

## Chapter 1

# Introduction

### 1.1 BACKGROUND

Health and bodily integrity lie at the heart of well-being for all. Sexual and reproductive health and rights are critical elements of health and bodily integrity, especially for women and girls. Poor health and violations of bodily integrity are not only poor development outcomes, but also violations of fundamental human rights. Healthy and well-spaced and timed pregnancies, together with protection from infections with HIV, and other sexually transmitted diseases, have a large impact on women and girls' health and lives. In order for that impact to be positive, women and girls need to have the freedom to make choices about fertility, pregnancies, contraception and on how to protect themselves and be protected from HIV and other STIs. Access to sexual and reproductive health services as well as comprehensive information and education is indispensable to support women and girls in making these choices.

For that impact to be positive and women and girls' health and bodily integrity to be promoted and realised, they need to be able to choose and decide on sexual partners and relations, and when desired, on their marriage partner. And it requires that women and girls are free from violence, discrimination and coercion, and in particular to be free from child marriage, female genital mutilation and other harmful practices. That points to the need to challenge gender inequalities and patriarchal norms and practices, and to promote gender equitable relations that respect and promote consent, freedom and choice of *all* women and girls. These gender relations manifest themselves in intimate relations, marriage, and communities, as well as in interactions with health service providers or police or judiciary officers.

This year marks the fifteenth anniversary of the Maputo Protocol, the *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa*, adopted in 2003. This anniversary offers an excellent opportunity to take stock of gaps and contestations around the realisation of women and girls' rights, and to identify where progress needs to be accelerated. The upcoming 25-year review of the ICPD (International Conference on Population and Development, ICPD+25) also calls for review of progress made. This review, especially in connection to the five-year review of the Addis Ababa Declaration of Population and Development in Africa Beyond 2014 (AADPD+5), provides the moment to see where progress has stalled, and what the unfinished business is for the near future in realising women and girls' sexual and reproductive health and rights.

Achieving full gender equality in all spheres of life is a critical element of the 'aspirations of the Africa we want' articulated in Agenda 2063. Addressing the unfinished agenda is also key to realising the SDGs, and in particular SDG Three and Five. Sexual and reproductive health as well as financing for health systems are key priorities to meeting SDG Three (*to promote healthy lives and promote well-being for all at all ages*). In order to meet SDG Five (*to achieve gender equality and empower all women and girls*), more efforts are needed to end gender-based violence against women and girls, as well as harmful practices, such as child marriage and FGM. It also requires women and girls being able to make decisions about sexual relations and partners, and about choice of contraception and access to and use of SRH services and information.

Addressing this unfinished business is of pivotal importance as we embark on the last three years of the Africa Women's Decade (2010-20), that aims to hold government to account on their continental and international commitments for gender equality and women and girls' empowerment. This State of African Women report aims to contribute to the realisation and promotion of women and girls' rights, in particular in SRHR, by raising awareness of the commitments and tracking progress made towards their full implementation.

## 1.2 THE STATE OF AFRICAN WOMEN REPORT AND THE RIGHT BY HER CAMPAIGN

This State of African Women report is published in the State of African Women Campaign (SOAWC) project, whose overall objective is to contribute to securing, realising and extending women's rights enshrined in African Union (AU) policies in African countries. The project is being implemented by a consortium of eight organisations, under the lead of the International Planned Parenthood Federation Africa Region (IPPF AR).<sup>1</sup> The SOAWC project has two intermediate objectives. The first is to influence legal and social norms on women's rights through greater transparency and public pressure on duty-bearers. The second is to hold decision-makers to account for their policy commitments on women's and girls' rights through a stronger civil society voice and meaningful participation in decision-making.

