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# Current law and practice concerning violence and harassment in the world of work

**FOCUSING ON CONVENTION 190 AND RECOMMENDATION 206**

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Focusing on Convention 190 and Recommendation 206**

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# 1.

## Introduction

### 1.1. CONTEXT

**G**ender based violence (GBV) is an expression or a symptom of deeper problems in society – that of unequal power relations between men and women, and of the ongoing endurance of patriarchal attitudes in society. GBV happens in all areas of day-to-day life – both in private home, in public spaces, and in the world of work. It is important to deal with GBV where-ever it occurs – not only because the right to a safe environment is a human right, but also because dealing with GBV is part of the broader goal of empowering women and other marginalized groups in society, and shifting the gender power relations in society. In the world of work, GBV undermines the rights of both women and men to decent work, and to the ability to earn a living.

Worldwide, the figures for GBV are very high. In the domestic sphere, 1 in 5 women and girls between the ages of 15 – 49 have reported experiencing physical or sexual violence from an intimate partner within a 12-month period.<sup>1</sup> In Africa, this figure is higher – with 1 in 3 women having experienced either physical and/or sexual intimate partner violence or sexual violence at some point in their lifetime.<sup>2</sup>

In the world of work, GBV can be understood to include physical abuse, assault, battery, attempted murder and murder, sexual violence (including rape and sexual assault), verbal abuse, bullying, psychological abuse and intimidation, sexual harassment, threats of violence and stalking. While women are the victims of much GBV in the world of work, it can also impact on migrant workers, LGBTI workers, and young workers.



ILO Convention 190 comes at a very opportune time – when the #MeToo Movement has highlighted the extent of GBV that women experience in countries across the world. Women are taking courage from each other to speak out about the violence that they endure – for many of whom it is a daily occurrence. While the #MeToo movement hasn't taken off across the continent in the same way that it did in the USA and Europe, there have been many initiatives (such as the #MyDressisMyChoice protests in Kenya) and many struggles of women in different countries to take up the issues.<sup>3</sup>

The Convention should also be understood in the context of the Sustainable Development Goals (SDGs). SDG 5 talks about achieving gender equality and empowering all women and girls. Two of the identified targets are particularly important in relation to Convention 190. Target 5.2. identifies the need to “eliminate all forms of violence against all women and girls in the public and private spheres”, while target 5.C notes the need to “adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels.”<sup>4</sup> For countries in Africa, ratifying and implementing Convention 190 must be seen as an essential part of taking steps to meet SDG 5.

## 1.2 WOMEN AND THE WORLD OF WORK

Large numbers of women in Africa are active in the economy. In sub-Saharan Africa, the female participation rate in the labour force has increased by 3.2 % over the last decade.<sup>5</sup> This is likely driven by poverty and the lack of any kind of social protection net in many countries. But the types of jobs that women are largely clustered in are those that are low-paid, precarious, informal and unorganized. Over 60% of all working women in sub-Saharan Africa are in agriculture, while large numbers of women are self-employed (42.5%), or employed in the informal sector.<sup>6</sup> Only 21.4% of women are actually in wage employment – a figure that emphasises the large number of women in the informal sector.<sup>7</sup>

The increasingly precarious nature of work, the use of casual, temporary, and labour broker workers makes women more vulnerable to GBV, but also makes it more difficult to deal effectively with the problem of violence in the workplace. Women fear to speak up out of fear of losing their job and thereby being pushed further into poverty and inequality. Where women also don't have access to strong trade unions their vulnerability is deepened.

GBV impacts negatively on women's safety at work, on their dignity, and their ability to make a living for themselves. Without addressing GBV, it will be difficult to further improve the position of women in the world of work.

It has, however, often been a very underreported issue, and one whose importance has not been sufficiently recognized by governments worldwide. While many countries have laws that talk to domestic violence, the laws and policies in place for the world of work often reduce GBV to sexual harassment, or an issue of health and safety, and the mechanisms for dealing with it are insufficient. Trade unions in countries across the world have been in the forefront of taking up the issue and putting it on the table at the International Labour Organisation (ILO).

## 1.3 CONVENTION 190

### 1.3.1. Introduction

ILO Convention 190 on violence and harassment was adopted in 2019 at the 108th (Centenary) Session of the International Labour Conference (ILO). It has not yet been ratified.

Now that the Convention has been signed, all member states are required to bring it to the attention of the competent national authorities in their country. At least two ILO member states must ratify the Convention before it enters into force. Once a member state has signed the Convention, it becomes binding on them a year after they have ratified it.

This Convention is vitally important in allowing workers and trade unions in individual countries to motivate for the introduction and/or strengthening of legislation, policies and collective bargaining processes that help prevent and deal with violence in the world of work.



### 1.3.2. Countries willing to ratify

A number of countries have indicated their intention to ratify the Convention. Uganda and Namibia were in the forefront of promoting the adoption of the Convention. Namibia subsequently announced its commitment to ratify the Convention.<sup>8</sup> Other countries that have indicated a willingness to ratify it include South Africa, Uganda, Uruguay, Belgium, Spain, France, Ireland, New Zealand and Canada.<sup>9</sup> Uruguay is widely expected to be the first country to ratify the Convention.

Russia indicated their unwillingness to ratify the Convention by abstaining from the final vote for the Convention.<sup>10</sup>

To date, four countries have submitted the Convention to the competent authority in their country as all countries are required to do once a Convention has been adopted (in terms of Article 19 of the ILO Constitution). These four countries are Azerbaijan, Cameroon, Iran and Luxembourg. None of these countries are among the countries expected to ratify the Convention in the short term. It is therefore most likely a simple technical action on their part to make the submission.

### 1.3.3. Impact of GBV

Convention 190<sup>11</sup> sets out a clear framework which recognizes the right of everyone to work in an environment that is free from gender-based violence (GBV) and harassment. It recognises that violence and harassment can constitute a human rights violation or abuse, and that it is incompatible with decent work. It notes that GBV can limit or undermine women's ability to find employment and then retain that employment.

### 1.3.4. Definition of GBV

It defines gender based violence and harassment as a range of unacceptable behaviours and practices, or the threat of that behaviour, whether it occurs once or many times, which is directed at people because of their sex or gender, or affects people of a particular sex or gender more than other. This behaviour is likely to result in physical, psychological, sexual or economic harm, including gender-based violence and harassment. (Article 1)

### 1.3.5. Definition of work

The Convention applies to a broad definition of work. It takes into account the many varied spaces that women find themselves in as they carry out their work. It is often in the less traditional workspaces that women are most subject to violence and harassment. These include both public and private workspaces; places where the worker is paid, takes a break or meal, or uses washing, sanitary or changing facilities; during work-related trips, travel, training, events or social activities; in employer-provided accommodation; and when commuting to and from

work. It also recognizes that violence and harassment can happen not only in the physical environment, but also through work-related communication. In the context of the increased digitalisation of many workplaces, this is an important recognition. (Article 3)

### **1.3.6. Who is included in Convention**

The Convention applies to everyone who works, without consideration for their contractual status. So it includes people in training, interns and apprentices, workers whose contract has been ended, volunteers, job applicants and anyone who is exercising the authority of an employer. (Article 2)

### **1.3.7. Impact of domestic violence on world of work**

While the convention is focused on the world of work, it does, very importantly, note that domestic violence can affect employment, and workers' health and safety. In line with this, it makes the point that addressing GBV in the world of work is also going to require addressing the underlying causes in the broader society, and addressing the range of discriminations and unequal power relations that make GBV possible. It makes the point that governments, employers' and workers' organisations can play a role in responding to and addressing the impacts of domestic violence.

