular.” Can you justify the reservation which Kenya entered in respect of this provision?<sup>35</sup>

### 3.4.8 Protection of women in armed conflict (Article 11)

The Protocol obligates states to protect civilians, including women in the event of armed conflict, and to protect asylum-seeking women, refugees, returnees and internally displaced persons, against all forms of violence, rape and other forms of sexual exploitation.

34 ‘Guidelines on the Right to Water in Africa’ (ACHPR, 2019) <https://www.achpr.org/legalinstruments/detail?id=71#:~:text=The%20objective%20of%20the%20Guidelines,reports%20to%20the%20African%20Commission.>

35 Ashwanee Budoo, ‘Silencing the guns to end gender-based violence in Africa: an analysis of article 10(3) of the Maputo Protocol’ (2020), *African Human Rights Yearbook*, vol. 4, pp. 324–342.

### 3.4.9 Specially-protected women (Articles 20, 21, 22, 23 and 24)

The Maputo Protocol recognizes that women ordinarily face multiple and intersecting forms of discrimination. Consequently, it makes provisions to cover women with particular characteristics or in particular circumstances, including widows, elderly women, women with disabilities and women in distress, that make them especially vulnerable.

The Protocol requires states to ensure that a widow automatically becomes the guardian or custodian of her children, that she has the right to remarry a person of her choice, and that she has the right to an equitable share in the inheritance of the property of her husband.

The Maputo Protocol also requires states to ensure the rights of an elderly woman to freedom from violence and protection from age-based discrimination. This provision resonates with the provisions established in the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa (2016).<sup>36</sup> Article 9 of the Older Persons Protocol obligates state parties to:

1. Ensure the protection of the rights of older women from violence, sexual abuse and discrimination based on gender.
2. Put in place legislation and other measures to guarantee protection of older women against abuses related to property and land rights.
3. Adopt appropriate legislation to protect the right of inheritance of older women.

As well, the Maputo Protocol requires states to ensure the rights of women with disabilities to freedom from violence and protection from disability-based discrimination. This provision in the Maputo Protocol is strengthened in Article 27 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa (2018),<sup>37</sup> which obligates state parties to ensure that women and girls with disabilities, among other things:

1. Participate in social, economic and political decision-making and activities.
2. Are included in mainstream women's organizations and programmes.
3. Are protected from discrimination based on disability and enjoy the right to be treated with dignity.

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<sup>36</sup> 'Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa' (African Union, 2016) <https://au.int/en/treaties/protocol-african-charter-human-and-peoples-rights-rights-older-persons>.

<sup>37</sup> 'Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa' (African Union, 2018) <https://au.int/en/treaties/protocol-african-charter-human-and-peoples-rights-rights-persons-disabilities-africa>.

4. Are protected from sexual and gender-based violence and are provided with rehabilitation and psychosocial support against sexual and gender-based violence.
5. Are guaranteed sexual and reproductive health and reproductive rights, have the right to retain and control their fertility, and are not sterilized without their consent.

Finally, the Maputo Protocol introduces a protected category of persons, which it refers to as 'women in distress', including poor women, women heads of families, women from marginalized population groups, pregnant or nursing women and women in detention.

### 3.5 Summary

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This chapter has provided a general overview of the Maputo Protocol. It explained the purpose of the Protocol and introduced the Protocol's content. It also introduced relevant general comments on some of the Protocol's provisions.

# 4 Overview of the Convention on the Elimination of all Forms of Discrimination against Women

## Preamble to CEDAW

Concerned...that...extensive discrimination against women continues to exist,

Recalling that discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity,

Concerned that in situations of poverty women have the least access to food, health, education, training and opportunities for employment and other needs,

...

Aware that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality between men and women, ...<sup>38</sup>

## 4.1 Introduction

This chapter provides a general overview of CEDAW. It explains the purpose and value of the Convention and discusses the content of the Convention. The chapter also makes a brief assessment of the distinctions between CEDAW and the Maputo Protocol.

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<sup>38</sup> Convention on the Elimination of all Forms of Discrimination against Women (United Nations, 1979) <https://www.un.org/womenwatch/daw/cedaw/>.



## 4.2 Learning objectives

By the end of the chapter, learners should be able to:

1. Explain the purpose and value of CEDAW.
2. Describe the content of the Convention.
3. Explain how the Convention seeks to ensure the elimination of discrimination against women.
4. Discuss the distinction between and comparative value of CEDAW and the Maputo Protocol.

<b>Reference material</b>	 Convention on the Elimination of all Forms of Discrimination against Women (1979) <a href="https://www.un.org/womenwatch/daw/cedaw/">https://www.un.org/womenwatch/daw/cedaw/</a>  General recommendations of the CEDAW Committee <a href="https://www.ohchr.org/en/treaty-bodies/cedaw/general-recommendations">https://www.ohchr.org/en/treaty-bodies/cedaw/general-recommendations</a>
<b>Training material</b>	 Training Manual; slides; flipcharts; video and audio recordings; websites
<b>Methodology</b>	 Plenary presentations; breakout groups
<b>Time</b>	 3 hours

## 4.3 Purpose and value of CEDAW

CEDAW, which was adopted by the United Nations General Assembly on 18 December 1979 and entered into force on 3 September 1981, is the key international human rights instrument for the protection and promotion of women's rights. As of January 2022, only two African states, Somalia and Sudan, had not become party to the Convention.<sup>39</sup>

The need for a specific human rights instrument addressing women's issues was raised by activists and state and United Nations officials alike in the 1970s, despite the fact that some of the core human rights instruments preceding the Convention prohibited discrimination on the ground of sex. The International Covenant on Civil and Political Rights (ICCPR)<sup>40</sup> and the International Covenant on Economic, Social and Cultural Rights

<sup>39</sup> <https://indicators.ohchr.org/>

<sup>40</sup> International Covenant on Civil and Political Rights (United Nations, 1966) <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>.

(ICESCR),<sup>41</sup> both adopted in 1966, prohibited discrimination on the basis of sex. These instruments, however, did not establish a systematic normative framework for addressing women's experiences of human rights violations. They, for example, excluded coverage of the private sphere in their provisions. As one writer explains, the ICCPR framed the right to life as the right to be protected from the arbitrary action of public institutions rather than from private attacks, such as those by relatives or material circumstances such as malnutrition or birth-related morbidity or mortality that threaten life.<sup>42</sup>

Hence, the overall purpose of the Convention is to eliminate all forms of discrimination against women to achieve women's de jure and de facto equality with men in the enjoyment of their human rights and fundamental freedoms. CEDAW obligates states to ensure women's equality with men by eliminating discrimination against women. The Convention specifies the measures that states should take to ensure the elimination of discrimination against women. It also establishes the institutional framework for monitoring the realization of the Convention.

## 4.4 Content of CEDAW

The Convention comprises a preamble and 30 articles. Articles 1–16 set out substantive content of the Convention, while the rest of the provisions establish institutional mechanisms, such as the CEDAW Committee.

### 4.4.1 General provisions of the Convention (Articles 1–6)

CEDAW's definition of discrimination against women includes both direct and indirect discrimination. Article 1 of the Convention provides that discrimination against women is:

... any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

#### Case study 1.

The CEDAW Committee has over the years raised concerns with states whose laws do not define discrimination against women comprehensively. It has recommended that states should expeditiously adopt a comprehensive definition of discrimination against women covering all internationally-recognized prohibited grounds. The definition should encompass direct and indirect discrimination in both the public and private spheres,



<sup>41</sup> International Covenant on Economic, Social and Cultural Rights (United Nations, 1966) <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>.

<sup>42</sup> Susanne Zwingel, *Translating International Women's Rights: The CEDAW Convention in Context* (London: Springer, 2016).

including intersecting forms of discrimination against women. The anti-discrimination legislation should provide for appropriate enforcement mechanisms and sanctions.<sup>43</sup>

Articles 2–6 of the Convention establish the obligations that states are legally-bound to implement to eliminate discrimination against women. These obligations may be categorized under the triple framework of respect, protect and fulfil.<sup>44</sup> The obligation to respect requires a state to refrain from making laws, policies, regulations, programmes, administrative procedures and institutional structures that directly or indirectly result in the denial of equal enjoyment by women of their civil, political, economic, social and cultural rights. The obligation to protect requires a state to protect women from discrimination by private actors and to take steps directly aimed at eliminating customary and all other practices that prejudice and perpetuate the notion of inferiority or superiority of either of the sexes, as well as stereotyped roles for men and women. A state is required to prevent third parties from interfering with women’s enjoyment of their rights or sanction them when they interfere with the rights. These obligations require a state to adopt appropriate legislative, administrative, budgetary, judicial, promotional and other measures towards the full realization of women’s rights.

The CEDAW Committee has identified three levels of state obligations under the Convention.<sup>45</sup>

First, a state is obligated to ensure that there is no direct or indirect discrimination against women in its laws. Women should be protected against discrimination in the public, as well as the private spheres, by competent tribunals, sanctions and other remedies. Discrimination in this regard may be committed by public authorities, the judiciary, organizations, enterprises or private individuals.



### Learning activity 1.

In relation to your country, discuss the following questions:

1. Is the state adopting/has it adopted appropriate legislative and other measures prohibiting all forms of discrimination against women? (CEDAW Article 2(b))
2. Is the state refraining from engaging in acts or practices of discrimination against women? (CEDAW Article 2(d))
3. Is the state taking appropriate measures to eliminate discrimination against women by any person, organization or enterprise? (CEDAW Article 2(e))

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43 'Concluding Observations on the 6th Periodic Report of Seychelles' (CEDAW Committee, 2020) paras. 10–11 [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolNo=CEDAW%2fC%2fSYC%2fCO%2f6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolNo=CEDAW%2fC%2fSYC%2fCO%2f6&Lang=en).

44 'General recommendation No. 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women' (CEDAW Committee, 2010) para. 9 <https://www.ohchr.org/EN/HRBodies/CEDAW/Pages/Recommendations.aspx>.

45 'General recommendation No. 25, on article 4, paragraph 1, of the Convention on the Elimination of All Forms of Discrimination against Women, on temporary special measures', (CEDAW Committee, 2004) para. 7 <https://www.ohchr.org/EN/HRBodies/CEDAW/Pages/Recommendations.aspx>.

4. Is the state repealing/has the state repealed national penal provisions that constitute discrimination against women? (CEDAW Article 2(g))



### Case study 2.

The CEDAW Committee regularly raises its concerns with states that have not incorporated the Convention fully into their national laws. For example, the Committee noted the significance of Zimbabwe's 2013 constitutional reforms in relation to women's rights, raising the concern that discriminatory laws remained on the statute books. It recommended that Zimbabwe amend or repeal, without delay, all remaining sex-discriminatory provisions, including those on marriage and property rights and the legal minimum age of marriage, to bring them into compliance with the Constitution and the Convention.<sup>46</sup>

Second, a state is obligated to improve the de facto position of women through concrete and effective policies and programmes.



### Learning activity 2.

Discuss whether your state's national constitution and other appropriate legislation embody the principle of the equality of men and women, and if the state ensures the principle's realization? (CEDAW Article 2(a)).

Third, a state is obligated to address prevailing gender relations and the persistence of gender-based stereotypes that affect women.



### Learning activity 3.

In relation to your state, discuss the following questions:

1. Does the state take appropriate measures to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against women? (CEDAW Article 2(f))
2. Does the state ensure the development and advancement of women in the political, economic, social and other fields to guarantee them the exercise and enjoyment of human rights and fundamental freedoms on the basis of equality with men? (CEDAW Article 3)
3. Does the state modify the social and cultural patterns of conduct of men and women to eliminate prejudices, customary and other practices based on the notion of the superiority or inferiority of either of the sexes or stereotyped roles for men and women? (CEDAW Article 5(a))

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<sup>46</sup> Ibid, paras 9–10.

4. Does the state take appropriate measures to suppress trafficking in women and the exploitation of the prostitution of women? (CEDAW Article 6)



### Case study 3.

The Committee has urged states to put in place adequate and well-resourced systems with specific tools and protocols for the early identification of victims of trafficking and their referral to appropriate services. States should also exempt women and girls from criminal liability for acts of prostitution.<sup>47</sup>

Article 4 of the Convention permits states to use temporary special measures to accelerate the establishment of equality between women and men. (Special measures to protect maternity are also not discriminatory.) Temporary special measures may include legislative, executive, administrative and other regulatory instruments, policies and practices, such as outreach or support programmes; allocation and/or reallocation of resources; preferential treatment; targeted recruitment, hiring and promotion; numerical goals connected with time frames; and quota systems.<sup>48</sup> The Committee has, for example, recommended that states should introduce a minimum quota of 30 percent for the representation of women in parliament.<sup>49</sup> A state may also introduce reserved seats for women to ensure gender parity in appointive and elective positions.

#### 4.4.2 Political rights (Articles 7–9)

CEDAW requires states to take appropriate measures to eliminate discrimination against women in political and public life both at the national and international levels. Women should be able to freely vote in elections and public referenda, be eligible for election to publicly-elected bodies, and participate in the formulation and implementation of government policy. Women should have equal rights with men to acquire, retain or change their nationality and to bequeath their nationality to their children.

#### 4.4.3 Economic and social rights (Articles 10–14)

CEDAW obligates states to eliminate discrimination of women in relation to a number of economic, social and cultural rights. These include education, employment and healthcare.

Significantly, the Convention establishes specific provisions requiring states to eliminate discrimination against women in rural areas to ensure their equal participation in and benefits from rural development. While the whole Convention has a bearing on the enjoyment of rights by rural women, states are obligated to implement measures with respect to rural women, addressing issues such as economic disempowerment,

47 'Concluding Observations on the 6th Periodic Report of Seychelles' (CEDAW Committee, 2020) *supra*, paras. 28 and 30.

48 'General recommendation No. 25 on Article 4, para. 1 of the Convention on the Elimination of All Forms of Discrimination against Women, on temporary special measures' (CEDAW Committee, 2010) *supra*, para. 22.

