

Southern African Development Community, African Regional Bodies

## Protocol on Gender and Development

Legislation as at 31 August 2016

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Southern African Development Community

# Protocol on Gender and Development

Published

Commenced on 22 February 2013

*[This is the version of this document from 31 August 2016.]*

*[Amended by Agreement Amending the Protocol on Gender and Development on 31 August 2016]*

## Preamble

We, the Heads of State or Government of:

The Republic of Angola

The Republic of Botswana

The Democratic Republic of Congo

The Kingdom of Lesotho

The Republic of Madagascar

The Republic of Malawi

The Republic of Mauritius

The Republic of Mozambique

The Republic of Namibia

The Republic of South Africa

The Kingdom of Swaziland

The United Republic of Tanzania

The Republic of Zambia

The Republic of Zimbabwe

**CONVINCED** that the integration and mainstreaming of gender issues into the Southern African Development Community (SADC) Programme of Action and Community Building Initiatives is key to the sustainable development of the SADC region;

**NOTING** that Member States undertook, in the SADC Treaty (Article 6(2)), not to discriminate against any person on the grounds of, *inter alia*, sex or gender;

**NOTING** further that all SADC Member States are convinced that gender equality and equity is a fundamental human right and are committed to gender equality and equity and have signed and ratified or acceded to the United Nations Convention on the Elimination of All Forms of Discrimination Against Women;

**RECALLING** that Member States reaffirmed their commitment to the Nairobi Forward Looking Strategies (1985); Convention on the Rights of the Child (1989); the Africa Platform of Action; the Beijing Declaration and its Platform for Action (1995); and United Nations Resolution 1325 on Women, Peace and Security (2000); and resolved, through the SADC Declaration on Gender and Development (1997) and its Addendum on the Prevention and Eradication of Violence Against Women and Children (1998); to ensure the elimination of all gender inequalities in the region and the promotion of the full and equal enjoyment of rights;

**TAKING COGNISANCE** of the decision on gender parity taken at the inaugural session of the African Union Assembly of Heads of State and Government in July 2002 in Durban, South Africa, and the adoption of the

Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa during the Second Ordinary Session of the Assembly of the African Union in Maputo, Mozambique in 2003;

**RECOGNISING** that Member States are obliged to meet their commitments and set targets under the said instruments, and that the fragile gains made face new threats as a result of, *inter alia*, HIV and AIDS, globalisation, human trafficking, especially of women and children, the feminisation of poverty, and gender based violence;

**RECOGNISING** further that social, cultural and religious practices, attitudes and mindsets continue to militate against the attainment of gender equality and equity which are central to democracy and development;

**RECALLING** that Article 26 of the SADC Addendum on the Prevention and Eradication of Violence Against Women and Children recognises that urgent consideration must be given to the adoption of legally binding SADC instruments;

**DETERMINED** to consolidate and create synergy between the various commitments on gender equality and equity made at regional, continental and international levels into one comprehensive regional instrument that enhances the capacity to report effectively on all instruments and also addresses new challenges; and

**COMMITTED** to drawing up a plan of action setting specific targets and timeframes for achieving gender equality and equity in all areas, as well as effective monitoring and evaluation mechanisms for measuring progress.

**HEREBY AGREED** as follows:

## Part one – Definitions, general principles and objectives

### Article 1 – Definitions

1. In this Protocol, terms and expressions defined in Article 1 of the Treaty establishing SADC shall bear the same meaning unless the context otherwise requires.

2. In this Protocol, unless the context otherwise requires:

“**affirmative action**” means a policy programme or measure that seeks to redress past discrimination through active measures to ensure equal opportunity and positive outcomes in all spheres of life;

“**AIDS**” means Acquired Immune Deficiency Syndrome;

“**child**” means every human being below the age of eighteen;

“**care-giver**” means any person who provides emotional, psychological, physical, economic, spiritual or social care and support services to another;

“**discrimination**” means any distinction, exclusion or restriction which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise, by any person of human rights, and fundamental freedoms in the political, economic, social, cultural, civil or any other field;

“**gender**” means the roles, duties and responsibilities which are culturally or socially ascribed to women, men, girls and boys;

“**equality**” means state of being equal in terms of enjoyment of rights, treatment, quantity or value, access to opportunities and outcomes, including resources;