### **1.3.8. Government obligations**

The Convention makes the point that in order to deal with GBV, the fundamental rights of work must be in place – these include freedom of association, the right to collective bargaining, the ending of all forms of forced or compulsory labour, the abolition of child labour and elimination of all discrimination. (Article 5)

The Convention calls on member countries that ratify the convention to adopt, in line with national law and necessary consultations, “an inclusive, integrated and gender-responsive approach for the prevention and elimination of violence and harassment in the world of work.”

Governments should also adopt laws and regulations that require employers, in consultation with workers, to put in place in the world of work measures to deal with GBV. These measures include a policy on violence and harassment as well as training and information for workers on the issue. (Article 9)

This includes adopting a comprehensive strategy to prevent violence and harassment in the world of work by, for instance, identifying those sectors, occupations or work arrangements in which workers are more exposed to violence and harassment and take measures to protect these workers. It requires government to establish enforcement and monitoring mechanisms, as well as access to remedies for victims. (Article 8)

It also calls on government to develop tools for raising awareness and conduct education and training around GBV issues.



And finally, it notes the importance of making sure there is an effective system of investigating cases of GBV. (Article 4)

## 1.4 RECOMMENDATION 206

Recommendation 206<sup>12</sup> on violence and harassment in the world of work is a supplement to Convention 190. It gives more content and provides a clearer guideline on how Convention 190 could be implemented. Unlike the Convention, however, it is not binding on countries. It notes that violence and harassment at work should be addressed in labour and employment, in occupational health and safety, in equality and non-discrimination law, and where appropriate, in criminal law. It notes that as part of dealing with violence and harassment, workers need to enjoy freedom of association and the effective right to collective bargaining. It sets down possible remedies for workers who are faced with violence and harassment, including the right to resign with compensation, be reinstated, receive appropriate compensation for damages, and have an order put in place to immediately ensure that the violent or harassing conduct is stopped.

This report will assess the extent to which there are national laws, policies, or frameworks in place which are in line with Convention 190 in a number of different countries in Africa, as well as in different regions in Africa. This will involve a short overview for each country on the position of women and the extent of gender-based violence in the country, before assessing the legislative and policy framework that relates to the Convention.

The issue of GBV, particularly in the world of work, is a key one given that women are more active as economic agents than anywhere else in the world, particularly given their role in the agricultural sector, and in the informal economy. The majority of women in the labour force across Africa are in the informal sector.<sup>13</sup> While women in the informal sector are covered by the Convention, implementing the Convention in different countries in ways that protect informal workers is going to be extremely challenging.

## 2.

# Africa region

**T**here are already many government and inter-government policies, frameworks, and commitments in place in various regions of Africa on the issue of gender equity and gender-based violence.

At the level of the African Union there is the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (also known as the Maputo Protocol). Agenda 2063 also refers to the issue of GBV. The AU has also adopted a Strategy for Gender Equality and Women's Empowerment (2018 – 2028).

At the level of Southern African there is the Protocol on Gender and Development which was signed in 2008. A revised version was signed in 2016. Of relevance is also the SADC Protocol on Employment and Labour (2014), and the Regional Strategy and Framework of Action for Addressing Gender Based Violence.

In East Africa, the East African Community (EAC) adopted a gender policy in 2018.

## 2.1. AU

### 2.1.1. Maputo Protocol

On 11 July 2003, after a long-protracted process, the African Union finally adopted the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa<sup>14</sup>. It is also known as the Maputo protocol. It entered into force on 25 November 2005 after it had been ratified by 15 member nations of the AU. 40 countries (out of 55 member countries) have ratified the protocol. The fifteen countries that have not ratified the Protocol are Algeria, Botswana, Burundi,



Central African Republic, Chad, Egypt, Eritrea, Ethiopia, Madagascar, Morocco, Niger, Sao Tome and Principe, Sahrawi Arab Democratic Republic, Somalia, South Sudan, Sudan and Tunisia.<sup>15</sup> Six countries have ratified the protocol with reservations. These are Cameroon, Kenya, Mauritius, Namibia, South African and Uganda. Three countries have not signed or ratified the Protocol – they are Botswana, Egypt and Tunisia.

Article 3 of the Protocol deals with the right to dignity of every woman and to the recognition and protection of her human and legal rights. Article 3 (4) relates specifically to protection of woman against violence. It calls on states parties to “adopt and implement appropriate measures to ensure the protection of every woman’s right to respect for her dignity and protection of women from all forms of violence, particularly sexual and verbal violence.”

In addition, article 4, which deals with the rights to life, integrity and security of the person, calls on states parties to “enact and enforce laws to prohibit all forms of violence against women including unwanted or forced sex whether the violence takes place in private or public”. It also calls on the state to “adopt such other legislative, administrative, social and economic measures as may be necessary to ensure the prevention, punishment and eradication of all forms of violence against women”. States must also identify the causes of violence against women and take steps to prevent and eliminate these causes, engage in education and training to challenge and change cultural beliefs, practices and stereotypes that legitimize violence against women; ensure that perpetrators of violence against women are punished; and that victims of violence are helped and receive reparations for the violence against them.

While not dealing directly with violence against women, article 2 is also important. It deals with the principle of eliminating discrimination against women and ensuring equality between men and women; eliminating all harmful practices which endanger the health and general well-being of women.

Article 13, which deals with economic and social welfare rights also calls for state parties to “ensure transparency in recruitment, promotion and dismissal of women and combat and punish sexual harassment in the workplace.” (article 13) (c)

Opposition to the Maputo Protocol from countries such as Tunisia, Egypt and Chad has largely been based on clauses relating to marriage (in some countries there is reluctance to prohibit marriage below the age of 18) (dealt with in article 6), arrangements after the separation, divorce and annulment of marriage (article 7) and health and reproductive rights (article 14). Article 14(2)(c) makes provision for abortion under certain circumstances – but this contradicts domestic legislation for many countries. Even some of the countries that have ratified the Maputo Protocol have legislation that contradicts clause, and they do not, as a result, regard themselves as bound by the clause.

2020 has been set by the AU as the target date for the full domestication and implementation of the Protocol, but taken in its entirety, many countries are far from being able to do this.

### **2.1.2. Agenda 2063**

The African Union (AU) Agenda 2063 identifies GBV as a major obstacle to human security, peace and development. Aspiration 6 of the Agenda is for “an Africa whose development is people-driven, relying on the potential of African people, especially its women and youth, and caring children.” It goes on to note that Africa aspires that by 2063 there will be full gender equality in all spheres of life.<sup>16</sup>

### **2.1.3. AU Strategy for Gender Equality and Women’s Empowerment (2018 – 2028)**

This Strategy was adopted by the AU in 2018. In relation to Pillar 2 which deals with dignity, security and resilience, Outcome 2.2. aims for “all forms of violence against women and girls [to be] reduced, criminalized and condemned by society; women participate equally in peace processes.”<sup>17</sup>

## **2.2. SOUTHERN AFRICAN DEVELOPMENT COMMUNITY (SADC)**

The Southern African Development Community consists of Angola, Botswana, Comoros, Democratic Republic of Congo, Eswatini, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Tanzania, Zambia, and Zimbabwe.

It has a Committee of Ministers which is responsible for Gender and Women's Affairs. In terms of the SADC Treaty, which set up the SADC, members undertook, in terms of Article 6(2), not to discriminate against any person on a number of grounds, including sex and gender.

### 2.2.1. Protocol on Gender and Development

In 2008, the SADC Heads of State and Government signed and adopted the SADC Protocol on Gender and Development<sup>18</sup>. Two countries however did not sign – namely Botswana and Mauritius. Of the 13 Member States that originally signed the Protocol, 11 ratified it.