49 Concluding Observations on Seychelles, *supra*, para. 22.

limited participation in political and public life, limited access to services, and labour exploitation of rural migrant women workers.<sup>50</sup>

#### 4.4.4 Civil law (Articles 15–16)

The Convention obligates states to accord women equality with men before the law. It also confirms that women have identical legal capacity and equal opportunities as men to exercise that capacity in civil matters, such as the conclusion of contracts and administration of property. Finally, states are obligated to eliminate discrimination against women in matters relating to marriage and family relations, such as entering into marriage on the basis of their full and free consent.



#### Learning activity 4.

Article 28 (2) of the Convention provides that a reservation incompatible with the object and purpose of the Convention shall not be permitted. Discuss whether the following reservation made by Egypt in respect of Article 16 of CEDAW is incompatible with the object and purpose of the Convention:

Reservation to the text of article 16 concerning the equality of men and women in all matters relating to marriage and family relations during the marriage and upon its dissolution, without prejudice to the Islamic Sharia's provisions whereby women are accorded rights equivalent to those of their spouses so as to ensure a just balance between them. This is out of respect for the sacrosanct nature of the firm religious beliefs which govern marital relations in Egypt and which may not be called in question and in view of the fact that one of the most important bases of these relations is an equivalency of rights and duties so as to ensure complementary (sic) which guarantees true equality between the spouses. The provisions of the Sharia lay down that the husband shall pay bridal money to the wife and maintain her fully and shall also make a payment to her upon divorce, whereas the wife retains full rights over her property and is not obliged to spend anything on her keep. The Sharia therefore restricts the wife's rights to divorce by making it contingent on a judge's ruling, whereas no such restriction is laid down in the case of the husband.<sup>51</sup>



#### Learning activity 5.

In 1991, Malawi notified the Secretary-General of the United Nations that it had withdrawn its reservation, which had stated the following:

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50 'General Recommendation No. 34 on the Rights of Rural Women' (CEDAW Committee, 2016) para. 2 <https://www.ohchr.org/EN/HRBodies/CEDAW/Pages/Recommendations.aspx>.

51 United Nations Treaty Collection Depository, Reservations of CEDAW [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-8&chapter=4&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&clang=_en).

Owing to the deep-rooted nature of some traditional customs and practices of Malawians, the Government of the Republic of Malawi shall not, for the time being, consider itself bound by such of the provisions of the Convention as require immediate eradication of such traditional customs and practices.

Why do you think Malawi withdrew this reservation? What factors had compelled it to make the reservation?

## 4.5 Distinctions between CEDAW and the Maputo Protocol

There are a number of distinct differences of approach between the Maputo Protocol and CEDAW. First, the Protocol is distinct in “the way in which it frames rights within an understanding of the specific socio-cultural context of Africa.”<sup>52</sup> In this regard, its coverage makes more specific provisions than CEDAW does in order to contextualize African contemporary realities. For example, the Protocol makes express provisions:

1. Establishing the right to be free from violence, including unwanted or forced sex.
2. Prohibiting and condemning harmful practices that have negative effects on the human rights of women, such as female genital mutilation.
3. Protecting widows, elderly women, women with disabilities and women in distress from intersecting forms of violations that impact their lives.

Second, it has been suggested that there is a “lack of congruence”<sup>53</sup> between CEDAW and the Protocol. For example:

1. The Convention sees culture as an impediment to women’s full equality requiring elimination (Article 5), while the Protocol provides more nuance on this matter. While the Protocol seeks the elimination of negative cultural practices that undermine women’s rights, it also affirms that women have the right to live in a “positive cultural context”. (Article 17)
2. The two instruments also have differing approaches to the question of marriage. While the Protocol recognizes that monogamy is the preferred form of marriage, it also obligates states to promote and protect the rights of women in marriage and family, including in polygamous relationships. On the contrary, this is what the CEDAW Committee states about polygamy:

Article 14. ... Polygamous marriage contravenes a woman’s right to equality with men and can have such serious emotional and financial consequences

52 Celestine Nyamu-Musembi, ‘Pulling Apart? Treatment of Pluralism in the CEDAW and the Maputo Protocol’, in Anne Hellum and Henriette Sinding Aasen (eds), *Women’s Human Rights: CEDAW in International, Regional and National Law* (Cambridge: Cambridge University Press, 2013) p. 194–5.

53 Ibid, p. 196.

for her and her dependants that such marriages ought to be discouraged and prohibited. The Committee notes with concern that some States parties that guarantee equal rights in their constitutions permit polygamous marriage in accordance with personal or customary law. This violates the constitutional rights of women and breaches the provisions of article 5 (a) of the Convention.<sup>54</sup>

3. Finally, the boldest innovation in the Protocol relates to its provisions on sexual and reproductive health and reproductive rights, as already described in Chapter 3.

In the final analysis, the Protocol and the Convention complement each other towards the goal of ensuring the promotion and protection of women's rights. Synergy exists between the oversight of the Maputo Protocol and CEDAW. The CEDAW Committee has, for example, encouraged South Sudan to become party to the Maputo Protocol;<sup>55</sup> and the African Commission has raised its concern that Sudan is not a party to CEDAW, and it has urged Sudan to ratify the Convention.<sup>56</sup>



### Learning activity 6.

Identify and discuss laws that undermine gender equality in your country. In light of your understanding of CEDAW and the Maputo Protocol, discuss whether citizens should disobey or disregard such laws.

## 4.6 Summary

This chapter has provided a general overview of the CEDAW Convention. It explained the purpose and value of the Convention and discussed the content of the Convention. The chapter also provided a brief assessment of the distinctions between CEDAW and the Maputo Protocol.

54 'General Recommendation No. 21: Equality in Marriage and Family Relations' (CEDAW Committee, 1994) para. 14 <https://www.ohchr.org/EN/HRBodies/CEDAW/Pages/Recommendations.aspx>

55 'Concluding Observations on the Initial Report of South Sudan' (CEDAW, 2021) para. 12 [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fSSD%2fCO%2f1&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fSSD%2fCO%2f1&Lang=en)

56 'Concluding Observations and Recommendations on the 4th and 5th Periodic Report of the Republic of Sudan' (ACHPR, 2012) paras. 39 and 73.



# 5 Shadow or Alternative Reporting under the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa

Article 26(1) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa:

States Parties shall ensure the implementation of this Protocol at national level, and in their periodic reports submitted in accordance with Article 62 of the African Charter, indicate the legislative and other measures undertaken for the full realization of the rights herein recognized.<sup>57</sup>

Article 62 of the African Charter on Human and Peoples' Rights:

Each State Party shall undertake to submit every two years, from the date the present Charter comes into force, a report on the legislative or other measures taken, with a view to giving effect to the rights and freedoms recognized and guaranteed by the present Charter.<sup>58</sup>

## 5.1 Introduction

This chapter introduces and explains the process, format and content of shadow or alternative reports prepared under the Maputo Protocol. It introduces the monitoring role of the African Commission. It describes state reporting and provides an overview

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<sup>57</sup> 'Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa' (African Union, 2003) <https://au.int/en/treaties/protocol-african-charter-human-and-peoples-rights-rights-women-africa>.





<sup>58</sup> 'African Charter on Human and Peoples' Rights' (OAU, 1981) <https://www.achpr.org/legalinstruments/detail?id=49>.

of shadow or alternative reporting on women’s rights. The chapter finally introduces the thematic content of reports under the Maputo Protocol.

## 5.2 Learning objectives

By the end of the chapter, learners should be able to:

1. Explain the role of the African Commission in monitoring the implementation of the Maputo Protocol.
2. Distinguish between state reporting and shadow or alternative reporting under the Maputo Protocol.
3. Explain the content of shadow or alternative reports under the Protocol.
4. Explain the format that organizations should use to prepare shadow or alternative reports under the Protocol.

<b>Reference material</b>	 <p>African Charter on Human and Peoples’ Rights (1981)  <a href="https://www.achpr.org/legalinstruments/detail?id=49">https://www.achpr.org/legalinstruments/detail?id=49</a></p> <p>Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (2003)  <a href="https://au.int/en/treaties/protocol-african-charter-human-and-peoples-rights-rights-women-africa">https://au.int/en/treaties/protocol-african-charter-human-and-peoples-rights-rights-women-africa</a></p> <p>Rules of Procedure of the African Commission (2020)  <a href="https://achprindependence.org/rules-of-procedure-of-the-african-commission-on-human-and-peoples-rights-of-2020/">https://achprindependence.org/rules-of-procedure-of-the-african-commission-on-human-and-peoples-rights-of-2020/</a></p> <p>Guidelines for National Periodic Reports (1989) <a href="https://www.achpr.org/public/Document/file/English/National%20Periodic%20Reports%20Guidelines%20">https://www.achpr.org/public/Document/file/English/National%20Periodic%20Reports%20Guidelines%20</a></p> <p>Guidelines for State Reporting under the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (2009)  <a href="https://www.achpr.org/legalinstruments/detail?id=47">https://www.achpr.org/legalinstruments/detail?id=47</a></p>
<b>Training material</b>	 <p>Training Manual; slides; flipcharts; video and audio recordings; websites</p>
<b>Methodology</b>	 <p>Plenary presentations; breakout groups</p>
<b>Time</b>	 <p>3 hours</p>

### 5.3 African Commission on Human and Peoples' Rights as mechanism for monitoring women's rights

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The African Commission was established under Article 30 of the African Charter. It consists of 11 members elected by the Assembly of the African Union. Its members are reputable Africans, who have high morality, integrity, impartiality and competence in matters of human and peoples' rights. The Commission's functions include the promotion of human rights, the protection of human rights and the interpretation of the Charter.

The Commission uses multiple strategies to fulfil its functions. Notably:

1. It uses the communications procedure under which individuals or states may file complaints for adjudication as a means of ensuring the protection of human rights.
2. It undertakes protection missions (also known as fact-finding missions) to investigate reports of widespread human rights violations in a State Party.
3. It uses subsidiary or special mechanisms, including working groups, committees and special rapporteurs, to focus on the promotion and protection of particular human rights in the Charter.
4. It undertakes promotion missions to receive information on the legislative and other measures put in place to give effect to the rights and freedoms enshrined in the Charter, sensitize state parties on various human rights aspects, and follow up on implementation of the Commission's decisions and recommendations.
5. It facilitates the development of new binding normative human rights instruments.
6. It develops new soft-law norms and standards in the form of general comments, principles and guidelines.
7. It uses resolutions to express its formal opinions on theme-specific, country-specific or administrative issues.
8. It responds to credible allegations of human rights violations requiring quick interventions through letters of urgent appeal addressed to a head of state or government or through other interventions such as public statements calling on a state to take measures to prevent irreparable harm and seeking relevant information.
9. It uses the initial or periodic reporting procedure (which we shall discuss further in this chapter) to evaluate the extent to which states are fulfilling their obligations to ensure human rights.



### Learning activity 1.

The African Commission has established the following 12 subsidiary or special mechanisms to focus on the promotion and protection of particular human rights in the Charter.<sup>59</sup>

1. The Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa (1996).
2. The Special Rapporteur on the Rights of Women in Africa (1999).
3. The Working Group on Indigenous Populations/Communities and Minorities in Africa (2000).
4. The Special Rapporteur on Freedom of Expression and Access to Information in Africa (2004).
5. The Special Rapporteur on Human Rights Defenders and Focal Point on Reprisals in Africa (2004).
6. The Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa (2004).
7. The Committee for Prevention of Torture in Africa (2004).
8. The Working Group on Economic, Social and Cultural Rights (2004).
9. The Working Group on Death Penalty, Extra-Judicial, Summary or Arbitrary Killings and Enforced Disappearances in Africa (2005).
10. The Working Group on Rights of Older Persons and People with Disabilities (2007).
11. The Working Group on Extractive Industries, Environment and Human Rights Violations in Africa (2009).
12. The Committee on the Protection of the Rights of People Living with HIV (PLHIV) and those at Risk, Vulnerable to and Affected by HIV (2010).

Review the terms of reference and the work of the various subsidiary mechanisms.<sup>60</sup> Discuss the extent to which each mechanism's functions and activities include the promotion and protection of women's rights.

<sup>59</sup> <https://www.achpr.org/specialmechanisms>.

<sup>60</sup> These can be found at <https://www.achpr.org/specialmechanisms>. Also see Standard Operating Procedures on the Special Mechanisms of the African Commission on Human and Peoples' Rights (ACHPR, 2020) <https://www.achpr.org/resources>.



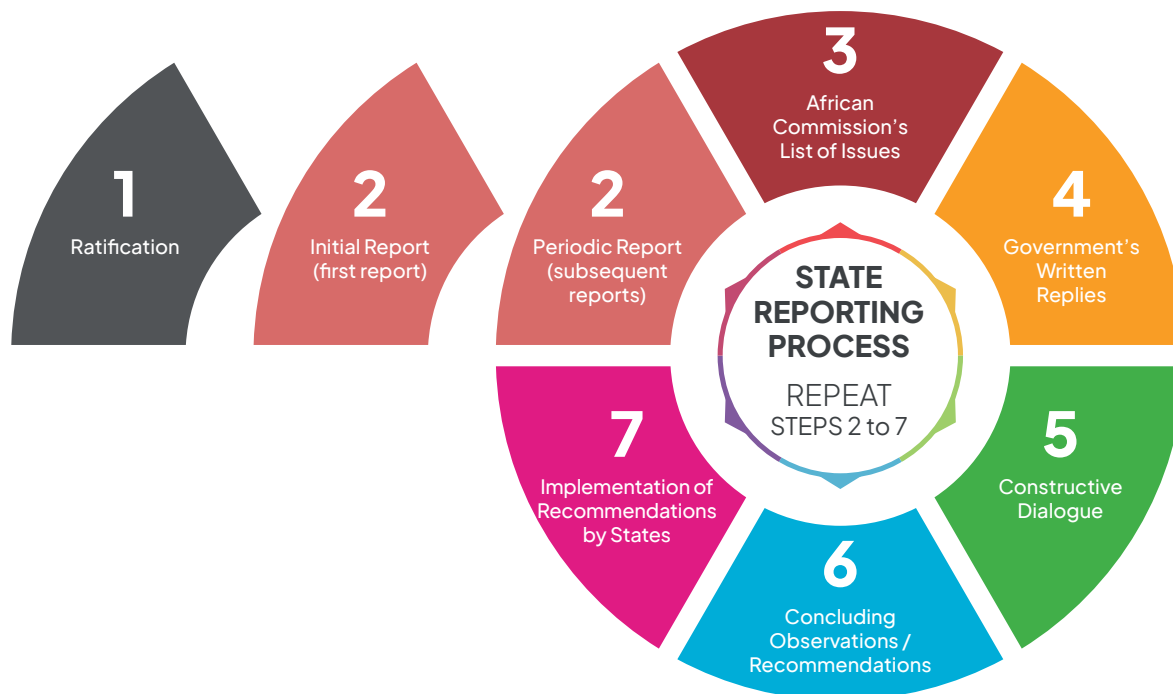
### Case study 1.