“**gender based violence**” means all acts perpetrated against women, men, girls and boys on the basis of their sex which cause or could cause them physical, sexual, psychological, emotional or economic harm, including the threat to take such acts, or to undertake the imposition of arbitrary restrictions on or deprivation of fundamental freedoms in private or public life in peace time and during situations of armed or other forms of conflict;

**"gender equality"** means the equal enjoyment of rights and the access to opportunities and outcomes, including resources, by women, men, girls and boys;

**"gender equity"** means the just and fair distribution of benefits, rewards and opportunities between women, men, girls and boys;

**"gender mainstreaming"** means the process of identifying gender gaps and making women's, men's, girls' and boys' concerns and experiences integral to the design, implementation, monitoring and evaluation of policies and programmes in all spheres so that they benefit equally;

**"gender stereotypes"** means the beliefs held about characteristics, traits and activity domains that are deemed appropriate for women, men, girls and boys based on their conventional roles both domestically and socially;

**"gender sensitive"** means acknowledging and taking into account the specific gender needs of both men and women at all levels of planning, implementation, monitoring and evaluation;

**"health"** means a complete state of physical, mental, spiritual and social well-being of an individual and not merely the absence of disease or infirmity;

**"HIV"** means Human Immunodeficiency Virus;

**"informal sector"** means the portion of a country's economy that lies outside of any formal regulatory environment;

**"multiple roles of women"** means the several responsibilities that women shoulder in the reproductive, productive and community management spheres;

**"National Gender Machineries"** means national structures with the mandate of executing and monitoring gender and related policies and programmes in line with national, regional and international commitments;

**"quasi-judicial proceedings"** means administrative proceedings that are undertaken for the settlement of specific rights or obligations which may require discretion and decision and which may be the subject to notice and hearing requirements and judicial review";

**"sex"** means the biological differences between females and males;

**"sexual harassment"** means any unwelcome sexual advance, request for sexual favour, verbal or physical conduct or gesture of a sexual nature, or any other behaviour of a sexual nature that might reasonably be expected or be perceived to cause offence or humiliation to another whether or not such sexual advance or request arises out of unequal power relations;

**"sexual and reproductive rights"** means the universal human rights relating to sexuality and reproduction, sexual integrity and safety of the person, the right to sexual privacy, the right to make free and responsible reproductive choices, the right to sexual information based on scientific enquiry, and the right to sexual and reproductive health care; and

**"social safety nets"** means the measures taken or applied to mitigate the effects of poverty, gender based violence and other social ills; and

**"State Party"** means a Member State that is a Party to this Protocol.

**"trafficking in persons"** means the recruitment, transportation, harbouring or receipt of persons, by means of threat, abuse of power, position of vulnerability, force or other forms of coercion, abduction, fraud or deception to achieve the consent of a person having control over another person for the purpose of amongst other things, sexual and financial exploitation;

*[definition of "trafficking in persons", previously "human trafficking" substituted by article 2 of [Agreement Amending the Protocol on Gender and Development](#)]*

## Article 2 – General principles

1. For the purposes of this Protocol, the following principles shall apply:
  - (a) States Parties shall harmonise national legislation, policies, strategies and programmes with relevant regional and international instruments related to the empowerment of women and girls for the purpose of ensuring gender equality and equity;
  - (b) States Parties shall decide all matters relating to the implementation of this Protocol by consensus; and
  - (c) States Parties shall cooperate in facilitating the development of human, technical and financial capacity for the implementation of this Protocol.
2. States Parties shall adopt the necessary policies, strategies and programmes such as affirmative action to facilitate the implementation of this Protocol. Affirmative action measures shall be put in place with particular reference to women and girls, in order to eliminate all barriers which prevent them from participating meaningfully in all spheres of life.

## Article 3 – Objectives

The objectives of this Protocol are:

- (a) to provide for the empowerment of women, to eliminate discrimination and to achieve gender equality and equity through the development and implementation of gender responsive legislation, policies, programmes and projects;
- (b) to harmonise the implementation of the various instruments to which SADC Member States have subscribed to at the regional, continental and international levels on gender equality and equity which, amongst others, are the Convention on the Elimination of all Forms of Discrimination Against Women (1979); Convention on the Rights of the Child (1989); the International Conference on Population and Development (1994); the Beijing Declaration and its Platform For Action (1995); the SADC Declaration on Gender and Development (1997) and its Addendum (1998); the UN Security Council Resolution 1325 on Women, Peace and Security (2000); the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003); the United Nations Convention on the Rights of People with Disabilities (2008); the UN Sustainable Development Goals (SDGs), the African Union Agenda 2063, and the Beijing Plus 20 Review or any other legal instruments that may be relevant to this Protocol, in order to accelerate implementation;  
*[subparagraph (b) amended by article 3 of [Agreement Amending the Protocol on Gender and Development](#)]*
- (c) to address emerging gender issues and concerns;
- (d) to set realistic, measurable targets, time frames and indicators for achieving gender equality and equity;
- (e) to strengthen, monitor and evaluate the progress made by Member States towards reaching the targets and goals set out in this Protocol; and
- (f) to deepen regional integration, attain sustainable development and strengthen community building.

## Part two – Constitutional and legal rights

### Article 4 – Constitutional rights

1. States Parties shall endeavour, by 2015, to enshrine gender equality and equity in their Constitutions and ensure that these rights are not compromised by any provisions, laws or practices.

2. States Parties shall implement legislative and other measures to eliminate all practices which negatively affect the fundamental rights of women, men, girls and boys, such as their right to life, health, dignity, education and physical integrity.
2. State Parties shall develop and strengthen specific laws, policies and programmes to achieve gender equality and equity.

*[Please note: numbering as in original.]*

*[paragraph 2 inserted by article 4 of [Agreement Amending the Protocol on Gender and Development](#)]*

### **Article 5 – Special measures**

States Parties shall put in place special measures with particular reference to women in order to eliminate all barriers which prevent them from participating meaningfully in all spheres of life and create a conducive environment for such participation.

*[article 5 amended by article 5 of [Agreement Amending the Protocol on Gender and Development](#)]*

### **Article 6 – Domestic legislation**

1. States Parties shall review, amend and or repeal all laws that discriminate on the ground of sex or gender by 2015.
2. States Parties shall enact and enforce legislative and other measures to:
  - (a) ensure equal access to justice and protection before the law;
  - (b) abolish the minority status of women by 2015;
  - (c) eliminate practices which are detrimental to the achievement of the rights of women by prohibiting such practices and attaching deterrent sanctions thereto; and
  - (d) eliminate gender based violence.

### **Article 7 – Equality in accessing justice**

States Parties shall put in place legislative and other measures which promote and ensure the practical realization of equality for women. These measures shall ensure:

- (a) equality in the treatment of women in judicial and quasi-judicial proceedings, or similar proceedings, including customary and traditional courts, and national reconciliation processes;
- (b) equal legal status and capacity in civil and customary law, including, amongst other things, full contractual rights, the right to acquire and hold rights in property, the right to equal inheritance and the right to secure credit;
- (c) the encouragement of all public and private institutions to enable women to exercise their legal capacity;
- (d) that positive and practical measures are taken to ensure equality for women complainants in the criminal justice system;
- (e) the provision of educational programmes to address gender bias and stereotypes and promote equality for women in the legal system;
- (f) that women have equitable representation on, and participation in, all courts including traditional courts, alternative dispute resolution mechanisms and local community courts; and
- (g) accessible and affordable legal services for women.

## Article 8 – Marriage and family rights

1. States Parties shall enact and adopt appropriate legislative, administrative and other measures to ensure that women and men enjoy equal rights in marriage and are regarded as equal partners in marriage.
2. Legislation on marriage shall ensure that:
  - (a) no person under the age of 18 shall marry;  
*[subparagraph (a) amended by article 6 of [Agreement Amending the Protocol on Gender and Development](#)]*
  - (b) every marriage takes place with the free and full consent of both parties;
  - (c) every marriage, including civil, religious, traditional or customary, is registered in accordance with national laws; and
  - (d) during the subsistence of their marriage the parties shall have reciprocal rights and duties towards their children with the best interests of the children always being paramount.
3. States Parties shall enact and adopt appropriate legislative and other measures to ensure that where spouses separate, divorce or have their marriage annulled:
  - (a) they shall have reciprocal rights and duties towards their children with the best interests of the children always being paramount; and
  - (b) they shall, subject to the choice of any marriage regime or marriage contract, have equitable share of property acquired during their relationship.
4. States Parties shall put in place legislative and other measures to ensure that parents honour their duty of care towards their children, and maintenance orders are enforced.
5. States Parties shall put in place legislative provisions which ensure that married women and men have the right to choose whether to retain their nationality or acquire their spouse's nationality.