At the heart of the SOAWC project is the Right By Her campaign, which focuses on increasing civil society's contribution to implementation of the African commitments on women and girls' rights in sexual and reproductive health and rights (SRHR). The Right By Her campaign focuses in particular on implementation of the AU's Maputo Protocol (the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa) and the Maputo Plan of Action (MPoA), which is the implementation framework for the *Continental Policy Framework on SRHR*. The campaign seeks to strengthen implementation of the Maputo Protocol and the MPoA at four decision-making levels across Africa: continental, regional, national and subnational. It does so by strengthening civil society organisations (CSOs) in two aspects: in terms of knowledge on women and girls' rights in SRHR and in terms of advocacy strategies and capacity to meaningfully participate in decision-making processes. As such, the SOAWC project aims to enhance CSOs' potential to have a long-lasting and far-reaching impact.

The Right By Her campaign focuses on **four specific rights areas**:

1. Gender-based violence against women (GVAW)
2. Harmful practices (in particular child marriage and female genital mutilation, FGM)
3. Reproductive rights and sexual and reproductive health (SRH)
4. HIV and AIDS

Alongside the four rights areas, this report takes into account four cross-cutting issues: peace and security; education and training; participation of women in political and decision-making processes; and marginalised and vulnerable groups of women and girls (in particular adolescent girls and young women, elderly women, women with disabilities, women in distress, and individuals marginalised on the basis of their sexual orientation or gender identity or expression, SOGIE). Figure 1.1 presents the core rights areas as well as the cross-cutting issues.

Figure 1.1. The four core rights area of this report, with the cross-cutting issues

### CORE RIGHTS AREAS



### CROSS-CUTTING ISSUES



<sup>1</sup> The project is funded under the EU.

## 1.3 WHY THIS STATE OF AFRICAN WOMEN REPORT?

The current status of ratification and domestication of the Maputo Protocol and the MPoA is already being tracked and documented in existing mechanisms and in earlier reports and publications. Few of these explore the pathways by means of which rights are operationalised in practice, through laws, policies, administration, budgets and programmes. More insight is needed into what has to be done to accelerate implementation, monitoring and reporting on key rights instruments and political commitments regarding women and girls' rights in SRHR. This insight is vital to further strengthening of CSO advocacy efforts. It will also be valuable to states and regional and continental organisations and bodies in contributing to the realisation of women and girls' rights. Analysis of gaps and opportunities across countries and regions, and deeper understanding of the challenges currently faced in implementation, will inform the prioritisation of key rights areas and advocacy strategies in the different regions and levels.

The report **complements** existing reports and reviews by:

- Focusing specifically on **SRHR** issues, and doing this in a comprehensive and holistic way
- Bringing in and strengthening a **gender and rights perspective**, by integrally linking SRHR to women and girls' human rights and addressing them from a perspective of eliminating discrimination of women and girls
- Looking at the role of and trends in **Regional Economic Communities (RECs)** in Africa in advancing and realising women and girls' rights in SRHR, and
- Looking at **strategies of change**, and the role of a range of change agents, including continental, regional, national and subnational state and non-state actors across Africa in the domestication and implementation of continental and regional commitments; in particular highlighting the role of **CSOs** as mediators between duty-bearers and rights-holders.

### 1.3.1 Audience

The State of African Women report and the Right By Her campaign aim to reach a broad **audience** of African multipliers and opinion-formers on continental, regional and national legal and policy commitments on women and girls' rights in SRHR in African countries. This audience includes parliamentarians, first ladies, journalists, religious leaders and youth leaders, as well as women's rights and/or SRHR organisations and faith-based organisations. It also aims to reach representatives of the AU and the RECs, national-level government decision-makers, and European and international donors. The report seeks to offer knowledge and perspectives that may assist these different audiences in further promoting women and girls' rights in SRHR. The targeted audience of the report may have varying levels of knowledge on the relevant continental commitments (the Maputo Protocol, the MPoA) and may not necessarily be well versed or specialists in gender and rights analysis.