The Commission established the Special Rapporteur on the Rights of Women in Africa in 1999. The mandates of the Special Rapporteur include:

1. Assisting governments to develop and implement national policies to promote and protect women's rights.
2. Undertaking promotion and fact-finding missions in African states to publicize human rights instruments and to investigate the situation of women's rights.
3. Preparing reports on the situation of women's rights and making recommendations to the Commission.
4. Preparing resolutions on the situation of women in African countries for adoption by the Commission.
5. Conducting comparative studies on the situation of women's rights in African countries.<sup>61</sup>

## 5.4 Summary of reporting process under the Maputo Protocol

Below is a summary of the reporting process under the Maputo Protocol:<sup>62</sup>



61 <https://www.achpr.org/sessions/intersession?id=146>.

62 Centre for Human Rights <https://www.maputoprotocol.up.ac.za/index.php/state-reporting>.

## 5.5 State reporting under the Maputo Protocol

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### 5.5.1 Article 62 of the Charter and Article 26 of the Protocol

Article 62 of the African Charter requires each state to prepare and submit to the African Commission a biennial report, addressing the legislative and other measures taken by the state to give effect to the rights and freedoms recognized and guaranteed by the Charter. Similarly, Article 26 of the Maputo Protocol requires state parties to report to the Commission the legislative and other measures undertaken for the full realization of the rights recognized under the Protocol. This report is submitted to the Commission together with the state's report under the African Charter.

While Article 62 of the Charter did not require explicitly that the state reports should be submitted to the African Commission, the Commission's monitoring function was affirmed by the Assembly of Heads of State and Government of the Organization of African Unity, which resolved in 1988 to entrust the Commission with receiving and examining the state reports.<sup>63</sup>

The Commission monitors the realization of the African Charter, the Maputo Protocol, and the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa.<sup>64</sup> Most recently, the Commission has also been mandated to monitor two further human rights instruments when they come into force: the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa<sup>65</sup> and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa.<sup>66</sup>

At the end of 2021, 19 states were up-to-date in their reporting obligations under the Protocol. These states were Angola, Benin, Burkina Faso, Cameroon, Democratic Republic of Congo, Eswatini, The Gambia, Kenya, Lesotho, Malawi, Mauritania, Namibia, Nigeria, Rwanda, Senegal, Seychelles, South Africa, Togo and Zimbabwe.<sup>67</sup> This means that over half of the state parties to the Protocol have still not fulfilled their reporting obligations under Article 26 of the Maputo Protocol.

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63 At its 24<sup>th</sup> Ordinary Session. <https://www.achpr.org/statereportingproceduresandguidelines>.

64 African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (African Union, 2009) <https://au.int/en/treaties/african-union-convention-protection-and-assistance-internally-displaced-persons-africa>.

65 'Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa' (African Union, 2018) <https://au.int/en/treaties/protocol-african-charter-human-and-peoples-rights-rights-persons-disabilities-africa>.

66 'Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa' (African Union, 2016) <https://au.int/en/treaties/protocol-african-charter-human-and-peoples-rights-rights-older-persons>.

67 'Combined 50<sup>th</sup> and 51<sup>st</sup> Activity Reports of the African Commission on Human and Peoples' Rights' (ACHPR, 2022) para. 32 <https://www.achpr.org/activityreports>.

## 5.5.2 Regulations and guidelines for preparing state reports

The African Commission has developed a number of regulations and guidelines on the preparation of state reports. Three sets of regulations and guides are particularly relevant for reporting on women's rights.

First, the Rules of Procedure of the African Commission (2020)<sup>68</sup> establish the Commission's state reporting procedures pursuant to Article 62 of the Charter and by extension Article 26 of the Protocol. The Rules set out the contents of state reports, state transmission of the reports to the Commission, their consideration by the Commission, issuance of concluding observations by the Commission and follow-up on the implementation of the concluding observations.

Second, the Guidelines for National Periodic Reports (1989)<sup>69</sup> provide more details on the preparation of national reports. They cover the form and content of initial and periodic reports, and go into great detail on the themes and indicators which national reports should include. The focus on women in these Guidelines is rather limited since, as we saw in Chapter 3, the African Charter made few specific provisions on women's rights. Yet the Guidelines focus on important aspects of women's rights.

For example, in relation to Article 15 of the Charter on the right to work, the Guidelines require a state to report on provisions and methods for ensuring women are guaranteed conditions of work not inferior to those of men, with equal pay for work of equal value. In relation to the protection of the family, mothers and children, the Guidelines require national reports to provide information on guarantees of the right of men and women to enter into marriage with their full and free consent. Information on measures for maternity protection should also be included.

Quite fascinatingly, the Guidelines include a section that anticipates that a State Party to the CEDAW may furnish the African Commission with information on the implementation of CEDAW. The underlying thinking behind this requirement was, in the Commission's words, that "discrimination against women in Africa is of such widespread occurrence that the Commission would also like to receive reports on measures to eliminate this anachronism."<sup>70</sup> Hence, for the Commission, the rights established in CEDAW compliment and add to the provisions on women's rights established in the Charter. While this section of the Guidelines may not be relevant to states which are party to the Maputo Protocol, it remains relevant for African states not party to the Protocol.

Third, and of most relevance to reporting under the Protocol, are the Guidelines for State Reporting under the Protocol to the African Charter on Human and Peoples' Rights on

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68 'Rules of Procedure of the African Commission on Human and Peoples' Rights' (ACHPR, 2020) <https://achpr.independence.org/rules-of-procedure-of-the-african-commission-on-human-and-peoples-rights-of-2020/>.

69 'Guidelines for National Periodic Reports' (ACHPR, 1989) <https://www.achpr.org/legalinstruments/detail?id=47>.

70 Ibid.

the Rights of Women in Africa (2009),<sup>71</sup> which, as we shall show in this chapter, provide the procedures for state reporting to the African Commission under the Maputo Protocol.

The following further guidelines of the Commission have provisions of relevance for purposes of reporting on women's rights:

1. The Guidelines for National Periodic Reports under the African Charter (1998),<sup>72</sup> adopted by the Commission as simplified guidelines to supplement the 1989 Guidelines.
2. The State Party Reporting Guidelines for Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights (2012),<sup>73</sup> also known as the Tunis Reporting Guidelines, provide more specific information on the content of state reports in relation to economic, social and cultural rights. They provide that information in state reports should include statistics on the enjoyment of each right, disaggregated by age, gender, ethnic origin, urban/rural population and other vulnerable or marginalized groups, as well as information on steps taken to ensure gender equality.
3. The State Reporting Guidelines and Principles on Articles 21 and 24 of the African Charter Relating to Extractive Industries, Human Rights and the Environment (2018)<sup>74</sup> require a state to provide information on Article 21 covering issues such as the legal guarantees made particularly to women to live on, access, develop and use the land, vegetation, water sources and the aquatic resources on which they depend for their survival and livelihoods.

### 5.5.3 Reporting milestones

From the above regulations and guidelines, once a state has prepared its report, it is required to transmit it to the African Commission. The report is subsequently uploaded onto the Commission's website and information on when the state will be examined by the Commission is provided. The Commission then sends to the state a list of questions that it expects the state to respond to. Institutions, organizations or other interested parties send their shadow or alternative reports to the Commission at least 60 days prior to the examination of the report. While this 60-day requirement is important, the Commission does not enforce that timeline strictly, in part because the Commission itself often does not post some of the reports onto its website in the timeframe.

71 'Guidelines for State Reporting under the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa' (ACHPR, 2009) [https://www.achpr.org/public/Document/file/English/Guidelines%20on%20State%20Reporting%20under%20the%20Maputo%20Protocol\\_2.pdf](https://www.achpr.org/public/Document/file/English/Guidelines%20on%20State%20Reporting%20under%20the%20Maputo%20Protocol_2.pdf).

72 'Guidelines for National Periodic Reports under the African Charter' (ACHPR, 1998) [https://www.pulp.up.ac.za/images/pulp/books/legal\\_compilations/compendium/Guidelines%20for%20National%20Reports%201998.pdf](https://www.pulp.up.ac.za/images/pulp/books/legal_compilations/compendium/Guidelines%20for%20National%20Reports%201998.pdf).

73 'State Party Reporting Guidelines for Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights' (ACHPR, 2012) [https://www.achpr.org/public/Document/file/English/State%20Reporting%20Guidelines%20on%20ECOSOC%20Rights%20\(2012\).pdf](https://www.achpr.org/public/Document/file/English/State%20Reporting%20Guidelines%20on%20ECOSOC%20Rights%20(2012).pdf).

74 'State Reporting Guidelines and Principles on Articles 21 and 24 of the African Charter Relating to Extractive Industries, Human Rights and the Environment' (ACHPR, 2018) <https://www.achpr.org/legalinstruments/detail?id=1>.



The Commission examines the state by undertaking what is referred to as a 'constructive dialogue' at one of its public sessions, and the state responds to questions asked by the Commission either at the session or later. The Commission then issues concluding observations and recommendations that it expects the state to implement and subsequently address again in its next report. The concluding observations are transmitted to the state within 30 days after the session in which the observations were adopted. They are also posted on the website of the Commission after the adoption of the Commission's activity report by the AU Assembly. The Commission also communicates in its activity report to the AU Assembly which states' reporting obligations are not current.

#### 5.5.4 Contents of initial or periodic reports

Rules 78–83 of the Rules of Procedure, together with the Guidelines for National Reporting and the Guidelines for State Reporting under the Protocol, establish the process for preparing the initial or periodic state report.

States that are party to the Protocol are required to submit to the Commission a report with two distinct parts: one reporting on the implementation of the African Charter and the other providing information on implementation of the Maputo Protocol. A state should not merge both parts into one report. A report submitted by a state under the Protocol for the first time is referred to as an 'initial report', while subsequent reports are known as 'periodic reports'.

#### Case study 2.

The African Commission has expressed its displeasure with states that do not abide by their obligation to report on the implementation of the Protocol. In one instance, the Commission decried Uganda's failure to provide sufficient information on its implementation of the Protocol in terms of Article 26 of the Protocol and the pertinent reporting guidelines.<sup>75</sup>

The Rules of Procedure and the Guidelines for State Reporting under the Maputo Protocol specify the information that a state should include in an initial or periodic report under the Protocol, as described below.

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75 'Concluding Observations and Recommendations – Uganda: 5th Periodic Report, 2010 – 2012' (ACHPR, 2015), paras. 50 and 83 <https://www.achpr.org/sessions/concludingobservation?id=94>.

### 5.5.4.1 Process of preparing the report

A state should explain the process used to prepare the report. It should explain the extent to which civil society participated in its preparation.



#### Case study 3.

The Commission's concluding observations on the 6th Periodic Report of Namibia raised the concern about the state's failure to comply fully with the Guidelines for State Reporting under the Maputo Protocol, notably the lack of information on whether individuals and organizations working on gender issues were involved in the preparation of the Report.<sup>76</sup>



#### Case study 4.

Lesotho's Combined Second to Eighth Periodic Report, 2001–2017 states: "Consultations were made with various government departments and civil society organizations (CSOs) who played a crucial role in drafting and validation of this report."<sup>77</sup>



#### Case study 5.

Burkina Faso's combined Third and Fourth Periodic Report was more detailed. It states that they had:

1. Established a drafting committee and a multi-sectoral committee each comprising representatives of ministries, institutions and CSOs to monitor the preparation of the report.
2. Consulted public and private institutions.
3. Prepared a draft report.
4. Had the draft report considered and adopted by the Monitoring Committee.
5. Validated the draft report by a national workshop bringing together participants from ministries, institutions and CSOs.
6. Considered the draft report by the Inter-Ministerial Committee on Human Rights and International Humanitarian Law.
7. Adopted the report by the Council of Ministers.<sup>78</sup>

76 'Concluding Observations and Recommendations – Namibia: 6th Periodic Report, 2011–2016' (ACHPR, 2016), para. 29, <https://www.maputoprotocol.up.ac.za/index.php/namibia>.

77 [https://www.achpr.org/public/Document/file/English/lesotho\\_periodic\\_report\\_combined\\_2nd\\_8th\\_2001\\_2017\\_eng.pdf](https://www.achpr.org/public/Document/file/English/lesotho_periodic_report_combined_2nd_8th_2001_2017_eng.pdf)

78 'Concluding Observations and Recommendations on the Combined Periodic Report of Burkina Faso, 2011 - 2013' (Burkina Faso, 2015), <https://www.achpr.org/states/statereport?id=101>.

### 5.5.4.2 Background information

A state should include the following background information in its report:

1. Its overall legal framework on women's rights.
2. Whether the Protocol is directly applicable before national courts or if it has to be incorporated into domestic law.
3. Whether the provisions of the Protocol have been invoked before national courts and tribunals.
4. The effect of any reservations the state has entered on the enjoyment of the rights protected by the Protocol.
5. State institutions relevant to the Protocol and information on their budgetary allocation.
6. Gender mainstreaming, including any policy and capacity-building efforts.
7. Gender audit of laws or legal reform efforts undertaken from a gender perspective.

### 5.5.4.3 Implementation measures

A state should report on each provision in the Protocol, explaining implementation measures covering the following:

1. The legislative measures taken to give effect to the right.
2. The administrative measures, including budgetary allocations, taken to give effect to the right.
3. The institutional mechanisms in place to ensure the right is given effect.
4. The policies and programmes adopted to give effect to the right.
5. The public education and awareness-raising activities undertaken for the right;
6. Other general measures adopted to ensure the right.
7. Avenues of redress for breach of the right (judicial and extra-judicial) and whether any cases have been decided and implemented.