## Article 9 – Persons with disabilities

States Parties shall, in accordance with the SADC Protocol on Health and other regional and international instruments relating to the protection and welfare of people with disabilities to which Member States are party, adopt legislation and related measures to protect persons with disabilities that take into account their particular vulnerabilities.

## Article 10 – Widows' and widowers' rights

State Parties shall enact and enforce legislation to ensure that widows and widowers:

- (a) are not subjected to inhuman, humiliating or degrading treatment;
- (b) automatically become the guardians and custodians of their children when their husband/wife dies, unless otherwise determined by a competent court of law;
- (c) have the right to an equitable share in the inheritance of the property of their spouses;
- (d) have the right to remarry any person of their choice; and
- (e) have protection against all forms of violence and discrimination based on their status.

*[article 10 amended by article 7 of [Agreement Amending the Protocol on Gender and Development](#)]*

## Article 11 – The girl and boy child

1. State Parties shall adopt laws, policies and programmes to ensure the development and protection of the girl and the boy child by:
  - (a) eliminating all forms of discrimination against them in the family, community, institutions and at state levels;
  - (b) ensuring that they have equal access to education and health care, and are not subjected to any treatment which causes them to develop a negative self-image;
  - (c) ensuring that they enjoy the same rights and are protected from harmful cultural attitudes and practices; in accordance with the United Nations Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child;
  - (d) protecting them from economic exploitation, trafficking and all forms of violence including sexual abuse; and
  - (e) ensuring that they have equal access to information, education, services and facilities on sexual and reproductive health and rights.
2. State Parties shall develop concrete measures to prevent and eliminate violence, harmful practices, child marriages, forced marriages, teenage pregnancies, genital mutilation and child labour as well as mitigate their impacts on girls' and boys' health, wellbeing, education, future opportunities and earnings.

*[article 11 amended by article 8 of [Agreement Amending the Protocol on Gender and Development](#)]*

## Part three – Governance

### Article 12 – Representation

1. State Parties shall endeavour to ensure equal and effective representation of women in decision-making positions in the political, public and private sectors including through the use of special measures as provided for in Article 5.  
*[paragraph 1 amended by article 9 of [Agreement Amending the Protocol on Gender and Development](#)]*
2. States Parties shall ensure that all legislative and other measures are accompanied by public awareness campaigns which demonstrate the vital link between the equal representation and participation of women and men in decision making positions, democracy, good governance and citizen participation.

### Article 13 – Participation

1. States Parties shall adopt specific legislative measures and other strategies to enable women to have equal opportunities with men to participate in all electoral processes including the administration of elections and voting.
2. States Parties shall ensure the equal participation of women and men in decision making by putting in place policies, strategies and programmes for:
  - (a) building the capacity of women to participate effectively through leadership and gender sensitivity training and mentoring;
  - (b) providing support structures for women in decision-making positions;
  - (c) the establishment and strengthening of structures to enhance gender mainstreaming; and

- (d) changing discriminatory attitudes and norms of decision making structures and procedures.
3. States Parties shall ensure the inclusion of men in all gender related activities, including gender training and community mobilisation.

## **Part four – Education and training**

### **Article 14 – Gender equality in education**

1. State Parties shall enact laws that promote equal access to retention and completion in early childhood education, primary, secondary, tertiary, vocational and non-formal education including adult literacy in accordance with the Protocol on Education and Training and the Sustainable Development Goals.
2. State Parties shall take special measures to increase the number of girls taking up Science, Technology, Engineering and Mathematics (STEM) subjects and Information Communication Technology at the primary, secondary, tertiary and higher levels.
3. State Parties shall adopt and implement gender sensitive educational curricula, policies and programmes addressing gender stereotypes in education and gender based violence, amongst others.

*[article 14 amended by article 10 of [Agreement Amending the Protocol on Gender and Development](#)]*

## **Part five – Productive resources and employment**

### **Article 15 – Economic policies and decision making**

1. States Parties shall, by 2015, ensure equal participation, of women and men, in policy formulation and implementation of economic policies.
2. States Parties shall ensure gender sensitive and responsive budgeting at the micro and macro levels, including tracking, monitoring and evaluation.