The Protocol, aligned to the Millennium Development Goals (MDGs), consolidated various commitments made in a number of international, continental and regional gender equality instruments. These include the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), Beijing Declaration and Platform of Action, the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, and the Millennium Development Goals.

It set out 28 targets which were meant to be achieved by 2015. It aimed to provide for the empowerment of women, eliminate discrimination, and achieve gender equality and equity through developing gender responsive legislation, policies, programmes and projects.

Part 6 relates specifically to GBV and states that parties to the protocol will enact and enforce legislation prohibiting all forms of GBV by 2015.

The first review of the Protocol by Member States was held in October 2015. This was after the adoption of the Sustainable Development Goals (SDGs) which included various gender related indicators. The Southern African gender ministers identified the need to review the Protocol in light of the SDGs, the Beijing Plus Twenty Review and Africa Agenda 2063. Discussions were then held in 2016 on strengthening the Protocol and developing an implementation framework. Arising out of this process a Post-2015 Gender Protocol was developed and adopted by Gender Ministers in June of 2016, and by Heads of State in August of 2016<sup>19</sup>.

The Revised Protocol covers ten thematic areas including,

- Constitutional and Legal Rights
- Governance (Representation and Participation)
- Education and Training
- Productive Resources and Employment
- Economic Empowerment
- Gender based violence
- Health, sexual and reproductive rights
- HIV and Aids
- Peace Building and Conflict Resolution
- Media, Information and Communication
- Climate Change

It defines GBV as “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.” (Article 1:2)

The revised Protocol removed the timeframes that had been in the original Protocol. Among other changes, it emphasized the importance of equal access to wage employment in accordance with the Protocol on Employment and Labour. It also emphasised the need to eliminate traditional harmful practices including child and forced marriages, female genital mutilation and slavery. The commitment relating to GBV has been strengthened with the commitment now to end GBV, rather than simply halve it.<sup>20</sup>

As of August 2018, 12 member states had signed the revised Protocol. These are Angola, Botswana, DRC, Eswatini, Lesotho, Madagascar, Malawi, Mozambique, Namibia, Seychelles, Tanzania, Zambia and Zimbabwe<sup>21</sup>. With the changes to the Protocol, Botswana signed it in May 2017<sup>22</sup>. Mauritius, however, has still declined to sign it because of the age of marriage being set at 18. South Africa has not yet signed it because it is awaiting approval from parliament before signing as some of the provisions of the Protocol will require changes to South African domestic law which does not completely prohibit marriage under the age of 18.

The SADC Committee of Ministers responsible for Gender and Women’s Affairs meets regularly to review progress in the implementation of the Protocol. The most recent meeting held was on 29 May 2019, and the next is scheduled for 2020, to be held in Tanzania.<sup>23</sup> The countries present at the 2019 meeting were Angola, Botswana, DRC, Lesotho, Mozambique, Namibia, South Africa, Tanzania, Zambia and Zimbabwe.

A SADC Gender Protocol Alliance, which consists of national women’s rights networks and regional advocacy groups was formed in 2005, with the aim of lobbying for what the existing SADC Declaration on Gender and Development to be elevated to a Protocol. Once the Protocol had been signed, the Alliance produced a barometer (the SADC Gender and Development Index (SGDI) which tracked progress toward achieving the targets contained in the Protocol. With the post-2015 Protocol in place, the Alliance focused on developing a new barometer which attempted to capture more rights-based issues such as voice; agency; the right to make decisions about one’s body; safety and security. The new index has 36 indicators which cover the nine sectors of the Protocol. One of the categories in the index is GBV. The indicators that are used focus heavily on domestic violence, but this gives a good sense of the attitude to and prevalence of GBV in a country. They make the point that attitudes are a major driver of GBV in the region.<sup>24</sup>

The Revised Protocol contains a strong commitment to end GBV which is line with Convention 190. This is a commitment that can be used in engaging governments in SADC countries around legislation and policies around ending GBV, particularly in the world of work.



### 2.2.2. SADC Protocol on Employment and Labour (2014)

This is also an important Protocol to be aware of, as it stipulates that Member States need to provide harmonious and conducive working environments; set minimum standards in terms of safety and health in the world of work; and promote gender equality in the employment and labour sector, ensuring equal treatment and opportunities for men and women.<sup>25</sup>

### 2.2.3. Regional Strategy and Framework of Action for Addressing Gender Based Violence

SADC also has a regional strategy for Addressing Gender Based Violence (2018 – 2030)<sup>26</sup>. This was approved by the SADC Ministers of Gender and Women's Affairs in July 2018. This document identifies GBV as among the most severe and widespread human rights violation in Southern Africa, with some countries registering higher levels than the global rate of 1 in 3 women having experienced GBV at some point in their lives. Problems such as under-reporting, ineffective prevention initiatives, impunity, and inadequate coordination and implementation of policies bedevil the elimination of GBV.

The document does, however, note that while the region continues to suffer high levels of GBV in all spheres of life – both in the home and in work – there have been some improvements. There is an increased awareness of GBV, and legislation in many countries has improved. All SADC member states have now adopted integrated GBV national action plans. Nine member states (Angola, Botswana, DRC, Lesotho, Mauritius, Seychelles, South Africa, Zambia and Zimbabwe) have a composite index for measuring GBV. Seven member states (Botswana, Lesotho, Mauritius, South Africa, Tanzania, Zambia, Zimbabwe) have baseline data on GBV.<sup>27</sup>

The objectives of the Regional Strategy and Framework for Action are to increase understanding of GBV as a way to promote prevention and early identification; to strengthen the provision of effective, accessible and responsive care, support and protection; to increase the capacity in the region and nationally to respond to GBV; to improve knowledge and information management; and to ensure better coordination and partnerships within the region around GBV.

The strategy is structured around five areas – prevention of GBV; protection, care and support services; capacity development; information and knowledge management; coordination, networking and partnerships.

At a meeting held in October 2019, the SADC Secretariat, together with the SADC Parliamentary Forum, held a consultative workshop on Gender Based Violence. They focused on the Regional Strategy and Framework of Action for Addressing GBV, but what is of particular significance is that they also consulted on the possibility of establishing a GBV model law for SADC. Countries in attendance were Angola, DRC, Eswatini, Lesotho, Malawi, Namibia, Seychelles, South Africa, United Republic of Tanzania, Zambia and Zimbabwe. Parliamentary officials from Botswana also attended.

## 2.3. EAST AFRICAN COMMUNITY

In 2012 the East African Community (EAC), which is comprised of Kenya, Tanzania, Uganda, Burundi, Rwanda and South Sudan, put in motion a process to develop a Gender Policy. This was in line with Article 6 (d) of the Treaty for the Establishment of the EAC which called for adherence to the principles of democracy, the rule of law, accountability, transparency, social justice, equal opportunities, gender equality, and the recognition, promotion and protection of human and people's rights in accordance with the provisions of the African Charter on Human and People's Rights of 1986.