#### Box 1.1. Audience of the report

1. **African multipliers and opinion-formers** including parliamentarians, first ladies, journalists, religious leaders, youth leaders, feminist organisations and activists, and representatives of CSOs (including women's rights, SRHR, child rights and faith-based organisations)
2. **AU and REC representatives** including high-level political decision-makers, as well as technocrats and thematic experts
3. **National (and subnational) government decision-makers**
4. **EU (Brussels) and donors**

### 1.3.2 Objectives and added value

Taking into account the various audiences, the **objectives** of the report are:

1. To **raise awareness** about the Maputo Protocol and Plan of Action as continental commitments for women's and girls' rights in SRHR
2. To **review** the status and implementation of the Maputo Protocol and Plan of Action, with specific focus on women's and girls' rights in SRHR
3. To provide and **strengthen a gender and rights perspective** on the implementation of these continental commitments, and to strengthen understanding of women and girls' realities and of how women's and girls' rights can be secured, realised and extended
4. To **inform and strengthen effective advocacy efforts and strategies** of CSOs and African multipliers and opinion-formers towards implementation of the Maputo Protocol and Plan of Action and the realisation of women and girls' rights in SRHR

The report presents an overview of the current status of continental norms in realising women and girls' rights in SRHR and their ratification and domestication in countries across African sub-regions, taking into account multiple levels of governance. It also looks at the role of RECs in this.

More precisely, the report will:



- **Provide information** and background on the **Maputo Protocol and Maputo Plan of Action**, in particular about the continental commitments on women's and girls' rights in SRHR
- **Provide clarification** on how continental commitments are relevant in women and girls' lives, and why and how a **human rights** perspective is important



- Provide insight into the **ratification and domestication** of continental commitments on women's and girls' rights in SRHR
- Provide insight into the role of RECs on the continent in the realisation of women and girls' rights in SRHR
- Provide information on and insight into the **domestication** and translation of continental commitments on women's and girls' rights in SRHR, in **national-level** legislative, policy and institutional frameworks
- Provide insight into the role of **CSOs, RECs and national-level governments** in bringing about and contributing to legal and social norm change towards the realisation of women and girls' rights in SRHR



- Provide an analysis of **gaps and opportunities** in the implementation of continental commitments and realisation of women's and girls' rights in SRHR, to help identify advocacy priorities and effective advocacy strategies, tailored to the different regions

<sup>2</sup> This is grounded in Art. 25 of the UN Universal Declaration of Human Rights of 1948, which states that 'Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services.'

## 1.4 SEXUAL AND REPRODUCTIVE HEALTH AND RIGHTS

The four core rights areas in this report (GVAW, harmful practices, reproductive rights and SRH, and HIV and AIDS) are grounded in a comprehensive and integrated understanding of **women and girls' SRHR**, which is in turn integrally linked to the elimination of discrimination against women and girls. SRHR is at the heart of the Continental Policy Framework on SRHR of 2006, which seeks to further implementation of the Programme of Action (PoA) of the International Conference on Population and Development (ICPD), which took place in Cairo in 1994. In the African regional ICPD+20 review, the *Addis Ababa Declaration on Population and Development beyond 2014* recognizes that 'sexual and reproductive health and rights are not only essential to the realization of social justice, but are central to the achievement of global, regional and national commitments for sustainable development', and continues to commit to 'enact and enforce laws and policies within national political and legal frameworks to respect and protect sexual and reproductive health and rights of all individuals'.<sup>i</sup>

Reproductive health and sexual health are to be understood in relation to the definition of **health** as 'a state of complete physical, mental and social well-being, and is not merely the absence of disease or infirmity'.<sup>ii</sup> The right to the highest attainable standard of physical and mental health is articulated in the International Covenant on Economic, Social and Cultural Rights<sup>2</sup> (ICESCR) (Art. 12.1).<sup>iii</sup> The Maputo Protocol provides that 'the right to health of women, including sexual and reproductive health, is respected and promoted' (Art. 14). General Comment No. 2 on the Maputo Protocol reaffirms the ICESCR, according to which:

'the right to health entails both freedoms and rights. **Freedoms** include the right for human beings to control their own health and their own body, including the right to sexual and reproductive freedom, as well as the right to integrity, including the right not to be subjected to torture and not to be subjected, without their consent, to medical treatment or experiment. On the other hand, **rights** include the right of access to a system of health protection that guarantees equally to everyone the possibility to enjoy the best health condition possible.'<sup>iv</sup>

Reproductive health and sexual health are an integral part of health, integrally linked to the right to health. Attaining and maintaining reproductive and sexual health therefore implies respecting and promoting fundamental **human rights of women and girls**. These include 'their right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence'.<sup>v</sup> Reproductive and sexual health also implies that people are able to pursue and have a satisfying, pleasurable and safe sex life, free from coercion, discrimination and violence. Sexual and reproductive rights refer to existing human rights and norms applied to reproduction and sexuality, which include 'freedom, equality, privacy, autonomy, integrity and dignity of all people'<sup>vi</sup> and guarantee that everyone can enjoy sexual and reproductive freedom, free from any coercion, discrimination or violence and within a context respectful of dignity.<sup>vii</sup> SRHR, in its comprehensive and holistic sense, is central and fundamental to people's health and well-being.

SRHR is integrally linked to the promotion of **respectful and equitable gender relations**, and to the elimination of discrimination against women and girls. SRHR cannot be realised without equitable relationships between women and men in matters related to sexuality and reproduction. This requires mutual respect, consent and shared responsibility. Men and boys' attitudes and behaviours are key determinants of gender relations and hence of the realisation of women and girls' SRHR.<sup>viii</sup> Moreover, neglect and violation of women and girls' SRHR constrain their opportunities and participation in the public and private spheres, including in education, economic and political life. The realisation of women and girls' SRHR is a crucial and important basis for their enjoyment of other rights.<sup>ix</sup> This report is based on this understanding of SRHR and the definitions, as presented in Box 1.2.

**Box 1.2. Definitions of reproductive health, sexual health, reproductive rights and sexual rights**

**Reproductive health** 'is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity, in all matters relating to the reproductive system and to its functions and processes. Reproductive health therefore implies that people are able to have a satisfying and safe sex life and that they have the capability to reproduce and the freedom to decide if, when and how often to do so. Implicit in this last condition are the right of men and women to be informed and to have access to safe, effective, affordable and acceptable methods of family planning of their choice, as well as other methods of their choice for regulation of fertility which are not against the law, and the right of access to appropriate health-care services that will enable women to go safely through pregnancy and childbirth and provide couples with the best chance of having a healthy infant' (ICPD PoA, Para. 72).

The same article of the ICPD PoA states that reproductive health 'also includes **sexual health**, the purpose of which is the enhancement of life and personal relations, and not merely counselling and care related to reproduction and sexually transmitted diseases'. Sexual health is 'a state of physical, emotional, mental and social well-being in relation to sexuality; it is not merely the absence of disease, dysfunction or infirmity. Sexual health requires a positive and respectful approach to sexuality and sexual relationships, as well as the possibility of having pleasurable and safe sexual experiences, free of coercion, discrimination and violence. For sexual health to be attained and maintained, the sexual rights of all persons must be respected, protected and fulfilled' (WHO, 2006).<sup>x</sup>

**Reproductive rights** 'embrace certain human rights that are already recognized in national laws, international human rights documents and other consensus documents. These rights rest on the recognition of the basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children, to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health. It also includes their right to make decisions concerning reproduction free of discrimination, coercion and violence, as expressed in human rights documents' (ICPD PoA, Para. 7.3; see also ICPD+5 review).<sup>3</sup>