8. The challenges of implementing the right and the steps taken to overcome the challenges.
9. Whether the right is accessible to all women, especially those facing additional barriers due to intersection vulnerability, e.g., rural, elderly or impoverished women.
10. Relevant data and statistics disaggregated by gender on the right.



### Learning activity 2.

Use the latest report on the Maputo Protocol submitted by your government for consideration by the African Commission. Focusing on your specific area of work on women's rights, highlight information in the report which in your view contains misstatements of fact or incorrect assessments or conclusions. Discuss why the information provided by the government is different from the information you have.



### Case study 6.

Lesotho's Combined Second to Eighth Periodic Report was conscious about the importance of data, stating that:

The statistics used in this report are secondary data obtained from population censuses of 2006 and 2016, Lesotho Demographic Survey (LDS), Lesotho Government Ministries and Research conducted by various Civil Society Organizations and Development Partners. Sources of all the data in the form of percentages, figures, tables and graphs are acknowledged.<sup>79</sup>



### Learning activity 3.

Drawing from recent concluding observations issued by the African Commission, identify the structure or segmentation of the document. What is the aim of each segment of the document? To what extent does each segment support the effective implementation of the Maputo Protocol?

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<sup>79</sup> 'Combined Second to Eighth Periodic Report under the African Charter on Human and Peoples' Rights and Initial Report under the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa' (The Kingdom of Lesotho, 2018) para. 290 <https://www.achpr.org/states/statereport?id=120>.

## 5.6 Shadow or alternative reporting under the Maputo Protocol

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### 5.6.1 Approach

CSOs, whether national, international or community-based organizations, may prepare and submit shadow or alternative reports to the African Commission under the Maputo Protocol. It is not a requirement that an organization have observer status with the Commission before it may prepare a report. The credibility of a shadow or alternative report may, however, be enhanced if it is obvious that the submitting organization has a track record of working or networking in the state under consideration. An organization that participates in any way in preparing a state report is thereby not forbidden to prepare a shadow or alternative report.

Where an organization has credible and reliable information that may, through its critique of the national report, assist the Commission in its constructive dialogue with the state, it should proceed to prepare a shadow or alternative report. As we explained in Chapter 2, the specific format and content of a report may vary depending on whether it is a shadow report or alternative report, and whether the report seeks to provide information on the whole Protocol or only on a limited number of themes. It should also be stressed that the Commission accepts both shadow and alternative reports and it receives and processes both types of reports in the same way. Therefore, the distinction between a shadow report and an alternative report is pertinent when an organization is preparing a report, not necessarily when the Commission is using it.

From the outset, an organization or coalition of organizations should determine the thematic scope of their report. This determination should be informed by the organization's or coalition's areas of work and the main human rights violations that women face. A shadow or alternative report under the Protocol, therefore, may cover one or a limited number of themes, or it may cover all the themes or provisions in the Protocol.

The report should introduce the reporting organization or coalition of organizations. This will enable the Commission to begin evaluating the credibility of the information in the report. In no way does this suggest that the Commission will discount or ignore information provided by lesser-known organizations.

The report should provide a context for the realization of women's rights in the state under consideration. It is important that this contextual information should be brief and that the report should not overstate obviously uncontested information that has already been established in the state's report.

The report, then, should provide information on the implementation of the Maputo Protocol. A report focusing generally on the whole Protocol should be guided by the eight themes described in the next section of this chapter. The report may, however, focus only on one or a number of themes. Information provided in the report must be

evidenced by examples and references to policies, laws, regulations, judicial decisions, research studies and reports, and statistical information.

Information furnished under each theme should be presented appropriately to address the following:

1. The report should provide information on the policy, legislative and institutional measures in place to realize a relevant theme or right. Towards this end, the report should establish the Protocol right at issue and the legal (constitutional or statutory) norm and policy framework anchoring the right.
2. The report should frame the organization's concerns on absent or limited implementation of the theme or right. Areas of concern may, for example, indicate that, while the state has put in place an adequate legislative and policy framework to implement the right at issue, the state has not established an adequate institutional framework for supporting the realization of the right.
3. The report may suggest questions which the Commission should consider asking when it undertakes the interactive dialogue with the state. While the Commission is not obligated to use suggested questions, they can be invaluable in shaping the Commission's dialogue with the state. It is essential that the questions should be specific rather than general and that they should tend to invite specific responses which then can be framed as recommendations to the state.
4. The report should suggest recommendations that the Commission should consider putting to the state. Recommendations should be drawn directly from the suggested questions. The questions and recommendations in a shadow or alternative report should be identified and framed with care and on a priority basis. Organizations should focus on the quality of each question and recommendation, and their number should be fairly limited.
5. Finally, the report should have a conclusion and annexes.

When determining the content and critiques to be included in a shadow or alternative report, an organization should take account of any relevant previous concluding observations made to the state by the Commission. The report's content should be anchored to instruments and reports on women's rights prepared by the Commission and other relevant treaty bodies. These may include relevant general comments, guidelines, thematic resolutions and country resolutions, promotion missions, protection missions and other studies. The report should also note when a state has entered a reservation on the Maputo Protocol. The report should highlight any negative effects of the reservation on the exercise by women of their rights and suggest questions and recommendations for the state to lift the reservation.



#### Learning activity 4.

Soft-law instruments prepared by the African Commission are essential tools for guiding organizations that are preparing shadow or alternative reports. These instruments also provide invaluable insights to organizations as they undertake their work on women's rights. After the workshop, set aside one day to download and arrange in a folder using your preferences all the general comments, guidelines and principles that are relevant for your work on women's rights. Keep in mind that even instruments that do not make explicit mention of women may address issues relevant to the exercise of rights by women.<sup>80</sup> Plan to review and update that folder at least once every six months. The folder will be very handy as a quick point of reference, especially when you do not have access to online material.<sup>81</sup>



#### Case study 7.

The African Commission has developed general comments, guidelines and principles that provide primary guidance on women's rights. For example, in one of its general comments, the Commission found that acts of sexual and gender-based violence, or the failure by states to prevent and respond to such acts, may amount to torture and other ill-treatment in violation of Article 5 of the African Charter. The Commission requires states to take measures to ensure that victims of sexual and gender-based violence obtain redress. These measures may include ensuring adequate documentation; criminalizing all forms of sexual and gender-based violence; ensuring accountability of perpetrators; providing support to victims at all stages of the legal process; identifying the causes and consequences of sexual and gender-based violence and taking all necessary measures to prevent and eradicate it; putting in place efficient and accessible reparation programmes and ensuring participation of victims in the elaboration, adoption and implementation of the programmes; providing unimpeded and regular access to comprehensive health care, including sexual and reproductive health care services, physical rehabilitation, psychological and psychosocial support, and socio-economic support; and observing the need to ensure the dignity and safety of victims and the importance of confidentiality and privacy.<sup>82</sup>

Shadow or alternative reports should be sent to the Secretariat of the African Commission on Human and Peoples' Rights at the following address:

**31 Bijilo Annex Layout,  
Kombo North District, Western Region  
P.O. Box 673 Banjul, The Gambia  
E-mail: Au-Banjul@Africa-Union.org**

<sup>80</sup> See Annex 3 of the Training Manual.

<sup>81</sup> These soft-law instruments can be found at <https://www.achpr.org/resources>.

<sup>82</sup> 'General Comment No. 4: The Right to Redress for Victims of Torture and other Cruel, Inhuman or Degrading Punishment or Treatment (Article 5)' (ACHPR, 2017), <https://www.achpr.org/legalinstruments/detail?id=60>.

Thus far, shadow or alternative reports submitted to the Commission are not published on the Commission's website. This is more a matter of practice rather than of policy (possibly necessitated by limited capacity in the Commission).

### 5.6.2 Thematic content of shadow or alternative reports

The African Commission is in the process of preparing guidelines for shadow or alternative reporting under the various instruments that it oversees.<sup>83</sup> Earlier in this chapter, we saw that shadow or alternative reports often draw from or parallel the information provided in state reports. The thematic content of shadow or alternative reports, therefore, is already drawn and adapted from the Guidelines that states use to prepare their reports.

The Maputo Protocol Guidelines have identified eight themes under which a state may cluster its report. CSOs should sequence the content of their reports similarly. Below we list these eight themes and their subthemes.

#### **Theme one: equality and non-discrimination.**

This should cover the following:

1. Elimination of discrimination (Article 2).
2. Access to justice, including legal aid and the training of law enforcement officials (Article 8).
3. Political participation and decision-making (Article 9).
4. Education (Article 12).

#### **Theme two: protection of women from violence.**

This should cover the following:

1. Bodily integrity and dignity, including sexual violence, trafficking of women and medical and scientific experimentation (Articles 3 and 4).
2. Practices harmful to women, including female genital mutilation (Article 5).
3. Female stereotypes (Article 4(2)(c)).
4. Domestic violence (Article 4(2)(a)).
5. Support to victims of violence, including health services and psychological counselling (Article 5(c)).

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<sup>83</sup> 'Resolution on the Need to Develop Guidelines for Shadow Reporting - ACHPR/Res. 436 (EXT.OS/XXVII) 2020' (ACHPR, 2020) <https://www.achpr.org/sessions/resolutions?id=467>.



### **Theme three: rights relating to marriage (Articles 6 and 7).**

This should cover the following:

1. Marriage and its effect on property relations, nationality and name (Article 6(e) to (j)).
2. Minimum age of marriage (Article 6(b)).
3. Registration of marriages (Article 6(d)).
4. Protection of women in polygamous marriages (Article 6(c)).
5. Protection of women during separation, divorce or annulment of marriage (Article 7).
6. Protection of children in the family (Article 6 (i) and (j)).

### **Theme four: health and reproductive rights.**

This should cover the following:

1. Access to health services (Article 14(2)(a)).
2. Reproductive health services, including the reduction of maternal mortality (Article 14(1)(a) and (b)).
3. Provision for abortion (Article 14(2)(c)).
4. HIV and AIDS (Article 14(1)(d)).
5. Sex education (Article 14(1)(g)).

### **Theme five: economic, social and cultural rights.**

This should cover the following:

1. Economic and welfare rights (Article 13).
2. Right to food security (Article 15).
3. Right to adequate housing (Article 16).
4. Right to positive cultural context (Article 17).
5. Right to a healthy and sustainable environment (Article 18).
6. Right to sustainable development, including the right to property, and access to land and credit (Article 19).

### **Theme six: right to peace (Article 10).**

This should cover the following:

1. Women's participation in peace and conflict prevention and management (Article 10(1)) and in all aspects of post-conflict reconstruction and rehabilitation (Article 10(2)(e)).
2. Reduction of military expenditures in favour of social spending (Article 10(3)).

### **Theme seven: protection of women in armed conflicts (Article 11).**

This should cover the following:

1. Measures of protection for asylum seekers, refugees, internally displaced women and the punishment of all violators of such protection (Article 11(1)–(3)).
2. Protection that no child especially girls take a direct part in hostilities and no child is recruited as a soldier (Article 11(4)).

### **Theme eight: rights of specially protected women's group.**

This should cover the following:

1. Widows, including their inheritance rights (Articles 20 and 21).
2. Elderly women (Article 22).
3. Women with disabilities (Article 23).
4. Women in distress (Article 24).



### **Learning activity 5.**

The organization you work for is preparing a shadow report for submission to the African Commission under the Maputo Protocol. The shadow report will address issues that impact the human rights of women in the country.

1. List the primary themes on which your organization works.
2. What policy, legislative and institutional measures has the country taken to realize the rights addressed under the theme.
3. Identify the areas of concern which undermine the effective realization of the rights in question.
4. Propose recommendations that the African Commission should consider making towards the full realization of the rights in question.

5. Propose a list of questions that the African Commission should ask the government delegation when it presents its state report to the Commission.

### 5.6.3 Format of shadow or alternative report

A shadow or alternative report should be organized article by article (Articles 1–16). Secondary references to other articles may be made for the completeness of reporting on a particular theme. Where information is provided in preceding articles, the report may cross-reference pertinent issues that arise again.

The shadow or alternative report may be segmented as follows:

1. Title page, including title, author(s) or NGO name, State Party name, and date of shadow or alternative report.
2. Table of contents.
3. Executive summary (optional).
4. Introduction.
5. The main body organized by theme (see preceding section of this chapter), consisting of status of the right at issue, concerns, suggested questions and suggested recommendations.
6. Conclusion.
7. Annexes as necessary.<sup>84</sup>

## 5.7 Summary

This chapter has introduced and explained the process, format and content of shadow or alternative reports prepared under the Maputo Protocol. It introduced the monitoring role of the African Commission, described state reporting, and provided an overview of shadow or alternative reporting on women's rights. Finally, the chapter introduced the thematic content of reports under the Maputo Protocol.

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<sup>84</sup> Annex 5 of the Training Manual provides more supplementary information on shadow or alternative reporting.

# 6 Shadow or alternative reporting under the Convention on the Elimination of all Forms of Discrimination against Women

Article 18 of CEDAW:

1. States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the present Convention and on the progress made in this respect:
  - a. Within one year after the entry into force for the State concerned;
  - b. Thereafter at least every four years and further whenever the Committee so requests.
2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Convention.<sup>85</sup>

## 6.1 Introduction

This chapter introduces and explains the process, format and content of shadow or alternative reports prepared under CEDAW. It introduces the monitoring role of the CEDAW Committee, describes state reporting, and provides an overview of shadow or alternative reporting on women's rights. The chapter finally introduces the format for preparing reports under the Convention.





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<sup>85</sup> Convention on the Elimination of all Forms of Discrimination against Women (United Nations, 1979) <https://www.un.org/womenwatch/daw/cedaw/>.

## 6.2 Learning objectives

By the end of the chapter, learners should be able to:

1. Explain the role of the CEDAW Committee in monitoring the implementation of CEDAW.
2. Distinguish between state reports and shadow or alternative reports under the Convention.
3. Explain the content of shadow or alternative reports under the Convention.
4. Explain the format that organizations should use to prepare shadow or alternative reports under the Convention.