The Gender Policy was finally launched in September 2018. It seeks to build an inclusive community, guaranteeing equal rights and opportunities for women and men, boys and girls.<sup>28</sup>

The Policy notes the prevalence of GBV in the member countries and outlines different legislative instruments that are in place in the different countries to deal with the problem. It also notes that GBV tends to decrease as women become economically more independent. One of the objectives of the Policy is to "strengthen measures that prevent and respond to Gender-based violence and other harmful cultural practices."<sup>29</sup>

In relation to gender equality in employment and the labour force, the Policy notes that partner states shall "promote equity of gender in the employment sector through enabling policy and legislation; support and promote the participation of women in all sectors of labour provision and employment and across borders." (clause 5.8)

In relation to GBV, the Policy notes that partner states shall:

- a) Develop, strengthen and implement legislation and policies addressing GBV in all its forms including ending impunity of perpetrators;
- b) Enhance capacity of duty bearers to address GBV along the referral pathway;
- c) Integrate GBV prevention and response in education, health and HIV/AIDS programming;
- d) Design GBV prevention and response programmes targeting vulnerable groups;
- e) Design and implement programmes that outlaw harmful cultural practices;
- f) Establish and Strengthen mechanisms for multi-sectoral coordination, monitoring and evaluation, research and documentation on GBV; and
- g) Establishment of strategic partnerships for the involvement of men and boys, Faith-Based Organizations and traditional leaders in advocacy and mobilization for prevention of GBV.

It goes on to note that the EAC Secretariat shall:

- a) Establish a regional data base on GBV and harmful cultural practices to guide policy and programming in the region;
- b) Develop guidelines for addressing GBV in all forms; and
- c) Facilitate sharing of information, best practices and exchange of experiences on GBV among Partner States.

## 2.4. SUMMARY OF COUNTRIES INVOLVED IN DIFFERENT REGIONAL PROTOCOLS

Country	Maputo Protocol	SADC Protocol on Gender & Development	EAC Gender Policy (2012 – 2022)
South Africa	Ratified but with reservations	Not yet signed – issue of concern is potential conflict between domestic law and Protocol on issue of age of marriage	n/a
Botswana	Not ratified	Has signed 2016 Protocol	n/a
Kenya	Ratified but with reservations	n/a	Committed to policy
Uganda	Ratified but with reservations	n/a	Committed to policy
Tunisia	Not Ratified	n/a	n/a
Algeria	Ratified	n/a	n/a
Egypt	Not Ratified	n/a	n/a
Senegal	Ratified	n/a	n/a
Chad	Not Ratified	n/a	n/a

## 3.

# Specific countries

### 3.1. SOUTH AFRICA

**G**BV has been an ongoing problem in South Africa, despite the fact that South Africa has very progressive legislation and policies around gender equality and gender equity and human rights in place. After the democratic elections of 1994, gender equity was a major issue on the agenda of the new government. There was a strong women's and gender movement both in civil society and in the trade unions, and this exerted strong pressure on the new ANC government to take seriously the position of women in society and the need to take active measures to increase equity.

Post 1994, an extensive National Gender Machinery was set up, consisting of structures both within the state and civil society. It included the establishment of the office of the Status of Women, and provincial offices of the Status of Women; the Joint Monitoring Committee on the Improvement of the Quality of Life and the Status of Women; the Women's Caucus in Parliament; the Women's Empowerment Unit; gender focal points at national and provincial level; and the establishment of the autonomous Commission on Gender Equality. The task of the CGE is to monitor and evaluate laws, policies, customs and practices and make recommendations. It also monitors South Africa's compliance with relevant international law and investigates gender related issues.

The establishment of the Gender Machinery is important to note as it expresses the government's commitment to gender equality and gives specific policy direction. However, various critiques have also been noted of the gender machinery



and what it has achieved for women's equality in the country. These include open conflict between some of the structures, the limited achievement of gender mainstreaming through the gender focal points, and an uneven engagement with women and women's organisations in civil society.

A variety of legislation has also been passed which either directly or indirectly addresses the question of gender equity.

Some of this legislation is related to the domestic sphere.

- The Termination of Pregnancy Act of 1997 provides women with access to abortion under much broader conditions than before.
- The Domestic Violence Act of 1998 provides protection against abuse for people in a domestic relationship, with domestic relationship defined very broadly.
- The Recognition of Customary Marriages act of 1998 – this legalised customary marriages, and abolished the minority status of women married under customary law.
- The Maintenance Act of 1998 – this Act improves the position of mothers who rely on maintenance for their children from the child's father
- The Women Empowerment and Gender Equality Act 2013 – this is meant to establish a legislative framework for the empowerment of women.

A whole raft of labour legislation was also introduced which had in its provisions measures to protect women, and create the basis for equality.

- The Labour Relations act of 1996 – which sets out the framework for labour relations in the country. It covers, among other areas, collective bargaining and organisational rights.
- Changes to the Basic Conditions of Employment Act of 1998
- The Employment Equity Act of 1999 – this regulates equality and discrimination in the workplace. It aims to achieve workplace equity through eliminating unfair discrimination and putting in place affirmative action measures aimed at redressing disadvantages in employment experienced by designated groups and ensuring that they are equitably represented in different job categories and levels.
- In terms of the Employment Equity Act, a Code of Good Practice on the Handling of Sexual Harassment in the Workplace has been developed.
- The Promotion of Equality and Prevention of Unfair Discrimination Act of 2000 - this Act prohibits direct and indirect discrimination on a number of grounds, including gender and sex, with the exception of employment which is subject to the Employment Equity Act. In other words, it allows for affirmative action to be practiced.

In terms of this Act the state has a duty to promote equality by developing and implementing action plans, laws, programmes and guidelines and by raising awareness. The duty to eliminate unfair discrimination includes the auditing and amendment of laws, policies and practices.

The Act makes provision for a legal mechanism for claims of discrimination. It establishes Equality Courts which deal with issues of unfair discrimination, publication of information that unfairly discriminates, harassment and hate speech

There are also various collective bargaining agreements in place in a number of sectors which deal with sexual harassment in the workplace. For instance, the Safety and Security Sectoral Bargaining Council has an agreement with deals with sexual harassment in the police and prisons sector.

Despite this extensive gender machinery, legislation and policy framework, the position of the majority of women has improved little. South Africa has high levels of unemployment and poverty and remains a highly unequal society. Women are at the forefront of bearing the burden of poverty and unemployment. In addition, or perhaps partly as a result of the economic situation, GBV has, if anything, escalated in the country and South Africa still suffers high levels of serious gender based violence. Already in 2018 the issue of GBV was raising such concern that the President called a Presidential Summit to deal with the issue. However, this summit made little difference and serious cases of GBV continue unabated.

South Africa has much of the legislation and policies in place that meet the requirements of Convention 190. The major problem remains one of implementation.



## 3.2. BOTSWANA

Gender based violence is a major issue in Botswana with research conducted in 2011 by the Women's Affair Department (WAD) (located in the Ministry of Labour and Home Affairs) and Gender Links, showing that over two thirds of women (67%) have experienced gender violence in their lifetime.<sup>30</sup>

In 2013 the Women's Affair Department became the Gender Affair Department. This name change reflected a recognition that GBV is about the unequal power dynamics in society, and that in order to address the nature of the patriarchal society, men also have to be involved. It reflected the fact that there was now a more comprehensive understanding of its mandate relating to gender, and not just to women.<sup>31</sup> The constitution of Botswana, however, does not specifically refer to gender or the need to deal with gender inequality.

The government has developed a number of laws, policies and programmes to respond to GBV, but unfortunately the problem persists, and it remains a common human-rights violation in the country.<sup>32</sup>

In 2008, Botswana passed the Domestic Violence Act (No. 10 of 2008) which provides protection to those who have been subject to domestic violence. In the same year, the government also passed the Miscellaneous Amendments Act which requires the government to amend all national laws to ensure that they are gender sensitive.

In 2015 the government adopted The National Policy on Gender and Development. The long term aim of this policy is to reduce inequalities in the social, economic, political, cultural and legal opportunities and outcomes for both women and men. It aims to ensure that inequalities in the opportunities available to men and women are reduced to allow for full social, economic, cultural and legal development for all. It also commits to gender mainstreaming in all activities of government and other sectors, as well as in civil society.