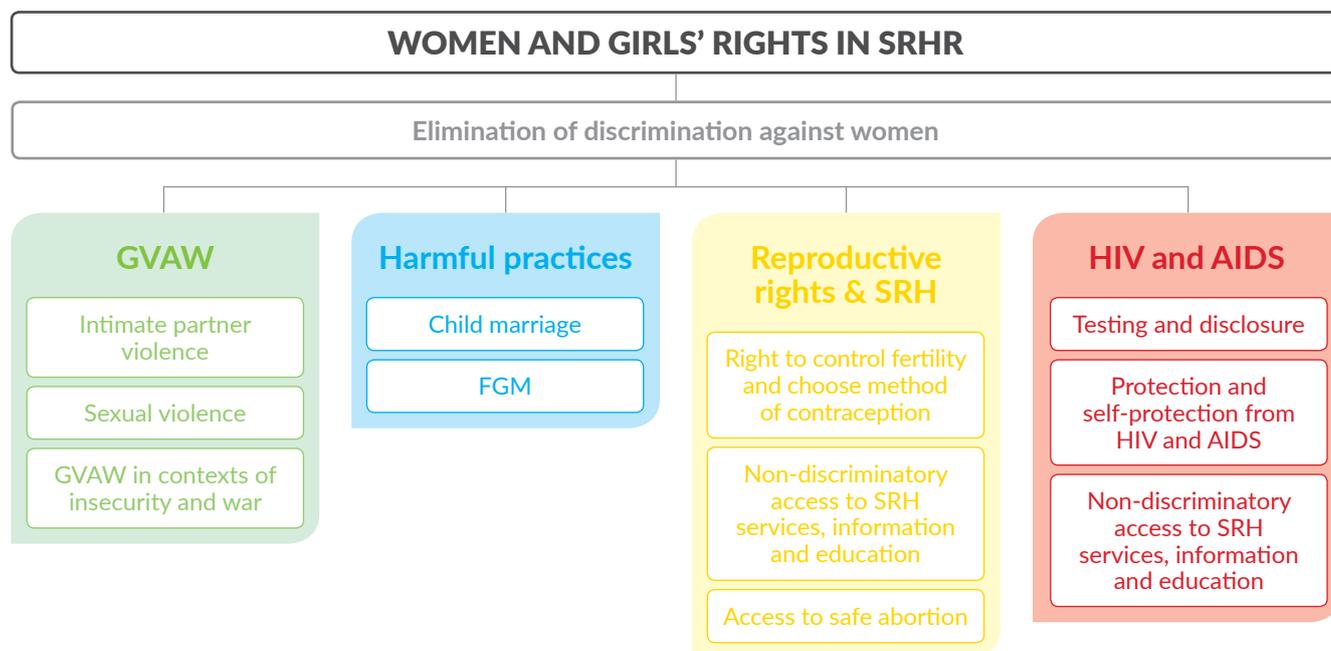
**Sexual rights**, in a similar vein, 'embrace certain human rights that are already recognized in international and regional human rights documents and other consensus documents and in national laws' (WHO, 2006, updated 2010, and WHO 2015).<sup>xi</sup> This means that 'the application of existing human rights to sexuality and sexual health constitute sexual rights. Sexual rights protect all people's rights to fulfil and express their sexuality and enjoy sexual health, with due regard for the rights of others and within a framework of protection against discrimination'.<sup>xii</sup> More specifically, the 'rights critical to the realization of sexual health include: the rights to equality and non-discrimination; the right to be free from torture or to cruel, inhumane or degrading treatment or punishment; the right to privacy, the rights to the highest attainable standard of health (including sexual health) and social security; the right to marry and to found a family and enter into marriage with the free and full consent of the intending spouses, and to equality in and at the dissolution of marriage; the right to decide the number and spacing of one's children; the rights to information, as well as education; the rights to freedom of opinion and expression; and the right to an effective remedy for violations of fundamental rights. The responsible exercise of human rights requires that all persons respect the rights of others'.<sup>xiii</sup>