<b>Reference material</b>	 <p>Convention on the Elimination of all Forms of Discrimination against Women (1979) <a href="https://www.un.org/womenwatch/daw/cedaw/">https://www.un.org/womenwatch/daw/cedaw/</a></p> <p>Harmonised Guidelines on Reporting under the International Human Rights Treaties, Including Guidelines on a Common Core Document and Treaty-Specific Documents, HRI/MC/2006/3 <a href="https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=HRI/MC/2006/3&amp;Lang=en">https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=HRI/MC/2006/3&amp;Lang=en</a></p> <p>Reporting Guidelines of the Committee of the Elimination of Discrimination against Women (CEDAW Committee 2008) <a href="https://www2.ohchr.org/english/bodies/cedaw/docs/annexi.pdf">https://www2.ohchr.org/english/bodies/cedaw/docs/annexi.pdf</a></p> <p>General recommendations of the CEDAW Committee <a href="https://www.ohchr.org/en/treaty-bodies/cedaw/general-recommendations">https://www.ohchr.org/en/treaty-bodies/cedaw/general-recommendations</a></p>
<b>Training material</b>	 <p>Training Manual; slides; flipcharts; video and audio recordings; websites</p>
<b>Methodology</b>	 <p>Plenary presentations; breakout groups</p>
<b>Time</b>	 <p>3 hours</p>

### 6.3 Committee on the Elimination of Discrimination against Women as mechanism for monitoring women's rights

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Article 17 of the Convention established the CEDAW Committee, whose functions include considering progress made by states in the Convention's implementation. The Committee comprises 23 experts of high moral standing who serve in their personal capacities. The Committee's members are representative of the world's different forms of government, as well as the principal legal systems. In January 2022, the Committee's 23 experts included five members from the following African states: Algeria, Burkina Faso, Egypt, Ghana and Mauritius.<sup>86</sup>

Article 18 of the Convention obligates each state party to the Convention to submit to the CEDAW Committee a report on the legislative, judicial, administrative or other measures it has adopted to give effect to the provisions of the Convention. This provision binds all African states, apart from Somalia and Sudan, which are not party to the Convention.<sup>87</sup> A state submits its initial report for consideration by the Committee within one year, after which it submits to the Committee a periodic report every four years.

Since its establishment, the CEDAW Committee has developed 38 general recommendations providing authoritative guidance to states and other stakeholders on the meaning and application of various provisions of the Convention.<sup>88</sup>

The CEDAW Committee also oversees the implementation of the Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women (1999).<sup>89</sup> The Optional Protocol establishes a communications procedure that gives individuals and organizations the right to complain about violations of the CEDAW Convention. It also establishes an inquiry procedure that enables the CEDAW Committee to conduct inquiries into grave or systematic abuse by a party to the Optional Protocol. As of March 2022, the following 28 African states were party to the Optional Protocol: Angola, Benin, Botswana, Burkina Faso, Cape Verde, Cameroon, Central African Republic, Côte d'Ivoire, Equatorial Guinea, Gabon, Ghana, Guinea Bissau, Lesotho, Libya, Mali, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, Sao Tome and Principe, Senegal, Seychelles, South Africa, South Sudan, Tanzania and Tunisia.<sup>90</sup>

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86 Committee on the Elimination of Discrimination Against Women, Membership <https://www.ohchr.org/EN/HRBodies/CEDAW/Pages/Membership.aspx>.

87 UN Treaty Body Database tracking the ratification status for CEDAW [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CEDAW&Lang=en](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CEDAW&Lang=en).

88 Annex 4 of this manual provides a list of the general recommendations.

89 'Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women' (United Nations 1999), <https://www.ohchr.org/en/instruments-mechanisms/instruments/optional-protocol-convention-elimination-all-forms>.

90 <https://www.un.org/womenwatch/daw/cedaw/protocol/>.

## 6.4 Summary of reporting under the CEDAW Convention

Below is a summary of the reporting process under CEDAW:<sup>91</sup>



## 6.5 State reports

### 6.5.1 Reporting cycle

The reporting cycle under the CEDAW Convention involves the following steps:

1. The state prepares its national report (initial or periodic).
2. The state submits its national report to the CEDAW Committee.
3. The Committee prepares a pre-sessional list of issues (seeking clarifications).
4. The state provides written replies to the list of issues.
5. The Committee examines the national report through a constructive dialogue with the state.
6. The Committee prepares concluding observations, identifying positive aspects, principal areas of concerns and recommendations.

<sup>91</sup> <https://pcw.gov.ph/reporting-to-cedaw/>.

7. The state implements and follows up on the recommendations made by the Committee, including by reporting within two years on priority areas identified by the Committee.

## 6.5.2 Reporting guidelines

In 2006, the Harmonized Guidelines on Reporting to the International Treaty Monitoring Bodies (Harmonized Guidelines) were adopted to guide states to fulfil their reporting obligations under CEDAW and other core human rights treaties.<sup>92</sup> The Harmonized Guidelines enable states to undertake reporting to various treaty bodies using a coordinated and streamlined process that is timely and effective, including by avoiding unnecessary duplication of information.<sup>93</sup>

The Harmonized Guidelines consist of the Harmonized Reporting Guidelines on a Common Core Document and the CEDAW Committee (Treaty-Specific) Reporting Guidelines.<sup>94</sup> This means that each state submits two sets of reports to the Committee: the common core document (submitted to all core treaty bodies and updated as necessary) and the Convention-specific report (submitted every four years to the Committee). The common core document was introduced by treaty bodies to address the burden that obligated states to prepare and submit common information repeatedly to multiple treaty bodies.

The common core document contains information of a general and factual nature about the reporting state, providing background information such as the state's demographic, geographic, legal, political and historical context. Once general information is provided in the common core document, it need not be repeated in the Convention-specific report. This means that a state must ensure that it submits an updated common core document. The information must also be reviewed on its sex and gender dimensions.

A state is supposed to use the Convention-specific document to prepare its initial and periodic reports on the implementation of CEDAW. The initial report provides baseline information, while the information in the periodic report focuses on the period between the consideration of the state's previous report and the presentation of the current report. Both reports are structured around each of the content articles of the Convention (Articles 1–16). A periodic report should state if there is nothing new to report under a particular article.

We should also explain that the CEDAW Committee, alongside other treaty bodies, has established a simplified procedure that a state may use to prepare its report. The Committee makes the simplified reporting procedure available to any state that makes a request, so long as the state submitted an initial report considered by the Committee under the regular

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92 'Harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents,' Report of the Inter-Committee Technical Working Group (United Nations, 2006) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolNo=HRI/MC/2006/3&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolNo=HRI/MC/2006/3&Lang=en).

93 *Ibid.*, paras. 4 and 7.

94 Reporting Guidelines of the Committee of the Elimination of Discrimination against Women (CEDAW Committee, 2008) <https://www2.ohchr.org/english/bodies/cedaw/docs/annexi.pdf>.



procedure and submitted an updated common core document.<sup>95</sup> Under the simplified reporting procedure, the Committee's pre-sessional working group prepares a list of issues to be transmitted to the state prior to the submission of its report. Such lists are known as 'lists of issues' prior to reporting. The replies of the state to the list of issues prior to reporting constitute its periodic report.

### 6.5.3 Content of a state report

A state report provides analytical information on the impact of laws and the interaction of plural legal systems, policies and programmes on women. It provides information on progress made in ensuring enjoyment of the provisions of the Convention by women. It addresses the legislative, judicial, administrative or other measures that a state has adopted to give effect to the provisions of the Convention and on the progress made in this respect. That report may indicate factors and difficulties affecting the degree of fulfilment of obligations under the Convention.

A state should in its initial or periodic report furnish the Committee with information on various specific issues, including:

1. The legal (*de jure*) or actual (*de facto*) situation regarding the implementation of the provisions of CEDAW.
2. How CEDAW is reflected in the actual political, economic, social and cultural realities and general conditions existing in the country.
3. Relevant data and statistics (disaggregated by sex, age and population groups) and the analysis of such data. Such information should allow comparison over time and should indicate data sources.
4. The implementation of CEDAW, including recent developments in law and practice affecting the enjoyment of rights, and responses to issues raised by the Committee in its concluding observations or its general comments.
5. Factors and difficulties of particular relevance to the implementation of the provisions of CEDAW, including details of the steps being taken to overcome them.
6. The impact of measures taken, and trends over time, in eliminating discrimination against women and ensuring women's full enjoyment of their human rights.
7. The implementation of the Convention with respect to different groups of women, in particular those subject to multiple forms of discrimination.

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<sup>95</sup> <https://www.ohchr.org/EN/HRBodies/CEDAW/Pages/ReportingProcedures.aspx>.

8. If and how fundamental change has occurred in the state's political and legal approach affecting the implementation of the Convention, or new legal or administrative measures have been introduced by the state that require the annexure of texts and judicial or other decisions.
9. The steps taken by the state to ensure that any circumstance giving rise to a communication determined by the Committee does not recur.
10. Details of any measures taken in response to an inquiry undertaken by the Committee and to ensure that the violations giving rise to the inquiry do not recur.



### Learning activity 1.

Review the most recent national report submitted by your country to the CEDAW Committee. Does the report provide a fair assessment of the exercise of human rights by women in the country?

The Harmonized Guidelines stress that information provided in a state report should be concise and properly structured. They recommend that, as far as possible, common core documents should not exceed 60–80 pages, initial treaty-specific documents should not exceed 60 pages, and subsequent periodic documents should be limited to 40 pages.<sup>96</sup>

The CEDAW Committee considers a state's initial or periodic report, after which it issues concluding observations to guide the state under review to further implement the Convention. Concluding observations outline positive aspects, principal subjects of concern and the Committee's recommendations on how to address challenges faced by the state. The concluding observations also include a list of priority recommendations that the Committee requires the state to provide a report on within two years under the follow-up procedure.



### Learning activity 2.

Identify the most recently published concluding observations on your country from the CEDAW Committee. What are the principal areas of concern listed by the Committee? Discuss the suitability of the recommendations made by the Committee.

## 6.6 Shadow or alternative reports

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<sup>96</sup> Harmonized Guidelines, *supra*, para. 19.

## 6.6.1 Purpose and steps

The CEDAW Committee recognizes that CSOs, including NGOs, trade unions and grassroots women's organizations, make strategic contributions to its monitoring work and that they play a catalytic role in enhancing the Convention's implementation at the national level.<sup>97</sup> An NGO need not have any formal accreditation with UN bodies for it to prepare a shadow or alternative report.

National and international CSOs may furnish the Committee with country-specific information on states whose reports it is considering. Organizations may present this information in the form of shadow reports or alternative reports. As well, the Committee encourages CSOs to submit reports to the CEDAW pre-session working group tasked with preparing the list of issues and questions for a particular country. A list of issues and questions contains clear and direct questions focusing on the main areas of concern in the state under review. CSOs may submit a written report to the pre-session working group or attend the pre-session working group having sent a written submission.

Shadow or alternative reports facilitate the Committee's preparedness and capacity to make state accountable for the implementation of its obligations under the Convention. Properly crafted recommendations usually assist the Committee's country reviews and are quite often used in the Committee's recommendations.



### Case study 1.

Eritrea's national service regime, which undermines the rights of women, has come under close scrutiny by NGOs and by the Committee. In response to a recommendation by the organization Human Rights Concern-Eritrea that Eritrea abolish its compulsory and indefinite national service for women,<sup>98</sup> the Committee urged Eritrea to:

1. Reduce the duration of national service to a maximum of 18 months, recognize the right to conscientious objection and ensure the speedy demobilization and reintegration into society of women who have already completed 18 months of service.
2. Ensure that all incidents of gender-based violence against women and girls during their national service are duly investigated, the perpetrators prosecuted, adequately punished and removed from training centres and all victims provided with legal assistance, rehabilitation and compensation.<sup>99</sup>

<sup>97</sup> 'Statement by the Committee on the Elimination of Discrimination against Women on its relationship with non-governmental organizations', 45th session. [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCEDAW%2fSTA%2f45%2f19858&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCEDAW%2fSTA%2f45%2f19858&Lang=en)

<sup>98</sup> 'Shadow Report to the CEDAW Committee by Human Rights Concern-Eritrea (HRCE)' <https://hrc-eritrea.org/shadow-report-to-the-cedaw-committee-by-human-rights-concern-eritrea-hrce/>.

<sup>99</sup> 'Concluding observations on the sixth periodic report of Eritrea,' (CEDAW Committee, 2020) para. 11(b), [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fER!%2fCO%2f6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fER!%2fCO%2f6&Lang=en).



## Case study 2.

A shadow report raised the concern that women and girls continued to be abducted within the context of the conflict in South Sudan. The report recommended that the CEDAW Committee should ask South Sudan to “ensure unrestricted access by the UN, ceasefire monitors, and relevant humanitarian partners to all government and opposition cantonment sites and military bases where abducted civilians including women and girls might be held.”<sup>100</sup> The Committee’s recommendation to South Sudan was that it should:

Facilitate the unrestricted access of the United Nations, ceasefire monitors and relevant humanitarian partners to all government and opposition cantonment sites and military bases where abducted civilians, including women and girls, might be held, ensuring the immediate release of women and girls abducted during hostilities and their provision with immediate medical and psychological support, as well as long-term livelihood support and comprehensive reparations in line with international human right standards.<sup>101</sup>

The Committee expects the shadow or alternative report of an organization to furnish it with information in the state on:

1. The real situation of women and the impact and progress made by the state in implementing the Convention.
2. Violations of the human rights of women.
3. Inadequacies and gaps in laws and policies and their implementation.
4. The obstacles to the realization of the human rights of women.

### Steps for preparing a shadow or alternative report

An organization or coalition that plans to prepare a shadow or alternative report should identify the main issues impacting women’s exercise of the rights established in the Convention. It should then prioritize reporting areas based on its competences and work and the main issues affecting women.

One organization may prepare its own report, or a geographic or thematic coalition of organizations may prepare a joint report. For joint reports, organizations should contribute information addressing the articles or themes in the Convention that

100 ‘Submission to the Committee on the Elimination of Discrimination against Women Review of South Sudan’s Periodic Report for the 80<sup>th</sup> Session; September 2021’ (Human Rights Watch (Author), published by CEDAW, 2021), <https://www.ecoi.net/en/document/2063696.html>.