### **Article 16 – Multiple roles of women**

1. State Parties shall:
  - (a) conduct time use studies and adopt policy measures to promote shared responsibility between men and women within the household and family to ease the burden of the multiple roles played by women.
  - (b) recognize and value unpaid care and domestic work through the provision of public services, infrastructure and social protection policies.

*[article 16 amended by article 11 of [Agreement Amending the Protocol on Gender and Development](#)]*

### **Article 17 – Economic empowerment**

1. State parties shall undertake reforms to give men and women equal rights and opportunity to economic resources, and improved access to control and ownership over productive resources, land and other forms of property, financial services, inheritance, and natural resources.
2. State Parties shall, review their national trade and entrepreneurship policies, to make them gender responsive.



3. State Parties shall, in accordance with the provisions of special measures in Article 5, develop strategies to ensure that women benefit equally from economic opportunities, including those created through public procurement processes.

*[article 17 amended by article 12 of [Agreement Amending the Protocol on Gender and Development](#)]*

### **Article 18 – Access to property and resources**

States Parties shall, by 2015, review all policies and laws that determine access to, control of, and benefit from, productive resources by women in order to:

- (a) end all discrimination against women and girls with regard to water rights and property such as land and tenure thereof;
- (b) ensure that women have equal access and rights to credit, capital, mortgages, security and training as men; and
- (c) ensure that women and men have access to modern, appropriate and affordable technology and support services.

### **Article 19 – Equal access to employment and benefits**

1. State Parties shall review, amend and enact laws and develop policies that ensure women and men have equal access to wage employment, to achieve full and productive employment, decent work including social protection and equal pay for work of equal value for all women and men in all sectors in line with the SADC Protocol on Employment and Labour.

*[paragraph 1 amended by article 13 of [Agreement Amending the Protocol on Gender and Development](#)]*

2. States Parties shall review, adopt and implement legislative, administrative and other appropriate measures to ensure:
  - (a) equal pay for equal work and equal remuneration for jobs of equal value for women and men;
  - (b) the eradication of occupational segregation and all forms of employment discrimination;
  - (c) the recognition of the economic value of, and protection of, persons engaged in agricultural and domestic work; and
  - (d) the appropriate minimum remuneration of persons engaged in agricultural and domestic work.
3. States Parties shall enact and enforce legislative measures prohibiting the dismissal or denial of recruitment on the grounds of pregnancy or maternity leave.
4. States Parties shall provide protection and benefits for women and men during maternity and paternity leave.
5. States Parties shall ensure that women and men receive equal employment benefits, irrespective of their marital status including on retirement.

## **Part six – Gender based violence**

### **Article 20 – Legal**

1. State Parties shall:
  - (a) enact and enforce legislation prohibiting all forms of gender based violence;

- (b) develop strategies to prevent and eliminate all harmful social and cultural practices, such as child marriage, forced marriage, teenage pregnancies, slavery and female genital mutilation;
- (c) ensure that perpetrators of gender based violence, including domestic violence, rape, femicide, sexual harassment, female genital mutilation and all other forms of gender based violence are tried by a court of competent jurisdiction.

*[paragraph 1 amended by article 14 of [Agreement Amending the Protocol on Gender and Development](#)]*

2. States Parties shall, by 2015, ensure that laws on gender based violence provide for the comprehensive testing, treatment and care of survivors of sexual offences, which shall include:
  - (a) emergency contraception;
  - (b) ready access to post exposure prophylaxis at all health facilities to reduce the risk of contracting HIV; and
  - (c) preventing the onset of sexually transmitted infections.
3. States Parties shall, by 2015, review and reform their criminal laws and procedures applicable to cases of sexual offences and gender based violence to:
  - (a) eliminate gender bias; and
  - (b) ensure justice and fairness are accorded to survivors of gender based violence in a manner that ensures dignity, protection and respect.
4. States Parties shall put in place mechanisms for the social and psychological rehabilitation of perpetrators of gender based violence.
5. State Parties shall:
  - (a) enact and adopt specific legislative provisions to prevent trafficking in persons and provide holistic services to the victims, with the aim of reintegrating them into society;
  - (b) put in place mechanisms by which all relevant law enforcement authorities and institutions should eradicate national, regional and international trafficking in persons syndicates;
  - (c) put in place harmonised data collection mechanisms to improve research and reporting on the types and modes of trafficking to ensure effective programming and monitoring.
  - (d) establish bilateral and multilateral agreements to run joint actions against trafficking in persons among origin, transit and destination countries; and
  - (e) ensure capacity building, awareness raising and sensitisation campaigns on trafficking in persons are put in place for law enforcement officials.