<sup>3</sup> The ICPD+5 review added to this that, 'In the exercise of this right, they should take into account the needs of their living and future children and their responsibilities towards the community. The promotion of the responsible exercise of those rights for all people should be the fundamental basis for government- and community-supported policies and programmes in the area of reproductive health, including family planning' (para. 3): [www.unfpa.org/sites/default/files/event-pdf/key\\_actions\\_en.pdf](http://www.unfpa.org/sites/default/files/event-pdf/key_actions_en.pdf)

SRHR represents the comprehensive and holistic umbrella under which this reports puts the spotlight on the selected rights areas of gender-based violence against women (GVAW), harmful practices, reproductive rights and SRH, and HIV and AIDS. Aspects of sexual and reproductive health, as well as of sexual and reproductive rights, cut across and are integral to all of these four rights areas. Respect of bodily integrity, and being able to decide whether to be sexually active or not, to choose one's sexual partners and to engage in consensual sexual relations, lie at the heart of all these four rights areas. Access to services and information on SRH and sexuality, including comprehensive sexuality education (CSE), delivered in a non-discriminatory way, is crucial to realising the highest attainable standard of health. Freedom from coercion, discrimination and violence, in making decisions on sexuality and reproduction, and in accessing SRH services and information, is critical in this.

This also points to the importance of prevention of and protection against GVAW, including intimate partner violence, and to the critical impact of harmful practices such as child marriage and FGM on women and girls' SRHR. Informed consent, privacy, respect and confidentiality in accessing SRH services and information are also at the heart of realising women and girls' SRHR. This counts for *all* women and girls, including those belonging to vulnerable groups, such as girls, adolescents and young women, women with disabilities, refugee, migrant and internally displaced women, and elderly women—and irrespective of sexual orientation and gender identity and expression (SOGIE). These marginalised and vulnerable groups are often exposed to violations of their rights and to restrictions on accessing SRH information and services, as well as access to justice.<sup>4</sup> The holistic nature of SRHR also means the four rights areas that are central in this report are highly interlinked. It is for this reason that the report approaches these four rights areas through the lens of women's and girls' rights in SRHR and from a perspective of eliminating discrimination against women and girls. This is illustrated in Figure 1.2 below.

Figure 1.2. Women and girls' SRHR and the four rights areas in this State of African Women report



<sup>4</sup> African Commission on Human and Peoples' Rights (ACHPR) Resolution 275 observes and condemns violence and human rights violations on the basis of sexual orientation or gender identity (see also Chapter 6): [www.achpr.org/sessions/55th/resolutions/275/](http://www.achpr.org/sessions/55th/resolutions/275/)

## 1.5 REPORT OUTLINE

This State of African Women report is set up in eight chapters. The introductory chapter is immediately followed by a chapter presenting the key findings and recommendations. The subsequent six chapters provide an in-depth analysis of the different dimensions of the report. Chapter 3 gives an overview of women and girls' rights in SRHR in the AU normative and institutional framework; it presents and contextualises the Maputo Protocol and the MPoA. Chapter 4 puts the spotlight on the normative and institutional commitments and frameworks of the RECs with respect to women and girls' rights in SRHR.

Each of the four following chapters focuses on one of the rights areas in particular: Chapter 5 addresses GVAW, Chapter 6 harmful practices, Chapter 7 reproductive rights and SRH, and Chapter 8 HIV and AIDS. These latter four chapters all follow the same structure: they start with a section analysing the key issues, then continue with a second section giving a detailed explanation of the provisions and obligations of the Maputo Protocol and other relevant continental commitments and instruments, as appropriate. The third section then looks at the national legal and policy frameworks of all countries on the continent to assess the extent to which the continental commitments are domesticated and implemented. The fourth section of each rights area chapter presents a set of case studies, on diverse actors, using often diverse strategies, to realise women and girls' rights in the particular rights area (see Table 1.1 for an overview of the report structure). The four rights area chapters present a total of XX\* case studies.