In the same year, 2015, the government also adopted a National Gender-based Violence Strategy (2015 – 2020). It focuses on a number of different sectors and different approaches in order to prevent and eliminate gender-based violence. It sees men as critical partners in promoting gender equality.

In July 2018 a Joint Gender Programme on Gender-Based Violence (2018 – 2020) was signed between the government of Botswana and the UN. The aim of this project is to work towards achieving the realization of SDG 5 on gender quality, particularly target 5.2 (to eliminate all forms of violence against women and girls in the public and private spheres) and target 5.3 (to eliminate all harmful practices such as child early and forced marriages and female genital mutilation).<sup>33</sup>

Legislation which is more specific to the workplace, and particularly to the public sector includes the amendment of the Public Service Act. Public Service (Amendment) Act no. 14 of 2000 added a section, 31A, which classifies sexual harassment of a public officer by a co-worker or by a supervisor as misconduct. It also introduced penalties for such misconduct. One of the problems with the

implementation of this provision is that there is commonly agreed definition of sexual harassment.

The Employment Act 1982, as amended, refers to the desirability of eliminating discrimination between men and women in relation to wages for equal work.

The initiatives in relation to women must be understood in the context of Botswana's Development Plan. The 11th Plan (2017 – 2023) deals with issues of gender equality and equity commits to mainstreaming gender in economic development, and emphasises the importance of ensuring women are part of all development processes. Article 8:90 specifically states that equal access and opportunity for women and men is fundamental to human development in the country.

A major problem is lack of awareness on the part of women, of their rights, and of legislation that exists to protect them. For instance, the 2012 study showed that less than half of all women (46%) are aware of the Domestic Violence Act. This study also showed that many cases of GBV go unreported, with only 1.2% of women reporting violence to the police.<sup>34</sup>

As noted in section 2.2.1., the government signed the revised SADC Protocol on Gender and Development in 2017.

### 3.3. KENYA

Kenya has ratified the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (the Maputo Protocol).

A new constitution was introduced in 2010 which devolved many functions down to 48 newly established county governments. These County governments were formally established after the 2013 elections. The new constitution placed strong emphasis on the protection of human rights equality and justice. It guarantees the right to fair labour practices, the right to freedom and security of person, the right to human dignity and freedom from discrimination. Section 59 of the Constitution established the Kenya National Human Rights and Equality Commission. One of the functions of this Commission is "to promote gender equality and equity generally and to coordinate and facilitate gender mainstreaming in national development" (Clause 2) (b)<sup>35</sup>. Section 59 calls for legislation to be enacted to give effect to this section, and makes provision for the Commission to be restructured into two or more separate Commissions. This was done in 2011 through the passing of the National Gender and Equality Commission Act which set up the National Gender and Equality Commission (NGEC). The NGEC focuses on "special interest groups, which include women, youth, persons with disabilities (PWDs), children, the older members of society, minorities and marginalized groups."<sup>36</sup>

One of the core functions of the NGEC is to mainstream issues of gender and women in both national and county government policies, laws and regulations. They coordinate a specific working group focusing on Gender Based Violence.

Other government departments and policies which shape its response to GBV include:

- Kenya Vision 2030 - The Vision 2030 mid term plan (2013 – 2017) calls for the establishment of one-stop centres for GBV.
- The Ministry of Public Service, Youth and Gender – this ministry, launched, together with the UN a four year GOK-UN Joint Programme on Prevention and Response to GBV (JP-GBV). The programme consists of five pillars – Prevention, Protection, Prosecution, Programming and Partnerships.<sup>37</sup>
- The Sexual Offences Act (2006) criminalizes sexual harassment. In terms of this Act, any person in a position of authority, or a person holding a public office, who persistently makes any sexual advances or requests which he or she knows, or has reasonable grounds to know, are unwelcome. If found guilty of the offence of sexual harassment the offender is liable to imprisonment of at least three years or to a fine of at least 100,000 shillings or to both.

In 2014 the president of Kenya launched the National Monitoring and Evaluation Framework towards the Prevention of and Response to Gender-based violence in Kenya<sup>38</sup>. Other legislation which also seeks to protect women against GBV is the Protection Against Domestic Violence Act of 2015.

In 2017 the NGEK produced a model County policy on Sexual and Gender Based Violence (SGBV) as a guide to County governments in developing their own policy. Also in 2017 they produced a model legislative framework on SGBV<sup>39</sup>. The intention is that each County government adapts these models to their own specific circumstances in adopting policy and passing legislation. The model County policy focuses on three aspects – prevention strategies; response strategies and developing coordination, monitoring systems and data collection.

Despite all these interventions, GBV continues to be a major problem in Kenya. In an academic article by Shako & Kalsi, it has been argued that “Sexual and Gender Based Violence (SGBV) in Kenya is highly complex.... This complexity is worsened by the acceptance of Sexual Violence within a patriarchal society, harmful traditional and cultural practices, breakdown of law and order especially during electoral periods, all heightened by abject poverty.”<sup>40</sup>

In terms of the world of work, relevant legislation here is the Employment Act of 2007, which outlaws sexual harassment and all forms of discrimination as a result of sex/gender. In terms of the Act, a worker is harassed sexually if the employer or its representative or a co-worker request (directly or indirectly) for any form of sexual favour in order to get preferential treatment at the workplace; or threaten the worker with detrimental treatment in relation to the present or future employment



status of the worker. Employers are meant to develop a policy prohibiting sexual harassment. There is, however, no specific punishment outlined in the Act if acts of sexual harassment do take place.

In general, both the constitution and relevant legislation has been introduced which aims to comply with commitments made to the Maputo Protocol and issues of gender equality in general. However, there still remains much to do in terms of implementation.<sup>41</sup>

### 3.4. UGANDA

Chapter 4 of the Constitution of Uganda which focuses on Protection and Promotion of Fundamental and other rights and freedoms, guarantees every Ugandan equality and freedom from discrimination, respect for human dignity and protection from inhuman treatment.

Uganda has ratified the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (the Maputo Protocol).

Various laws are in place to deal with GBV, but as with so many other countries, they are not sufficiently implemented. The laws include:

- The Penal Code Act Cap 120 – this criminalizes most forms of GBV against women, men and children
- The Domestic Violence Act 2010
- Domestic Violence Regulations of 2011
- Prohibition of Female Genital Mutilation Act of 2010
- The Equal Opportunities Commission Act of 2007
- Sexual Offences Bill 2016

In 2007 Uganda adopted a National Gender Policy, and a National Action Plan on Women.<sup>42</sup> As a result of this policy various programmes were put in place to reduce gender inequalities and vulnerabilities. It also gave a clear mandate to the Ministry of Gender, Labour and Social Development, as well as other Line Ministries, to mainstream gender. Through this policy, priority areas of action are established at all levels of government – National, Sectoral, District and Community.

However, gender inequalities still remain very prevalent, and in fact seem to be increasing. The Uganda Police Force's annual crime report shows that GBV cases that were reported and investigated increased by 4% between 2015 and 2016<sup>43</sup>. It is likely that the actual number of GBV cases is much higher than this as many women don't report cases. According to a 2016 Uganda Demographic and Health Survey, up to 22% of women aged 15 to 49 have experienced some form of sexual violence. Other figures suggest that the real figure is even higher, with lifetime prevalence being estimated at 51%, and 56% of women between the ages of 15 – 49 having reported experiencing physical violence.<sup>44</sup>

GBV is particularly prevalent in the rural areas where poverty has been found to be a major reason.<sup>45</sup>

In 2016, the government issued the National Policy on the Elimination of Gender Based Violence for Uganda, as well as its National Action Plan (2016 – 2021). In terms of this policy, the government was mandated to allocate resources which would allow for the implementation of the GBV legislation. This Act includes a framework for implementing measures for the prevention of GBV, and provides for multi-sectoral support services for survivors.