101 ‘Concluding observations on the initial report of South Sudan’ (CEDAW Committee, 2021), para. 23 (b), [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fSSD%2fCO%2f1&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fSSD%2fCO%2f1&Lang=en).

constitute their core work. It may, however, be judicious for an organization to prepare a separate report to address the concerns of particularly marginalized groups of women or the situation in particular geographical areas experiencing particular women's rights violations.

Organizations have prepared reports on specific themes such as the rights of women with disabilities. Other reports have been on specific themes such as capital punishment and violence against women.

Information in the report should be based on reliable and documented sources. Analysis of gathered information should be guided by pronouncements of the Committee, such as previous concluding observations to a state and the Committee's general recommendations.

When preparing a shadow or alternative report, an organization should keep in mind that the Committee's members may need contextual information on the country to understand the reported issues. Information should be framed concisely, and information should be provided on a priority basis since the Committee may focus only on a few issues. Furnished information should be supported by evidence such as statistics, legal cases, testimonies of individuals, news clips, academic research, provisions of national and local laws, and regulations. Statistics should be disaggregated on various intersecting grounds of discrimination. Recommendations for action should be concrete, suggesting specific actions.

### Case study 3.



In Cape Verde, NGOs working on a broad range of themes submitted a joint shadow report to the Committee, with their priority area of focus being disadvantaged women. The report of the collaborating NGOs covered gender-based violence (focusing on access to justice, assistance and protection for victims, the prevention of violence and sexual harassment); domestic employment of women; health, especially with regard to HIV and AIDS; and rights of women with disabilities.<sup>102</sup>

### Case study 4.



An NGO that opposes the death penalty submitted to the Committee a thematic report addressing how capital punishment impacts the lives of women in South Sudan.<sup>103</sup>

The organization or coalition should gather and analyse data on the key issues, and identify areas of concern and make recommendations that would remedy the concerns.

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102 'Shadow Report for the 73<sup>rd</sup> Session of the Committee on the Elimination of All Forms of Discrimination Against Women on the 9<sup>th</sup> Periodic Report of Cape Verde'.

103 'South Sudan's Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women: The Death Penalty' (Advocates for Human Rights, 20 September 2021) [https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/SSD/INT\\_CEDAW\\_NGO\\_SSD\\_46806\\_E.docx](https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/SSD/INT_CEDAW_NGO_SSD_46806_E.docx)

Data analysis should be guided by instruments, documents and tools, including the Convention itself, previous concluding observations from the Committee and other treaty bodies, relevant country reports of other human rights bodies (including the Universal Periodic Review mechanism and Special Procedures), the Committee's general recommendations and relevant decisions from communications determined by the Committee.



### Case study 5.

In 2017, six NGOs formed the CEDAW Coalition on Women, Peace and Security to provide the CEDAW Committee with information on gaps in the implementation of the Convention by Nigeria. The Coalition's report drew information from the experiences of women, and statistics, legal cases, testimonies of individuals, news clips, and provisions of national and local laws. The Coalition consulted a wide range of experts and women's grassroots organizations.<sup>104</sup>



**Checklist.** Questions/issues to keep in mind as an organization begins to prepare a shadow or alternative report include the following:

1. Has the state submitted a common core document?
2. Is the common core document up-to-date? Is the information in the document disaggregated by sex, gender and other relevant dimensions such as age and disability?
3. Has the state fallen behind in its obligation to report to the Committee every four years? Is it, therefore, expected to submit a consolidated report? If so, which period will the consolidated report cover?
4. When is the state scheduled to present its national report to the Committee? Has it submitted its report as expected?
5. Did the Government involve the CSO when it prepared the national report?
6. Were the CSO's points of view reflected in the national report?
7. Will the CSO's report cover all the provisions/articles of the Convention, or will it cover particular themes/articles?

104 'Women, Peace and Security in Nigeria, Joint Shadow Report CEDAW Committee, 67th Session (Arike Foundation Dorothy Njemanze Foundation (DNF), Federation of Muslim Women Association of Nigeria (FOMWAN), Initiative for Sustainable Peace West Africa Network for Peacebuilding (WANEP), Women's International League for Peace and Freedom (WILPF) Nigeria, Women's Right Advancement and Protection Alternative (WRAPA), Women for Skill Acquisition Development and Leadership Organisation (WOSADLO), July 2017) [https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/NGA/INT\\_CEDAW\\_NGO\\_NGA\\_27883\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/NGA/INT_CEDAW_NGO_NGA_27883_E.pdf).

An organization should ensure it shares its shadow or alternative report in good time so it may be used by the CEDAW Committee at the session in which the state will be reviewed. It is also good practice to share the report with the state to be examined. The report may also be used to undertake local and international advocacy.



### Learning activity 3.

Imagine that the organization you work for is preparing a shadow report for submission to the CEDAW Committee. The shadow report will address issues that impact the human rights of women in the country.

1. List the primary themes that your organization works on and identify the articles in the CEDAW Convention that address those themes.
2. What are the policy, legislative and institutional measures that the country has taken to realize the identified articles?
3. Identify the areas of concern which undermine the effective realization of the rights in question.
4. Propose recommendations that the CEDAW Committee should consider making towards the full realization of the rights in question.
5. Propose a list of questions which the Committee should ask the government delegation when it presents its state report to the Committee.

## 6.6.2 Format of shadow or alternative report

A shadow or alternative report should be organized article by article (Articles 1–16). Secondary references to other articles may be made for the completeness of reporting on a particular theme. Where information is provided in preceding articles, the report may cross-reference pertinent issues which arise again.

The shadow or alternative report may be segmented as follows:

1. Title page, including title, author(s) or NGO name, state party name, and date of the shadow report.
2. Table of contents.
3. Executive summary.
4. The main body, organized by Convention article, including recommended actions, as follows:

- a. Article 1: meaning of discrimination
- b. Article 2: elimination of discrimination
- c. Article 3: equality
- d. Article 4: temporary special measures
- e. Article 5: social and cultural patterns of conduct
- f. Article 6: trafficking of women
- g. Article 7: political and public life
- h. Article 8: participation in international affairs
- i. Article 9: nationality
- j. Article 10: education;
- k. Article 11: employment
- l. Article 12: healthcare
- m. Article 13: economic and social life
- n. Article 14: rural women
- o. Article 15: equality before the law
- p. Article 16: marriage and family relations

5. Conclusion.

6. Annexes as necessary.



#### Learning activity 4.

General recommendations prepared by the CEDAW Committee are essential tools for guiding organizations that are preparing shadow or alternative reports. These instruments also provide invaluable insights to organizations as they undertake their work on women's rights. By the end of 2021, the Committee had prepared 38 general recommendations.<sup>105</sup>

After the workshop, set aside one day to download and arrange in a folder using your preferences all the general recommendations that are relevant for your work on women's rights. As you do this, keep in mind that the Committee has replaced some earlier general recommendations with later ones. Plan to review and update that folder at least once every six months. The folder will be very handy as a quick point of reference, including when you do not have access to online material.<sup>106</sup> These soft-law instruments may be found at

Shadow or alternative reports should be sent to the Secretariat of the Committee on Elimination of Discrimination against Women at the following address:

<sup>105</sup> See Annex 2 of the Manual for current list of general recommendations.

<sup>106</sup> [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=3&DocTypeID=11](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=3&DocTypeID=11)



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Email: [ohchr-cesdaw@un.org](mailto:ohchr-cesdaw@un.org)<sup>107</sup>**

## **6.7 Summary**

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This chapter introduced and explained the process, format and content of shadow or alternative reports prepared under CEDAW. It introduced the monitoring role of the CEDAW Committee, described state reporting and provided an overview of shadow or alternative reporting on women's rights. Finally, the chapter introduced the format for preparing reports under the Convention.

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<sup>107</sup> See Annex 5 for supplementary information on shadow or alternative reporting.

# 7 Follow-up Activities for Implementation of Treaty Body Recommendations on Women's Rights

## 7.1 Introduction

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This last chapter explains how CSOs may use follow-up activities to advocate for or support the implementation of the recommendations made to states through reporting under the Maputo Protocol and CEDAW. The chapter identifies and discusses key follow-up activities and how CSOs may leverage them towards the implementation of concluding observations.

## 7.2 Learning objectives

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By the end of this chapter, learners should be able to:

1. Explain the meaning and purpose of follow-up activities.
2. Identify and describe various follow-up activities.
3. Discuss how CSOs may use specific follow-up activities to advocate for or support the implementation of recommendations on women's rights made by the African Commission and the CEDAW Committee.

<b>Reference material</b>	 <p>African Charter on Human and Peoples' Rights (1981) <a href="https://www.achpr.org/legalinstruments/detail?id=49">https://www.achpr.org/legalinstruments/detail?id=49</a></p> <p>Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003) <a href="https://au.int/en/treaties/protocol-african-charter-human-and-peoples-rights-rights-women-africa">https://au.int/en/treaties/protocol-african-charter-human-and-peoples-rights-rights-women-africa</a></p> <p>Convention on the Elimination of all Forms of Discrimination against Women (1979) <a href="https://www.un.org/womenwatch/daw/cedaw/">https://www.un.org/womenwatch/daw/cedaw/</a></p>
<b>Training material</b>	 <p>Training Manual; slides; flipcharts; video and audio recordings; websites</p>
<b>Methodology</b>	 <p>Plenary presentations; breakout groups</p>
<b>Time</b>	 <p>2 hours</p>

### 7.3 Reporting as a process, not an event

Reporting to human rights treaty bodies (with all their demands on documentation, diplomacy and travel) can be quite overwhelming for state officers, as well as their counterparts from CSOs. It is not surprising, then, that these officers may feel they have fulfilled their obligations and lower their guard after presenting their reports to the treaty bodies. However, state reporting is a process, not an event, and it should be understood as cyclical rather than episodic.

As we explained in Chapter 2, treaty-body reporting provides states with opportunities to review their laws and practices, to identify and develop a better understanding of the character of identified problems, and to evaluate progress made in the implementation of treaties. Optimizing the impact of reporting under the Maputo Protocol and CEDAW is therefore contingent on stakeholders in each state engaging in concerted follow-up activities to ensure the implementation of the recommendations suggested by the African Commission and the CEDAW Committee. Follow-up activities seek to ensure that the recommendations made by human rights mechanisms are implemented.<sup>108</sup> Both the Commission and the Committee have provided some guidance on follow-up activities, but each state and CSO should craft proactive multiple follow-up strategies suited to their needs and circumstances.

<sup>108</sup> A Practical Guide for Civil Society: How to Follow Up on United Nations Human Rights Recommendations (OHCHR 2013) <https://www.ohchr.org/en/aboutus/pages/civilsociety.aspx>.

## 7.4 Follow-up activities for implementing recommendations on women's rights

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### 7.4.1 Anchoring follow-up activities in treaty body procedures

The follow-up procedure of the African Commission is anchored in Rule 83 of its Rules of Procedure (2020), which provides that the Commission may specify in the concluding observations the issues that require particular attention by a state. The Commission undertakes follow-up on the implementation of its recommendations variously, including through promotion missions and interactions with stakeholders during its public sessions, as well as on other occasions. These follow-up activities are overseen by the commissioner designated by the Commission to serve as country-rapporteur for each of the State Parties to the Charter.



#### Case study 1.

As of the end of 2021, the African Commission had designated Commissioners as country-rapporteurs as listed below:

1. Commissioner Rémy Ngoy Lumbu: Cameroon, Côte d'Ivoire, Mali, Togo, Algeria and Egypt.
2. Commissioner Maya Sahli-Fadel: Mauritania, Niger, Tunisia, Senegal and Libya.
3. Commissioner Solomon Ayele Dersso: Kenya, Nigeria, South Africa, South Sudan and Seychelles.
4. Commissioner Essaïem Hatem: Djibouti, Guinea, The Gambia, Madagascar, Mauritius and Sudan.
5. Commissioner Maria Teresa Manuela: Cape Verde, Equatorial Guinea, Guinea-Bissau, Mozambique and Sao Tome and Principe.
6. Commissioner Mudford Zachariah Mwandenga: Ethiopia, Ghana, Liberia, Malawi, Rwanda and Uganda.
7. Commissioner Marie Louise Abomo: Angola, Burundi, Congo-Brazzaville, Democratic Republic of Congo and Gabon.
8. Commissioner Janet Ramatoulie Sallah-Njie: Eritrea, Eswatini, Namibia, Somalia, Zimbabwe and the Sahrawi Arab Democratic Republic.
9. Commissioner Ourveena Geereesha Topsy-Sonoo: Botswana, Lesotho, Sierra Leone, Tanzania and Zambia.

10. Commissioner Idrissa Sow: Burkina Faso, Benin, Central African Republic, Chad and Comoros.<sup>109</sup>



### Learning activity 1.

Identify the Commissioner designated by the African Commission as your country-rapporteur. In what respects has the country-rapporteur made interventions covering the country? Have you engaged with the rapporteur?

The follow-up procedure of the CEDAW Committee requests a state to submit information on the implementation of one or two specified recommendations to the Committee within a set time span, usually one or two years. CSOs may submit shadow or alternative reports with information on the specified recommendations.

## 7.4.2 A work plan of follow-up activities

Once the Commission or Committee publishes the concluding observations, CSOs should convene to prepare a work plan for follow-up activities. They should cluster the recommendations by theme, scope of work or other agreed interests, and determine follow-up activities towards implementation of the recommendations. The work plan should be inclusive rather than exclusive, and it should take account of the specific treaty-body recommendations, as well as relevant recommendations that may already have been made by other regional or international human rights mechanisms (including other treaty bodies, UN Special Procedures mandate holders, and the Universal Periodic Review mechanism). Successful implementation of the recommendations will usually involve organizations that are not part of the convening, and drawing them in or taking account of their work will be important. Developing new partnerships and broader coalitions is also advisable.