*[paragraph 5 amended by article 14 of [Agreement Amending the Protocol on Gender and Development](#)]*

6. States Parties shall ensure that cases of gender based violence are conducted in a gender sensitive environment.
7. States Parties shall establish special counselling services, legal and police units to provide dedicated and sensitive services to survivors of gender based violence.

## **Article 21 – Social, economic, cultural and political practices**

1. States Parties shall take measures including legislation, where appropriate, to discourage traditional norms, including social, economic, cultural and political practices which legitimise and exacerbate the persistence and tolerance of gender based violence with a view to eliminate them.
2. States Parties shall, in all sectors of society, introduce and support gender sensitisation and public awareness programmes aimed at changing behaviour and eradicating gender based violence.

## Article 22 – Sexual harassment

1. States Parties shall, by 2015, enact legislative provisions, and adopt and implement policies, strategies and programmes which define and prohibit sexual harassment in all spheres, and provide deterrent sanctions for perpetrators of sexual harassment.
2. States Parties shall ensure equal representation of women and men in adjudicating bodies hearing sexual harassment cases.

## Article 23 – Support services

1. States Parties shall provide accessible information on services available to survivors of gender based violence.
2. States Parties shall ensure accessible, effective and responsive police, prosecutorial, health, social welfare and other services to redress cases of gender based violence.
3. States Parties shall provide accessible, affordable and specialised legal services, including legal aid, to survivors of gender based violence.
4. States Parties shall provide specialised facilities, including support mechanisms for survivors of gender based violence.
5. States Parties shall provide effective rehabilitation and re-integration programmes for perpetrators of gender based violence.

## Article 24 – Training of service providers

States Parties shall introduce, promote and provide:

- (a) gender education and training to service providers involved in gender based violence including the police, the judiciary, health and social workers;
- (b) community sensitisation programmes regarding available services and resources for survivors of gender based violence; and
- (c) training for all service providers to enable them to offer services to people with special needs.

## Article 25 – Integrated approaches

State Parties shall adopt integrated approaches, including institutional cross sector structures, with the aim of eliminating gender based violence.

*[article 25 amended by section 15 of [Agreement Amending the Protocol on Gender and Development](#)]*

## Part seven – Sexual and reproductive health and reproductive rights

*[Part seven amended by article 16 of [Agreement Amending the Protocol on Gender and Development](#)]*

## Article 26 – Sexual and reproductive health and reproductive rights

State Parties shall, in line with the SADC Protocol on Health and other regional and international commitments by Member States on issues relating to health, adopt and implement legislative frameworks, policies,

programmes anti services to enhance gender sensitive, appropriate and affordable quality health care, in particular, to:

- (a) eliminate maternal mortality;
- (b) develop and implement policies and programmes to address the mental, sexual and reproductive health needs of women and men in accordance with the Programme of Action of the International Conference on Population Development (ICPD) and the Beijing Platform for Action;
- (c) ensure the provision of hygiene and sanitary facilities and nutritional needs of women, including women in prison.

*[article 26 amended by article 16 of [Agreement Amending the Protocol on Gender and Development](#)]*

### **Article 27 – HIV and AIDS**

1. State Parties shall take every step necessary to adopt and implement gender sensitive policies and programmes, and enact legislation that will address prevention, treatment, care and support in accordance with, but not limited to, the Maseru Declaration on HIV and AIDS and the SADC Sponsored United Nations Commission on the Status of Women Resolution on Women, the Girl Child and HIV and AIDS and the Political Declaration on HIV and AIDS.
2. State Parties shall ensure that the policies and programmes referred to in sub-Article 1 take account of the unequal status of women, the particular vulnerability of the girl child as well as harmful practices and biological factors that result in women constituting the majority of those infected and affected by HIV and AIDS.
3. State Parties shall:
  - (a) develop gender sensitive strategies to prevent new infections;
  - (b) ensure universal access to HIV and AIDS treatment for infected women, men, girls and boys; and
  - (c) develop and implement policies and programmes to ensure appropriate recognition of the work carried out by care givers, the majority of whom are women, the allocation of resources and the psychological support for care-givers as well as promote the involvement of men in the care and support of people living with HIV and AIDS.