The Development Plans for Uganda are also important in relation to GBV. The National Development Plan NDP II (2015/16 – 2019/20) identifies gender equality as an important basis for eliminating GBV. And the Social Development Plan (SDSP) 2015/16 O 2019/20) identifies GBV prevention and response programmes as a priority.

A Joint Programme on Gender-Based Violence in Uganda has been established with the UN Population Fund and UN Women. The Embassy of Sweden is providing the funding. The aim of this Programme is to develop interventions to prevent and respond to gender-based violence, integrating sexual reproductive health and rights in hard to reach populations.

While in general there is higher employment levels among men than among women in Uganda, this is not true in the agricultural sector, which employs more women. There is also higher levels of employment for men in paid work, whereas more women are in informal jobs.

Uganda has a number of labour laws and policies which are relevant when looking at protection against GBV in the world of work. These include

- Employment Act No 6 (2006)
- National Equal Opportunities Policy (2006)
- Equal Opportunities Commission Act (2007)
- Uganda National Employment Policy (2011)
- The Labour Disputes Arbitration and Settlement) Act No 8 (2006)
- The Labour Unions Act No 7 (2006)
- The Occupational Health and Safety Act No 9 (2006)

The Employment Act of 2006 makes provision for sexual harassment cases to be dealt with – but restricts the definition of sexual harassment to that perpetrated by a manager or employer, and not to sexual harassment by a co-worker.

In general, it seems that awareness in the world of work on the various rights for labour contained in this legislation is low.<sup>46</sup>

### 3.5. TUNISIA

GBV is a problem in Tunisia with a 2010 national survey on violence against women estimating that nearly 50% (47.6%) of Tunisian women have experienced violence in their lifetime.<sup>47</sup> At the same time, Tunisia has in place many legal instruments to protect and defend women's rights. This starts with the constitution with Article 21 of the Constitution of 2014 stipulating that men and women are equal before



the law, without discrimination. Article 46 of the Constitution calls on the state to take necessary steps to eliminate violence against women. Article 40 of the Constitution states that work is a right for every citizen, men and women. And all workers have the right to decent working conditions and fair wages.

Tunisia is also the first country in the region to have ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). They ratified CEDAW in 1985 and lifted all specific reservations to the Convention in 2014<sup>48</sup>

However, Tunisia has not yet ratified the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (the Maputo Protocol) due to reservations on the marriage clause which prohibits marriage below the age of 18.

For many years, civil society in Tunisia, together with national and international institutions (such as UN Women) has been actively pursuing the implementation of legislation to address the problem of GBV.

Their actions were successful when, in July 2017, Tunisia passed its first law to combat violence against women, the Law on Eliminating Violence against Women No 58 of 2017. This law came into effect in February 2018. This law seeks to introduce measures to prevent GBV as well as to support survivors of GBV. In terms of this law, GBV is criminalized. The law recognizes a number of different forms of violence against women and girls. This includes physical violence, but also focuses on economic, sexual, political and psychological violence. It puts in place three pillars to deal with violence against women. The first is prevention, with an emphasis on prevention through education. The second pillar focuses on support for women. It makes provision for survivors to access the necessary services, including legal and psychological assistance. The third pillar is judicial and puts in place reforms of several Penal Code provisions. Very importantly, it removes the ability for perpetrators of violence to achieve impunity by, for instance, marrying their rape victim.

In terms of this law, the definition of sexual harassment has also now been widened to include sexual harassment in public places.

In relation to women's employment rights, the Law on Eliminating Violence against Women makes it illegal to commit discrimination or economic violence on the basis of sex if it results in the deprivation or control of women's economic resources. It also prevents discrimination in remuneration for work of equal value, as well as discrimination in terms of occupation, including in refusing promotion and grade of employment. It also makes it illegal to commit discrimination, deprivation, or restriction of the victim's enjoyment of her rights or access to benefits or services; to prevent the victim from partaking in normal activities; to refuse to employ; or to dismiss or punish the victim. It also prohibits the employment of children in domestic work.<sup>49</sup>

A challenge facing the implementation of this Act is the lack of national budget allocated to combatting violence against women. Only 0.27% of the government's budget is allocated to the Ministry of Women, Family and Children's Affairs (MaFFE) for all work on women's rights, including that of dealing with violence against women.<sup>50</sup>



The Labour Code, 1996 as amended 1996, sets out the terms of the relationship between workers and their employer. Article 5 bis prevents discrimination between men and women in applying the Code. In terms of the Code women have the right to equal pay for the same work as men. Article 20 of the Code prohibits employers from dismissing a workers because of pregnancy. Article 64 of the Code states that women are entitled to 30 days maternity leave, which is below the ILO standard of 14 weeks. The Code also includes restrictions on women's employment in doing night work, mining and scrap metal work.

It is important to note that domestic workers are not covered by the Labour Code – they are covered only by the civil law of contracts in relation to the contract they have with their employer.

Sexual harassment at the workplace is not covered by the Labour Code, but sexual harassment has been prohibited under the Penal Code.

### 3.6. ALGERIA

The Constitution of Algeria guarantees to both men and women the right to live in dignity and to be protected from all forms of violence and discrimination. The government has also taken a number of measures to put in place policies and programmes which aim to empower women and reduce gender-based violence. Some of these measures have been put in place through presidential decree. In some ways, these government actions have been successful, resulting in a situation where high levels of women have educational qualifications. But GBV continues to be a pervasive problem in Algeria, with a lack of measures in place to implement the existing policies and programmes. Disparities in the economic status, access to education, health and employment of women also make some women, particularly those living in rural areas, more susceptible to GBV.<sup>51</sup>

The Ministry of National Solidarity, Family and Women Condition is responsible for dealing with GBV. Falling under this Ministry is the National Council for the Family and Women (CNFF) which was created in November 2006. It is responsible for gender equality and promoting women's rights.

While the government has ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), it has made significant reservations – particularly articles 2, 15(4), 16 and 29(1). Algeria has also ratified the Maputo Protocol.

Important legislation which impacts on GBV includes:

- Criminal Code as amended in 2004, which criminalizes sexual harassment. It emphasises the importance of ending all forms of violence against women, including in public places, and includes financial abuse in its definition of violence against women (article 341)
- Family Code amended in 2005
- Penal Code on violence against women (December 2015)

- The Penal Code deals with sexual harassment and measures for punishing perpetrators. It regards sexual harassment as including verbal and emotional harassment, both in the home and in public spaces.

There is also a National Strategy to Combat Violence Against Women (SNLCVFF). It focuses on care for women who are victims of violence, information and awareness, and prevention of GBV through women's empowerment. A five year plan to combat violence against women was put in place for the period 2007 – 2011.

Women only make up a small proportion of the workforce in Algeria, with only 19.5% of the total labour force being women. 61% of women are in the public sector. 16.6% of women are unemployed, compared to 9.9% of men (2015 figures).<sup>52</sup> Women in general often earn wages that are about one third of those of men. There are also high rates of illiteracy in the country, particularly in the rural areas.

The Labour Law (1990) guarantees full equality between men and women and contains provision for affirmative action measures. It prohibits discrimination with respect to employment, salary and work environment based on factors such as gender.