A key focus of the work plan should be establishing a monitoring plan. CSOs may also be in positions to undertake more direct activities on the implementation of the recommendations. Preparation of activity work plans should take into account that recommendations can be quite numerous and varied. Plans must consider available or projected technical and resource capacities. Plans may focus on quick-wins or low-hanging fruits, but they should always keep in mind the strategic consideration of improving the overall exercise of rights by women.



### Learning activity 2.

Using the latest concluding observations made by the African Commission or the CEDAW Committee to your country, prepare a work plan for follow-up activities. The work plan

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<sup>109</sup> 'Resolution on the Re-Allocation of Country Rapporteurship amongst Commissioners - ACHPR/Res. 495 (LXIX)2021,' <https://www.achpr.org/sessions/resolutions?id=527>.

should include the following information: theme/right/article, recommendations by Commission or Committee, relevant recommendations by other human rights bodies/mechanisms, activities, actors, resources, timelines and assumptions.



**Checklist 1.** Criteria for prioritizing recommendations include:<sup>110</sup>

1. Recommendations made by the Commission or Committee that reinforce those of the CSOs.
2. Recommendations in line with the objectives and activities of the CSOs whose follow-up can be realistically integrated into their work plans.
3. Recommendations and findings marking novel advancements in the interpretation and application of women's rights.
4. Recommendations supported by factors such as priorities for implementation by the state or by the availability of resources.
5. Recommendations that civil society can follow up on by working with others in coalitions.
6. Recommendations whose implementation can be measured by CSOs.
7. Recommendations that would otherwise be ignored without CSO action.
8. Recommendations specifically addressed to civil society.



### **Learning activity 3.**

Using recent concluding observations issued by the African Commission or the CEDAW Committee, identify and discuss recommendations that mark novel advancements in the interpretation and application of women's rights in your country. What steps may CSOs and others take to ensure those recommendations have a lasting impact on the exercise of women's rights?

## **7.4.3 Working with the government to promote and implement the concluding observations**

It should be stressed that each state is solely accountable for implementing its obligations under the Maputo Protocol and CEDAW. CSOs, however, can play important roles in the implementation of state obligations. They should seek all appropriate opportunities

<sup>110</sup> Adapted from *ibid.*

to work with their governments in this regard. In some instances, joint implementation plans may be prepared involving the government, independent institutions such as the country's national human rights institution, and CSOs.

National human rights institutions may play particularly critical roles in the implementation of treaty-body recommendations since they are state organs which, on account of their independence, straddle the state-civil society divide, thereby having an exceptional appreciation for the competing priorities and concerns that government and civil society may have. National institutions may be better able to draw or call out the government on particular recommendations when the government is not responsive to CSO appeals. In many instances, the government, national institutions and CSOs establish mutually-beneficial trilateral relationships for supporting follow-up activities.



### **Checklist 2.** CSOs may:

1. Mobilize technical or financial resources to support particular aspects of the concluding observations, such as translating the concluding observations into local languages.
2. Undertake general public awareness-raising on the concluding observations.
3. Undertake more specific capacity-building exercises with relevant state bodies such as parliamentary committees and government ministries/departments.
4. Provide inputs for the next cycles' state reports.

#### **7.4.4 National mechanisms for reporting and follow-up**

CSOs may work with or as part of national mechanisms for reporting and follow-up. These governmental bodies establish comprehensive and efficient approaches to reporting and follow-up for purposes of supporting regular and timely reporting, including through coordinated data collection, analysis and reporting, and efficient division of reporting responsibilities. Their mandate is to coordinate and facilitate the preparation of reports for submission to treaty bodies, the Universal Periodic Review and Special Procedures. They coordinate and track national follow-up and implementation of treaty obligations and the recommendations emanating from these mechanisms. They perform their functions in coordination with government ministries, parliament and the judiciary, and they also work with CSOs and independent institutions.<sup>111</sup>

<sup>111</sup> For more information see: United Nations National Mechanisms for Reporting and Follow-Up: A Practical Guide to Effective State Engagement with International Human Rights Mechanisms (2016), [https://www.ohchr.org/sites/default/files/Documents/Publications/HR\\_PUB\\_16\\_1\\_NMRF\\_PracticalGuide.pdf](https://www.ohchr.org/sites/default/files/Documents/Publications/HR_PUB_16_1_NMRF_PracticalGuide.pdf).

## 7.4.5 Monitoring implementation

As we have already stated in this chapter, CSOs should establish plans to monitor the implementation of the recommendations to ensure government accountability.



**Checklist 3.** CSOs may prepare a monitoring scorecard with the following variables for monitoring the Protocol or the Convention:<sup>112</sup>

1. Full implementation: The state has fully implemented all the measures recommended by the Commission or Committee.
2. Substantial implementation: The state has fully implemented most of the measures recommended by the Commission or Committee. A few measures are yet to be fully implemented.
3. Partial implementation: The state has taken initial steps towards the implementation of the measures recommended by the Commission or Committee. Further action needs to be taken to fully implement the measures.
4. No implementation: The state has taken no action to implement the measures recommended by the Commission or Committee.
5. No information is available: There is a lack of sufficient information to make an objective assessment of implementation status.
6. The recommendation was rejected: The state provided information or took measures contrary to or reflecting a rejection of the recommendations.

## 7.4.6 Seizing momentum

It has been noted that the review of a country's human rights situation by a human rights mechanism may create opportunities that CSOs can leverage.<sup>113</sup> CSOs should use concluding observations as opportunities for advancing the promotion and protection of women's rights.

<sup>112</sup> Adapted from: National Gender and Equality Commission of Kenya (NGEC) The Concluding Observations and Recommendations Compliance Scorecard for Assessing Progress Made by the State in the Implementation of the Concluding Observations of the Committee on the Elimination of Discrimination Against Women on the 8th Periodic Report of the Government of Kenya, Addendum 1 (2020).

<sup>113</sup> Supra A Practical Guide for Civil Society.





**Checklist 4.** CSOs may leverage momentum arising from:<sup>114</sup>

1. Unprecedented media attention given to a women's rights situation.
2. Openness of the state to address a particular women's rights violation.
3. New interlocutors in the government ready to engage in dialogue with civil society.
4. Renewed impetus for taking measures to advance human rights.
5. Demonstration of political will to adopt legislation compliant with human rights standards.
6. Availability of new resources to work in a given area.
7. Partnerships or coalitions created or strengthened for the review.

#### 7.4.7 Dissemination of concluding observations

CSOs may participate in the dissemination of concluding observations. They may translate and publish the concluding observations in local languages, as well as in accessible formats for persons with disabilities. CSOs may also disseminate the concluding observations to government organs and agencies, including parliament. The dissemination of concluding observations can support awareness-raising among the public who may thereby make better claims on their rights. This may also provide capacity-building to policymaking and implementation institutions on the measures they should take to meet state obligations.



#### Case study 2.

The African Commission, in its concluding observations to Nigeria, urged the state to take all necessary measures to popularize the Charter, the Maputo Protocol and other human rights instruments among the Nigerian populace, including by incorporating them into the curricula of formal and vocational institutions, and through other informal civic education programs.<sup>115</sup>

<sup>114</sup> Adapted from *ibid.*

<sup>115</sup> 'Concluding Observations and Recommendations on the 5th Periodic Report of the Federal Republic of Nigeria on the Implementation of the African Charter on Human and Peoples' Rights' (ACHPR 2015) para. 129. <https://www.achpr.org/sessions/concludingobservation?id=93>.

### 7.4.8 Engaging other international and regional human rights mechanisms and bodies

The implementation of treaty body recommendations is not a singular or exclusive process. Certain recommendations are ordinarily made to a state by multiple human rights mechanisms.



#### Learning activity 4.

Identify recent concluding observations issued to your country by various treaty-body committees in the most recent reporting cycles. Also identify the most recent recommendations made to your country under the Universal Periodic Review mechanism. To what extent have the various above recommendations focused on women's rights? Are there obvious differences of emphasis in recommendations from the various bodies?

CSOs should, therefore, engage as necessary at different levels with multiple institutions to support state implementation of concluding observations.

## 7.5 Summary

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This chapter has explained how CSOs may use follow-up activities to advocate for or support the implementation of the recommendations made to states through reporting under the Maputo Protocol and CEDAW. The chapter identified and discussed key follow-up activities and how CSOs may leverage them towards the implementation of concluding observations.

# 8 Useful Resources

Ashwanee Budoo (2018) 'Analysing the monitoring mechanisms of the African Women's Protocol at the level of the African Union'. *African Human Rights Law Journal*, 18(1), 58–74.

Ashwanee Budoo (2020) 'Silencing the guns to end gender-based violence in Africa: an analysis of article 10(3) of the Maputo Protocol,' Vol. 4, *African Human Rights Yearbook*.

ACHPR (1989) 'Guidelines for National Periodic Reports'.

ACHPR (1998) 'Guidelines for National Periodic Reports under the African Charter'.

ACHPR (2009) 'Guidelines for State Reporting under the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa'.

ACHPR (2012) Concluding Observations and Recommendations on the 4<sup>th</sup> and 5<sup>th</sup> Periodic Report of the Republic of Sudan.

ACHPR (2012) 'General Comment No. 1 on Article 14(1) (D) and (E) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa'.

ACHPR (2012) 'State Party Reporting Guidelines for Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights' (Tunis Reporting Guidelines)

ACHPR (2014) 'General Comment No. 2 on Article 14.1 (A), (B), (C) and (F) and Article 14. 2 (A) and (C) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa'.

ACHPR (2015) 'Concluding Observations and Recommendations on the 5th Periodic State Report of the Republic of Uganda (2010–2012)'.

ACHPR (2015) 'Concluding Observations and Recommendations on the 5th Periodic Report of the Federal Republic of Nigeria on the Implementation of the African Charter on Human and Peoples' Rights (2011–2014)'.

ACHPR (2015) 'General Comment No. 3 on the African Charter on Human and Peoples' Rights: The Right to Life (Article 4)'.

ACHPR (2016) 'Concluding Observations and Recommendations on Sixth Periodic Reports of the Republic of Namibia on Implementation of the African Charter on Human and Peoples' Rights(2011–2013)'.

ACHPR (2017) 'General Comment No. 4: The Right to Redress for Victims of Torture and other Cruel, Inhuman or Degrading Punishment or Treatment (Article 5)'.

ACHPR (2017) 'The Guidelines on Combatting Sexual Violence and its Consequences in Africa'.

ACHPR (2018) 'State Reporting Guidelines and Principles on Articles 21 and 24 of the African Charter Relating to Extractive Industries, Human Rights and the Environment'.

ACHPR (2019) 'General Comment No.5 on the African Charter on Human and Peoples' Rights: The Right to Freedom of Movement and Residence (Article 12(1))'.

ACHPR (2020) 'General Comment No. 6 on the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol): The Right to Property During Separation, Divorce or Annulment of Marriage (Article 7(D))'.

ACHPR (2020) '436 Resolution on the Need to Develop Guidelines on Shadow Reporting – ACHPR/Res. 436 (EXT.OS/XXVII) 2020' (ACHPR Res. 436 2020).

ACHPR (2020) 'Rules of Procedure of the African Commission on Human and Peoples' Rights of 2020'.

ACHPR and ACERWC (2017) 'Joint General Comment of the African Commission on Human and Peoples' Rights (ACHPR) and the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) on ending Child Marriage'.

ACHPR (2019) 'Guidelines on the Right to Water in Africa'.

ACHPR (2022) Combined 50th and 51st Activity Reports of the African Commission on Human and Peoples' Rights.

AIDS and Rights Alliance for Southern Africa (ARASA) (2020) 'The Missing Piece of the Puzzle: The How and Why of Shadow Reporting for HIV Activists'.

AU (2003) 'Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa'.

AU (2009) 'African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa'.

AU (2016) 'Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa'.

AU (2018) 'Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa'.

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CEDAW Committee (2008) Reporting Guidelines of the Committee of the Elimination of Discrimination against Women.

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CEDAW Committee (2016) General Recommendation No. 34 on the rights of rural women.

CEDAW Committee (2017) Concluding Observations on the 8th Periodic Report of Kenya.

CEDAW Committee (2020) Concluding Observations on the 6th Periodic Report of Seychelles.

CEDAW Committee (2020) Concluding observations on the sixth periodic report of Eritrea.

CEDAW Committee (2020) Concluding observations on the sixth periodic report of Zimbabwe.

CEDAW Committee (2021) Concluding Observations on the Initial Report of South Sudan.

CEDAW Committee (2021) Concluding observations on the initial report of South Sudan.

Celestine Nyamu-Musembi (2013) 'Pulling Apart? Treatment of Pluralism in the CEDAW and the Maputo Protocol,' in Anne Hellum and Henriette Sinding Aasen (eds), *Women's Human Rights: CEDAW in International, Regional and National Law* (Cambridge, Cambridge University Press).

Centre for Human Rights (2016) A Guide to the African Human Rights System: Celebrating 30 Years Since the Entry into Force of the African Charter on Human and Peoples' Rights (Pretoria: Pretoria University Law Press (PULP)).

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Frans Viljoen, 'An Introduction to the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa' (*Washington and Lee Journal of Civil Rights and Social Justice*, 16(1), 2009).

IWRAW Asia Pacific (2010) Guidelines for Writing on Women's Economic, Social and Cultural Rights in Shadow/Alternative Reports.

Kingdom of Lesotho (2018) 'The Kingdom of Lesotho: Periodic Report Combined 2nd To 8th, 2001–2017'.

National Gender and Equality Commission of Kenya (2020) The Concluding Observations and Recommendations Compliance Scorecard for Assessing Progress Made by the State in the Implementation of the Concluding Observations of the Committee on the Elimination of Discrimination Against Women on the 8th Periodic Report of the Government of Kenya, Addendum 1.

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OHCHR (2016) 'United Nations National Mechanisms for Reporting and Follow-Up: A Practical Guide to Effective State Engagement with International Human Rights Mechanisms'.

Solidarity for African Women's Rights Coalition and Equality Now (2011) 'A Guide to Using the Protocol on the Rights of Women in Africa for Legal Action'.

Susanne Zwingel (2016), *Translating International Women's Rights: The CEDAW Convention in Context* (London: Springer).

UN (1979) Convention on the Elimination of all Forms of Discrimination against Women.