*[article 27 amended by article 16 of [Agreement Amending the Protocol on Gender and Development](#)]*

## **Part eight – Peace building and conflict resolution**

### **Article 28 – Peace building and conflict resolution**

1. State Parties shall put in place measures to ensure equal representation and participation in key decision-making positions in conflict resolution, peace building, and peace keeping in accordance with UN Security Council Resolution 1325 on Women, Peace and Security Resolution and other related Resolutions.

*[paragraph 1 amended by article 17 of [Agreement Amending the Protocol on Gender and Development](#)]*

2. States Parties shall, during times of armed and other forms of conflict take such steps as are necessary to prevent and eliminate incidences of human rights abuses, especially of women and children, and ensure that the perpetrators of such abuses are brought to justice before a court of competent jurisdiction.

## **Part nine – Media, information and communication**

### **Article 29 – Gender in media, information and communication**

*[heading amended by article 18(a) of [Agreement Amending the Protocol on Gender and Development](#)]*

1. State Parties shall enact legislation, and develop national policies and strategies including professional guidelines and codes of conduct to prevent and address gender discrimination in the media.

*[paragraph 1 amended by article 18(b) of [Agreement Amending the Protocol on Gender and Development](#)]*

2. States Parties shall encourage the media and media-related bodies to mainstream gender in their codes of conduct, policies and procedures, and adopt and implement gender aware ethical principles, codes of practice and policies in accordance with the Protocol on Culture, Information and Sport.
3. States Parties shall take measures to promote the equal representation of women in the ownership of, and decision making structures of the media, in accordance with Article 12.1 that provides for equal representation of women in decision making positions by 2015.
4. State parties shall take measures to promote the equal representation of men and women in the ownership of, and decision making structures of the media.

*[paragraph 4 added by article 18(c) of [Agreement Amending the Protocol on Gender and Development](#)]*

### **Article 30 – Gender in media content**

1. States Parties shall take measures to discourage the media from:
  - (a) promoting pornography and violence against all persons, especially women and children;
  - (b) depicting women as helpless victims of violence and abuse;
  - (c) degrading or exploiting women, especially in the area of entertainment and advertising, and undermining their role and position in society; and
  - (d) reinforcing gender oppression and stereotypes.
2. States Parties shall encourage the media to give equal voice to women and men in all areas of coverage, including increasing the number of programmes for, by and about women on gender specific topics and that challenge gender stereotypes.
3. States Parties shall take appropriate measures to encourage the media to play a constructive role in the eradication of gender based violence by adopting guidelines which ensure gender sensitive coverage.

## **Part ten – Gender and environment**

*[Part ten inserted by article 19 of [Agreement Amending the Protocol on Gender and Development](#)]*

### **Article 31 – Gender and environment**

State Parties shall, in accordance with multilateral, continental and regional agreements on the environment, sustainable development and climate change, adopt measures to:

- (a) address the impact of climate change and environmental degradation on gender;
- (b) promote active participation, by men, women, boys and girls, in the protection of the environment, mitigation of climate change and promotion of sustainable exploitation and use of natural resources;

- (c) develop policies, strategies, and programmes to address the gender issues with respect to the environment, climate change and sustainable development;
- (d) conduct research to assess the differential gendered impacts of climate change and put in place effective adaptation measures.

*[article 31 inserted by article 19 of [Agreement Amending the Protocol on Gender and Development](#)]*

## **Part eleven – Final provisions**

*[Part eleven, previously Part ten, renumbered by article 20 of [Agreement Amending the Protocol on Gender and Development](#)]*

### **Article 32 – Remedies**

States Parties shall:

- (a) provide appropriate remedies in their legislation to any person whose rights or freedoms have been violated on the basis of gender; and
- (b) ensure that such remedies are determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided by law.

### **Article 33 – Financial provisions**

1. State Parties shall, ensure gender sensitive and responsive budgets and planning, including designating the necessary resources towards initiatives aimed at empowering women and girls.

*[paragraph 1 amended by article 21 of [Agreement Amending the Protocol on Gender and Development](#)]*

2. States Parties shall mobilise and allocate the necessary human, technical and financial resources for the successful implementation of this Protocol.