### 3.7. EGYPT

Egypt is a signatory to the Convention on the Elimination of all forms of Discrimination against women (CEDAW), although with a number of reservations. However, Egypt has not ratified the Maputo Protocol.

Egyptian women experience high levels of sexual harassment in public places, as well as physical and emotional violence from husbands, fathers and other male relations. A 2013 UN survey, "Study on Ways and Methods to Eliminate Sexual Harassment in Egypt"<sup>53</sup>, found that 99.3% of women have experienced sexual harassment. About 7.888 million suffer from all forms of violence yearly, whether in the public or private sphere, but the number who report incidents to the police is only 75 000.<sup>54</sup> A 2017 survey by UN Women and Promundo found that nearly 60% of women have been sexually harassed.<sup>55</sup>

There was a flareup of violence against women which began during the political protests of 2011, and continued at subsequent protests. Partly as a result of some of the high-profile cases of GBV, the government has strengthened punishments in relation to crimes of sexual harassment, rape and sexual assault. There has also been a strong pushback from women protesting against GBV through the #Metoo movement, particularly since 2018. They are increasingly taking their harassers to court, and in some cases, are winning the court case despite the public backlash that they face.

Many women in Egypt also continue to be subjected to female genital mutilation.

The new Constitution adopted in 2014 contains a number of clauses that are relevant and important in taking up the issue of GBV. These are clause 11, which commits the state to protect women against all forms of violence.

The other important piece of legislation that governs violence against women in Egypt is the Criminal Code of 1937 and its amendments. In terms of the Criminal Code, violence against women is divided into misdemeanors and felonies (which are more serious). Misdemeanors include sexual harassment, whereas felonies include female genital mutilation, rape, kidnapping and sexual assault.

The National Strategy for Combating all Forms of Discrimination Against Women (2015 – 2020)<sup>56</sup> is an important milestone which came about through concerted mobilization of both government and civil society organisations. It outlines four pillars of a strategy to combat violence against women. These are

- Prevention
- Protection
- Intervention
- Legal Procedures

While there is a strong emphasis on increasing the participation of women in the workforce (2012 figures indicate that women make up only 24.2% of the workforce), there is no explicit policy to address GBV in the workplace, which could act as a deterrent to increased numbers of women in employment. It is estimated that 139 600 women were exposed to violence in their work environment, which is around 3.7% of working women.<sup>57</sup>

### 3.8. SÉNÉGAL

The Senegalese government has made progress in promoting a gender-sensitive environment through the adoption of a range of laws and policy documents. This starts with the 2001 Constitution, amended in 2012, which guarantees equality between men and women in article 7. Senegal ratified the Convention on the Elimination of All Forms of Discrimination against Women in 1985, as well as the Optional Protocol on violence against women (2000). It ratified the Maputo Protocol in 2005.

Despite this, however, GBV remains a problem. In 2017, the UNDP ranked Senegal 124th out of 160 countries in terms of gender equality.

Senegal has a strong women's movement, sometimes characterised as among the strongest in Africa, which is united under the banner of COSEF.<sup>58</sup>

The Ministry of Woman, Family and Childhood has been central in developing a range of legislation and policy documents which promote gender equity. These include:

- The Gender Parity Law (2010) which aims to promote political participation of women. This is a radical gender quota law, and was hard fought for by the Senegalese women's movement. It requires parties to implement a male-female ratio of 50%.
- The Standard Operating Procedures on GBV

- National Action Plan on GBV/Human Rights and the Empowerment of Women (2011)<sup>59</sup>
- National Strategy for Gender Equality and Equity (SNEEG)

SNEEG was originally developed to run from 2005 – 2015. It was developed after an evaluation of the second National Action Plan for women. In 2015 it was reviewed and was subsequently updated in 2016, and aligned with the Senegal Emerging Plan (PSE). It now runs for the period 2015 – 2025. The PSE is the government's development strategy and economic policy reference framework. It consists of three pillars. The first one relates to structural transformation of the economy and growth. The second pillar relates to human capital, social protection and sustainable development; and the third pillar relates to governance, institutions, peace and security.

SNEEG focuses on eliminating inequalities between men and women through promoting the full participation of women in decision-making processes and through equitable access to development resources and benefits.

Women are slowly becoming a larger part of the labour market. Whereas in 2000 they constituted only 34% of the labour force, in 2016, they constituted 41%. This is, however, still a very low rate of participation and is far below the average for Africa. There are also large gaps in the earnings between men and women. Overall unemployment remains high. In 2005, approximately 35% of urban youth (ages 15 – 24) and 50% of rural youth were neither in school nor employed.<sup>60</sup> Less than 10% of the labour force is employed in the formal sector.<sup>61</sup>

The Labour Code, Act 97-17 of 1 December 1997<sup>62</sup> governs relations between employers and employees. Different sectors can also have collective agreements which govern employment relations in that sector. There are no specific rules in the Labour Code which deal with harassment at work.<sup>63</sup>

The major federations in Senegal – the Confederation Nationale des Travailleurs du Senegal (CNTS) and the Union Nationale des Syndicats Autonomes du Senegal are an important part of a tripartite structure together with business and government.

### 3.9. CHAD

Chad has ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). They signed the Maputo Protocol, but have not ratified it.

In terms of the Constitution of 1996, revised in 2005, men and women are equal before the law. Article 14 notes that the state “has a duty to ensure the elimination of all forms of discrimination against women and to ensure the protection of their rights in all areas of private and public life.”

However, GBV continues to be a problem in Chad. A 2014- 2015 Demographic and Health Survey showed that one third of women aged 15 – 49 who are married have been victims of physical, psychological and/or sexual violence by their spouses at least once in their lifetime. Female Genital Mutilation is still practiced.<sup>64</sup> GBV is

worsened by the extent of poverty in the country – with more than half (55%) of people living in Chad live below the poverty line.

The relevant national legislation includes the Declaration of the Policy of Integration of Women in Development (1995) and the National Gender Policy of September 2017. The National Gender Policy was sent to the National Assembly in 2011, but was only finally adopted by the Council of Ministers in September 2017.

Despite this legislation, women continue to be discriminated against. A 2014 government report noted that the coexistence of civil law, customary law and Islamic law limits application of the principle of equality that is enshrined in legislation. In addition, it noted that general knowledge of texts and laws is limited with the result that women are unaware of their rights. In addition, persistent sexist stereotypes, sociocultural prejudices and some traditional practices prevent women from claiming their rights. The report also notes that insufficient financial resources are allocated to the relevant government bodies, and the implementation of policies remains limited.<sup>65</sup>

In terms of the world of work, the Labour Code of 1998 gives formal equal opportunities to men and women in employment.