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UN (2000) 'A Manual on Human Rights Training Methodology' (New York and Geneva).

UN (2006) 'Harmonized Guidelines on Reporting under the International Human Rights Treaties, Including Guidelines on a Common Core Document and Treaty-Specific Documents'.

UN (2017) 'Reporting to the United Nations Human Rights Treaty Bodies: Training Guide, Part II Notes for Facilitators', (New York and Geneva).

Victor Oluwasina Ayeni (Ed.) (2016) *The impact of the African Charter and the Maputo Protocol in selected African states* (Pretoria: Pretoria University Law Press (PULP)).

# Annexes

## Annex 1: Sample pre-training questionnaire

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### General questions

1. Name:
2. Organization:
3. Position:
4. Country (or other geographical identifier):
5. Email address:
6. Indicate not more than three thematic areas that your organization works on (for example, violence against women, women's political participation, etc.):

### Use of regional and international human rights instruments

7. Are you aware of the following regional and international human rights instruments?
  - a. African Charter on Human and Peoples' Rights (African Charter).
  - b. Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol).
  - c. Convention on the Elimination of all Forms of Discrimination against Women (CEDAW).
8. Has your organization been involved in using any of these regional or international instruments to promote and protect women's rights?
9. If yes, which strategies has your organization used (advocacy, litigation, capacity building, other)?

### Shadow or alternative reporting under regional or international women's rights instruments

10. Has your organization previously been involved in shadow or alternative reporting:
  - a. Under the African Charter.
  - b. Under the Maputo Protocol.
  - c. Under CEDAW?
11. Have you participated in the formulation of a shadow or alternative report for any of the instruments referred to in No. 10 above?

12. What challenges does your organization face in developing and submitting shadow or alternative reports?
13. Have you participated in activities for ensuring or supporting the implementation of concluding observations issued by the:
  - a. African Commission on Human and Peoples' Rights. Explain:
  - b. Committee on the Elimination of Discrimination against Women. Explain:

### **Workshop expectations**

14. What are your expectations of this workshop? What do you hope to gain by participating in it?
15. What is the most important thing that you would like to learn during the workshop?



## Annex 2: Sample post-training evaluation

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Respond using the following key:

- > Strongly disagree: (1)
- > Disagree: (2)
- > Agree: (3)
- > Strongly agree: (4)

1. The workshop's objectives were in line with your needs:
2. You have gained enhanced understanding of (develop bullets from the training's objectives):
3. You have gained increased capacity to prepare and submit quality shadow or alternative reports on (develop bullets from instruments on which you have undertaken training):
4. The agenda of the workshop was easy to follow:
5. The reference materials provided for the workshop were useful:
6. Logistics for the workshop were handled well:
7. The workshop has clarified for you the steps you should take in your organization to undertake shadow or alternative reporting under (list relevant instrument):
8. Provide any other feedback:

### **Annex 3: Key soft-law instruments of the African Commission on Human and Peoples' Rights**

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See website of the African Commission on Human and Peoples' Rights:  
<https://www.achpr.org/resources>.

1. ACHPR (1989) 'Guidelines for National Periodic Reports'.
2. ACHPR (1998) 'Guidelines for National Periodic Reports under the African Charter'.
3. ACHPR (2003) 'Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa'.
4. ACHPR (2008) 'Resolution on Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa' (Robben Island Guidelines).
5. ACHPR (2009) 'Guidelines for State Reporting under the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa'.
6. ACHPR (2011) 'Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights'.
7. ACHPR (2012) 'General Comment No. 1 on Article 14(1) (d) and (e) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa'.
8. ACHPR (2012) 'State Party Reporting Guidelines for Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights' (Tunis Reporting Guidelines).
9. ACHPR (2013) 'Model Law on Access to Information for Africa 2013'.
10. ACHPR (2014) 'General Comment No. 2 on Article 14(1) (a), (b), (c) and (f) and Article 14(2) (a) and (c) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa'.
11. ACHPR (2014) 'Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa'.
12. ACHPR (2015) 'General Comment No. 3 on the African Charter on Human and Peoples' Rights: The Right to Life (Article 4)'.
13. ACHPR (2016) 'Principles and Guidelines on Human and Peoples' Rights While Countering Terrorism in Africa'.
14. ACHPR (2017) 'General Comment No. 4: The Right to Redress for Victims of Torture and other Cruel, Inhuman or Degrading Punishment or Treatment (Article 5)'.
15. ACHPR (2017) 'Guidelines for the Policing of Assemblies by Law-Enforcement Officials in Africa'.
16. ACHPR (2017) 'Guidelines on Access to Information and Elections in Africa'.
17. ACHPR (2017) 'The Guidelines on Combatting Sexual Violence and its Consequences in Africa'.
18. ACHPR (2017) 'Guidelines on Freedom of Association and Assembly in Africa'.

19. ACHPR and ACERWC (2017) 'Joint General Comment of the African Commission on Human and Peoples' Rights (ACHPR) and the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) on ending Child Marriage'.
20. ACHPR (2018) 'Principles on the Decriminalization of Petty Offenses in Africa'.
21. ACHPR (2018) 'State Reporting Guidelines and Principles on Articles 21 and 24 of the African Charter Relating to Extractive Industries, Human Rights and the Environment'.
22. ACHPR (2019) 'Declaration of Principles on Freedom of Expression and Access to Information in Africa 2019'.
23. ACHPR (2019) 'General Comment No. 5 on the African Charter on Human and Peoples' Rights: The Right to Freedom of Movement and Residence'.
24. ACHPR (2019) 'Guidelines on the Right to water in Africa'.
25. ACHPR (2019) 'Indicative Questions to State Parties in Respect of Article 5 of the African Charter on Human and Peoples' Rights'.
26. ACHPR (2019) 'Study on Transitional Justice and Human and Peoples' Rights in Africa'.
27. ACHPR (2020) 'General Comment No. 6 on the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa: The Right to Property During Separation, Divorce or Annulment of Marriage (Article 7(d))'.
28. ACHPR (2020) 'Rules of Procedure of the African Commission on Human and Peoples' Rights'.

## Annex 4: General recommendations of the Committee on the Elimination of Discrimination against Women

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See website of the Office of the High Commissioner for Human Rights:  
<https://www.ohchr.org/en/treaty-bodies/cedaw/general-recommendations>.

1. General recommendation No. 1, Reporting by States parties (1986).
2. General Recommendation No. 2, Reporting guidelines (1987).
3. General Recommendation No. 3, Education and public information programmes (1987).
4. General recommendation No. 4, Reservations (1987).
5. General recommendation No. 5, Temporary special (1988).
6. General recommendation No. 6, Effective national machinery and publicity (1988).
7. General recommendation No. 7, Resources (1988).
8. General recommendation No. 8, Implementation of article 8 of the Convention (1988).
9. General recommendation No. 9, Statistical (1989).
10. General recommendation No. 10, (1989), Tenth anniversary of the adoption of CEDAW (1989).
11. General Recommendation No. 11, Technical advisory services for reporting obligations (1989).
12. General Recommendation No. 12, Violence against women (1989).
13. General Recommendation No. 13, Equal remuneration for work of equal value (1989).
14. General Recommendation No. 14, Female circumcision (1990).
15. General recommendation No. 15, Avoidance of discrimination against women in national strategies for the prevention and control of acquired immunodeficiency syndrome (AIDS) (Chapter I) (1990).
16. General Recommendation No. 16, Unpaid women workers in rural and urban family enterprises (1991).
17. General Recommendation No. 17, Measurement and quantification of the unremunerated domestic activities of women and their recognition in the gross national product (1991).
18. General Recommendation No. 18, Disabled women (1991).
19. General Recommendation No. 19, Violence against women (1992).
20. General recommendation No. 20, Reservations to the Convention (1992).
21. General recommendation No. 21, Equality in marriage and family relations (Chapter I, A) (1994).
22. General recommendation No. 22, Amending article 20 of the Convention (Chapter I, A) (1995).
23. General Recommendation No. 23, Article 7, Political and public life (Part Two, Chapter I, Sect. A) (1997).
24. General recommendation No. 24, Women and health (Chapter I) (1999).

25. General recommendation No. 25, on Article 4, para. 1, of the Convention on the Elimination of All Forms of Discrimination against Women, on temporary special measures (2004).
26. General recommendation No. 26, on women migrant workers, CEDAW/C/2009/WP.1/R (2008).
27. General recommendation No. 27, Older women and protection of their human rights, CEDAW/C/GC/27 (2010).
28. General recommendation No. 28, on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, CEDAW/C/GC/28 (2010).
29. General recommendation No. 29, Article 16, Economic consequences of marriage, family relations and their dissolution, CEDAW/C/GC/29 (2013).
30. General recommendation No. 30, on women in conflict prevention, conflict and post-conflict situations, CEDAW/C/GC/30 (2013).
31. Joint general recommendation/general comment No. 31 of the Committee on the Elimination of Discrimination against Women and No. 18 of the Committee on the Rights of the Child, on harmful practices, CEDAW/C/GC/31/CRC/C/GC/18 (2014).
32. General recommendation No. 32, on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women, CEDAW/C/GC/32 (2014).
33. General recommendation No. 33, on women's access to justice, CEDAW/C/GC/33 (2015).
34. General recommendation No. 34, on the rights of rural women, CEDAW/C/GC/34 (2016).
35. General recommendation No. 35, on gender-based violence against women, updating general recommendation No. 19, CEDAW/C/GC/35 (2017).
36. General recommendation No. 36 (2017), on the right of girls and women to education, CEDAW/C/GC/36 (2017).
37. General Recommendation No. 37, on gender-related dimensions of disaster risk reduction in the context of climate change, CEDAW/C/GC/37 (2018).
38. General recommendation No. 38, on trafficking in women and girls in the context of global migration CEDAW/C/GC/38 (2020).

## Annex 5: Checklist for developing shadow or alternative reports on the rights of women in Africa

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### Introduction

This checklist provides bulleted guidance to CSOs preparing shadow or alternative reports for submission to the African Commission under the Maputo Protocol. The checklist also provides guidance to CSOs on the submission of reports to the CEDAW Committee under the Convention on the Elimination of all Forms of Discrimination against Women.

### Preliminary issues

1. Is the state a party to the Maputo Protocol/CEDAW?
2. Does the state have a common core document, and is it up-to-date?
3. Does your organization desire to submit a report on the realization of women's rights under one or both of these treaties?
4. When did the previous review of the state by the African Commission/CEDAW Committee take place?
5. Has the state prepared its current national report, and has it submitted it to the relevant treaty body?
6. Has the state involved your organization in the preparation of its current report?
7. Does your organization have credible information that might guide the treaty body as it reviews the state?
8. What are the reporting priorities of your organization? What does it want to report on (based on its areas of work and the main issues affecting women)?
9. Will your organization's report cover all the provisions in the Maputo Protocol/CEDAW, or will the report focus on one or more specific themes/articles?

### Drafting the report under the Maputo Protocol

10. What information may your organization include in the shadow or alternative report under the Maputo Protocol? This information may include:
  - c. Introduction to the reporting organization(s) (if the list of organizations is long, it may be annexed to the Report).
  - d. Brief context for the realization of women's rights.
  - e. Implementation of the Protocol under relevant themes, addressing:
    - i. The extent to which the state has taken policy, legislative and institutional measures to realize relevant rights.
    - ii. Areas of concern.
    - iii. Questions to be raised with the state by the African Commission.
    - iv. Appropriate recommendations.

11. How may your organization's report under the Maputo Protocol be segmented?  
The report may have:
- a. A cover page.
  - b. A contents page.
  - c. Executive summary (optional, particularly where the Report is not large)
  - d. The body, to be set out under the following themes:
    - i. Equality and non-discrimination.
    - ii. Protection of women from violence.
    - iii. Rights relating to marriage.
    - iv. Health and reproductive rights.
    - v. Economic, social and cultural rights.
    - vi. Right to peace.
    - vii. Protection of women in armed conflicts.
    - viii. Rights of specially-protected women's groups.
  - e. Conclusion.
  - f. Annexes.

## Reporting under CEDAW

12. Has the CEDAW Committee transmitted a list of issues prior to reporting to the state? Has the state sent its replies to the Committee?
13. What information should your organization include in its report to the CEDAW Committee? Information should focus on the extent to which the state is realizing its obligations under CEDAW, areas of concern, and recommendations. The information may include the following:
- a. The *de jure* and *de facto* situation on the implementation of CEDAW.
  - b. How CEDAW is reflected in the actual political, economic, social and cultural realities and general conditions existing in the country.
  - c. Relevant data and statistics, disaggregated on bases such as sex, age, population groups and disability, and its analysis.
  - d. The implementation of CEDAW, including recent developments in law and practice affecting the enjoyment of rights, and responses to issues raised by the committee in its concluding observations, its general comments or other documents.
  - e. Factors and difficulties of particular relevance to the implementation of CEDAW.
14. How should the report to CEDAW be segmented? The report may be set out as follows:
- a. Title page (including title, submitting organization, State Party name, and date of the report)
  - b. Table of contents
  - c. Executive summary
  - d. The main body, organized by Convention article
  - e. Conclusion

- f. Annexes as necessary.

### **After preparing the report**

15. Once your organization finalizes preparing the Report, it should:
  - a. Transmit the report to the treaty body (refer to relevant website for contact details).
  - b. Furnish the state with a copy of the report.
  - c. Confirm the session at which the treaty body will undertake the constructive dialogue with the state.
  - d. Plan to attend the constructive dialogue either physically or virtually.
  - e. Circulate targeted summaries to relevant officials (e.g., country-rapporteur or Secretariat) and seek to contact designated members of the treaty body to furnish them with any further or current relevant information, including abridged versions of the report.
  - f. Hold events to advocate on pertinent issues on the side-lines of the treaty-body session.

### **After the review**

16. After the treaty-body issues its concluding observations to the state, your organization may:
  - a. Support the state in its dissemination of the concluding observations.
  - b. Support the state towards the implementation of the concluding observations.
  - c. Monitor the state's implementation of the concluding observations.
  - d. Begin to prepare the next report (two years for the Maputo Protocol and four years for CEDAW).



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