### **Article 34 – Institutional arrangements**

1. The institutional mechanisms for the implementation of this Protocol shall comprise the:
  - (a) Committee of Ministers Responsible for Gender/Women's Affairs;
  - (b) Committee of Senior Officials Responsible for Gender/Women's Affairs; and
  - (c) SADC Secretariat.
2. The Committee of Ministers responsible for Gender/Women's Affairs shall:
  - (a) ensure the implementation of this Protocol; and
  - (b) supervise the work of any committee or sub-committee established under this Protocol.
3. The Committee of Senior Officials shall:
  - (a) report to the Committee of Ministers on matters relating to the implementation of the provisions contained in this Protocol;
  - (b) supervise the work of the Secretariat;
  - (c) clear the documents prepared by the Secretariat to be submitted to the Committee of Ministers;
  - (d) invite the Secretariat to make presentations on gender and development to the Committee of Ministers, as and when necessary; and

- (e) liaise closely with both the Committee of Ministers and the Secretariat.
4. The SADC Secretariat shall:
- (a) facilitate and monitor reporting by States Parties on the implementation of the Protocol;
  - (b) coordinate the implementation of this Protocol;
  - (c) identify research needs and priorities in gender/women's affairs areas; and
  - (d) provide technical and administrative assistance to the Committee of Ministers and the Committee of Senior Officials.

### **Article 35 – Implementation, monitoring and evaluation**

1. State Parties shall ensure the implementation of this Protocol at the national level in line with SADC Implementation Action Plans and SADC Monitoring, Evaluation and Reporting Framework.  
*[paragraph 1 amended by article 22 of [Agreement Amending the Protocol on Gender and Development](#)]*
2. States Parties shall ensure that national action plans, with measurable time frames, are put in place, and that national and regional monitoring and evaluation mechanisms are developed and implemented.
3. States Parties shall collect and analyse baseline data against which progress in achieving targets will be monitored.
4. States Parties shall submit reports to the Executive Secretary of SADC once every two years, indicating the progress achieved in the implementation of the measures agreed to in this Protocol.
5. The Executive Secretary of SADC shall submit the progress reports to Council and Summit for consideration.

### **Article 36 – Settlement of disputes**

1. States Parties shall strive to resolve any dispute regarding application, interpretation or implementation of the provisions of this Protocol amicably.
2. Any dispute arising from the application, interpretation or implementation of this Protocol, which cannot be settled amicably, shall be referred to the SADC Tribunal, in accordance with Article 16 of the Treaty.

### **Article 37 – Withdrawal**

1. A State Party may withdraw from this Protocol upon the expiration of twelve (12) months from the date of giving written notice to that effect to the Executive Secretary.
2. Such State Party shall cease to enjoy all rights and benefits under this Protocol upon the withdrawal becoming effective, but shall remain bound by the obligations under this Protocol for a period of twelve (12) months from the date of notice.

### **Article 38 – Amendments**

1. A proposal for the amendment of this Protocol shall be submitted to the Executive Secretary of SADC by any State Party that is party to the Protocol.
2. The Executive Secretary of SADC shall submit a proposal for amendment of the Protocol to Council after:
  - (a) all Member States that are parties to the Protocol have been notified of the proposal; and

- (b) thirty days have elapsed since notification to the Member States that are parties to the Protocol.
3. An amendment to this Protocol shall be adopted by a decision of three-quarters of the Member States that are Parties to the Protocol.

### **Article 39 – Signature**

This Protocol shall be signed by the duly authorised representatives of Member States.

### **Article 40 – Ratification**

This Protocol shall be ratified by the Signatory States in accordance with their constitutional procedures.

### **Article 41 – Entry into force**

This Protocol shall enter into force thirty (30) days after the deposit of the Instruments of Ratification by two-thirds of the Member States.

### **Article 42 – Accession**

This Protocol shall remain open for accession by any Member State.

### **Article 43 – Depositary**

1. The original texts of this Protocol and all Instruments of Ratification and Accession shall be deposited with the Executive Secretary of SADC, who shall transmit certified copies to all Member States.
2. The Executive Secretary of SADC shall notify the Member States of the dates on which Instruments of Ratification and Accession have been deposited under paragraph 1.
3. The Executive Secretary of SADC shall register the Protocol with the Secretariat of the United Nations, the Commission of the African Union and such other organisation as the Council may determine.

**IN WITNESS WHEREOF, WE**, the Heads of State or Government or duly Authorised Representatives of SADC Member States have signed this Protocol.

Done at Johannesburg this 17 day of August 2008 in three (3) original texts in the English, French and Portuguese languages, all texts being equally authentic.