# 4.

## Summary of country progress

Country	Constitution	Legislation, policy and programmes in domestic sphere	Legislation covering workplace	Noteworthy legislation/ policy/ programme	Implementation of regional strategies	Convention 190
South Africa	Progressive Constitution which prohibits discrimination on any grounds, including race, gender, colour, pregnancy and sexual orientation	Range of legislation including Termination of Pregnancy Act (1997), Domestic Violence Act (1998), and Women Empowerment and Gender Equality Act (2013)	Key: Employment Equity Act of 1999; Promotion of Equality and Prevention of Unfair Discrimination Act of 2000 Also: Labour Relations Act	A Code of Good Practice on the Handling of Sexual Harassment in the Workplace	Ratified the Maputo Protocol with reservations. Not yet ratified SADC Protocol on Gender because of marriage age; has extensive gender machinery and legislation in place; issue also dealt with in some CB agreements; despite this still has high levels of GBV	Has expressed willingness to ratify Convention; issue is on the policy agenda of Parliament; unions have been very engaged in promoting convention
Botswana	Gender neutral constitution – no overt protection of women in constitution	Domestic Violence Act 2008 National Policy on Gender and Development (2015) National Gender-based Violence Strategy (2015-2020) Joint Gender Programme on GBV (2018-2020) signed with UN – focused on SDG implementation	Public Service (Amendment) Act 2000 classifies sexual harassment as misconduct Employment Act 1982 outlaws discrimination		Ratified SADC Protocol on Gender	



Country	Constitution	Legislation, policy and programmes in domestic sphere	Legislation covering workplace	Noteworthy legislation/ policy/ programme	Implementation of regional strategies	Convention 190
Kenya	2010 Constitution places emphasis on protection of human rights equality and justice. Established Kenya National Human Rights and Equality Commission which has to promote gender equality	Four-year GOK-UN Joint Programme on Prevention and Response to GBV Sexual Offences Act (2006) 2014 National Monitoring and Evaluation Framework towards the Prevention of and Response to GBV	Employment Act 2007 – outlaws sexual harassment and discrimination	Model County policy on Sexual and Gender Based Violence Model legislative framework on SGBV for County governments	Strong commitment in constitution and good legislation in place. Efforts are being made to harmonize legislation with Maputo Protocol. However, problem remains with implementation and monitoring of implementation	Central Organization of Trade Unions-Kenya (COTU-K) taking up the issue of ratifying Convention – hosted meeting with members of the Organization of African Trade Union Unity (OATUU); representatives from Federation of Kenya Employers and the Kenya Ministry of Labour
Uganda	Constitution guarantees equality and freedom from discrimination, respect for human dignity and protection from inhuman treatment	The Penal Code Act Cap 120 – this criminalizes most forms of GBV against women, men and children The Domestic Violence Act 2010 Domestic Violence Regulations of 2011 Prohibition of Female Genital Mutilation Act of 2010 The Equal Opportunities Commission Act of 2007 Sexual Offences Bill 2016 National Gender Policy 2007 National Action Plan on Women 2007 National Policy on the Elimination of Gender Based Violence 2016 Joint programme with UN on GBV	Range of labour legislation Most relevant for GBV is Employment Act 2006 which makes provision for dealing with sexual harassment. Limitation is that it only refers to sexual harassment between employer and employee		Implementing the Maputo Declaration through constitutional commitment, legislation and action plans. But GBV remains a problem in the country.	Government has indicated willingness to ratify convention – was in the forefront of African bloc in negotiating convention

Country	Constitution	Legislation, policy and programmes in domestic sphere	Legislation covering workplace	Noteworthy legislation/ policy/ programme	Implementation of regional strategies	Convention 190
Tunisia	Constitution states men and women are equal before the law Also explicitly calls on state to eliminate violence against women	201 Law on Eliminating Violence against Women	2017 Law on Eliminating Violence against Women also impacts on the world of work. Also covered by Labour Code 1996 Sexual Harassment at work is covered by Penal Code	Hard fought campaign around legislation to protect women resulted in passing of first national law to combat violence against women (2017) Focuses on three pillars <ul style="list-style-type: none"> <li>• Prevention</li> <li>• Support</li> <li>• Judicial reform</li> </ul> Now implementation remains a challenge. Part of the challenge is lack of budget allocation to allow for implementation.	Not yet ratified Maputo Protocol because of marriage clauses (no marriage under 18 years)	
Algeria	Constitution guarantees to both men and women the right to live in dignity and to be protected from all forms of violence and discrimination	Criminal Code criminalizes sexual harassment and emphasizes ending all forms of violence against women Penal Code on violence against women (2015) National Strategy to Combat Violence Against Women	Labour Law (1990) guarantees full equality between men and women and provides for affirmative action		Many measures put in place to reduce GBV, but problem is implementation	

Country	Constitution	Legislation, policy and programmes in domestic sphere	Legislation covering workplace	Noteworthy legislation/ policy/ programme	Implementation of regional strategies	Convention 190
Egypt	2014 constitution clause 11 commits state to protect women against all forms of violence	Criminal Code of 1937 and amendments Defines sexual harassment as a misdemeanour The National Strategy for Combating all Forms of Discrimination Against Women (2015 – 2020)	No explicit policy related to GBV for world of work	National Strategy for Combating all Forms of Discrimination against Women outlines four pillars of strategy to end violence: <ul style="list-style-type: none"> <li>• Prevention</li> <li>• Protection</li> <li>• Intervention</li> <li>• Legal Procedures</li> </ul>	GBV became a major issue during and after 2011 political protests. Country has not ratified Maputo Protocol. Has measures in place to deal with GBV, but has far to go	
Senegal	2001 Constitution as amended 2012 guarantees equality between men and women	Gender Parity Law 2010 Standard Operating National Strategy for Gender Equality and Equity National Action Plan on GBV and Human Rights	No specific rules in Labour Code which relate to GBV		Despite ratifying Maputo Protocol and putting in place a range of policies and legislation which give effect to protocol, GBV remains high in country	
Chad	1996 constitution states men and women are equal before the law; commits to eliminate all discrimination against women and ensure protection in public and private	Declaration of the Policy of Integration of Women in Development (1995) National Gender Policy of September 2017	Labour Code of 1998 gives formal equal opportunities men and women		Has not ratified Maputo Protocol Has legislation in place, but implementation remains a problem.	

# 5.

## Conclusion

**F**rom this overview of the situation in Africa, different regions in Africa and selected countries it is clear that there is a plethora of policies, frameworks, and legislation in place to address the position of women in society and in particular to address gender-based violence. It is also clear, however, that GBV continues to be a major problem across the continent. The large number of initiatives, institutions and instruments can become counter-productive if it serves to fragment the approach to GBV in a particular country, and if maintaining these institutions becomes a substitute for taking action on the issue.

While there is more data available for incidents of GBV that take place in the domestic sphere, it is clear that GBV is also happening in the world of work where women are often already in a precarious and vulnerable position.

While most countries that were surveyed have some kind of National Policy on Gender Based Violence in place, it is less clear what provisions there are in the AREA OF EMPLOYMENT to deal with the problem. GBV in the world of work is normally dealt with through legislation that covers formally employed workers and is reduced to incidents of sexual harassment. Not only is this a much more limited approach than is envisaged in terms of Convention 190, but the seriousness with which existing legislation and policies relating to GBV at work is often limited. In addition, some of the most vulnerable workers, those who are on contract, employed through labour brokers, or who are temporary or seasonal, who are most at risk of GBV are excluded from the legislative machinery which should be helping to protect them.

Another major problem that seems to cut across most of the countries is the lack of awareness many women have of their rights as workers and their right to work in a safe environment, free from GBV.

# 6.

## Recommendations

- Call on governments to put in place measures that allow for accurate and up-to-date collection on GBV in the world of work (as defined by Convention 190) and what the impact of existing legislation and policy on the ground is. This data must then be made publicly available, and must inform ongoing interventions to prevent GBV.
- There needs to be a concerted effort to inform women of their existing rights in the world of work, particularly as it relates to their right to be able to work in an environment that does not harm them.
- Trade unions in particular countries need to explore possibilities of working with gender organisations who are taking up GBV, even if their focus is more on the domestic sphere. The prevalent attitude to GBV in a society more broadly is going to have a major impact on what happens in the world of work. Fighting GBV in the world of work is part of the struggle to end GBV in society as a whole.
- Trade unions need to engage with their governments around ratifying Convention 190.
- Even before governments have ratified the Convention, however, trade unions can use the existence of the Convention to push for the world of work to be equitable, free of discrimination, and, most importantly, free from gender-based violence.

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