It is likely that few people will read this State of African Women report from the first to the last page. Its comprehensive scope and analysis have led the result to be quite a voluminous report. This comprehensive scope and analysis is of added value, because the report brings together these four different rights areas in a comprehensive frame, and because it links the different levels where change is happening and is needed (continental, regional, national and subnational). In order to help readers gain an overview of the report, in terms of both what it covers and what the main insights are, Chapter 2 presents the key findings and recommendations. This placement at the beginning of the report will help readers see where to refer for information on their specific areas of interest. The chapter provides an overview of the more detailed subsequent six chapters, and brings together the key findings and recommendations.

To further facilitate readers' use of the report, it has been built up in a modular way. This allows readers to follow their own pathway through the report, depending on their core interests. Some readers will want to focus on a specific region, and can look, for instance, at findings on the Western region in Chapter 4 on the RECs, as well as the relevant regional national legal and policy framework analysis in each of the rights area chapters (5–8). Other readers may be more interested in the background to the Maputo Protocol; they can find more general information in Chapter 3 and the provisions specific to each rights area in the second section of each rights area chapter (5–8). Readers with a primary interest in the level of domestication can look at the third section of Chapters 5–8, to gain a comprehensive overview of implementation of the Maputo Protocol and the MPoA across the four rights areas. Others may focus on the case studies in Chapters 5–8, and in this way gain more insight into the diverse strategies utilised by different actors on all four rights areas to promote and realise women and girls' rights in SRHR.

**Table 1.1. Overview of the structure of the State of African Women report**

|   |   |
|---|---|
| Chapter 1<br><b>Introduction</b>  | <ul style="list-style-type: none"> <li>• Background and positioning</li> <li>• Aims, objectives and audience</li> <li>• Sexual and reproductive health and rights</li> <li>• Report outline and 'how to read/use this report'</li> <li>• Methodology</li> </ul>   |
| Chapter 2<br><b>Key findings and recommendations</b>                                  | <ul style="list-style-type: none"> <li>• Insight and recommendations regarding women's and girls' rights in SRHR in the AU framework as well as the RECs</li> <li>• Prevalence, continental commitments, national level domestication and case studies per rights area</li> <li>• Strategies on legal and social norm change</li> <li>• Recommendations (thematic and overall)</li> </ul>                                   |
| Chapter 3<br><b>Women's and girls' rights and SRHR in the African Union framework</b> | <ul style="list-style-type: none"> <li>• Overview of AU normative framework and commitments regarding women's and girls' rights in SRHR (incl. the Maputo Plan of Action)</li> <li>• Qualities and strengths of Maputo Protocol</li> <li>• Africa Women's Decade and existing campaigns on women's and girls' rights in SRHR</li> <li>• Institutional framework for gender equality and women's rights at the AU</li> </ul> |
| Chapter 4<br><b>The Regional Economic Communities and women's and girls' rights</b>   | <ul style="list-style-type: none"> <li>• ECOWAS, EAC, IGAD, SADC, COMESA, ECCAS, UMA, CEN-SAD</li> </ul>  |
| Chapter 5<br><b>Gender-based violence against women</b>                               | <ul style="list-style-type: none"> <li>• Section 1: Issue analysis</li> <li>• Section 2: Continental commitments</li> <li>• Section 3: National legal and policy frameworks</li> <li>• Section 4: Case studies</li> </ul>   |
| Chapter 6<br><b>Harmful practices</b>   |   |
| Chapter 7<br><b>Reproductive rights and SRH</b>                                       |   |
| Chapter 8<br><b>HIV and AIDS</b>  |   |

## 1.6 METHODOLOGY

### 1.6.1 Study design and research process

The design of the study for this report was developed on the basis of a consortium Project Planning Meeting (May 2017), followed by a Design Workshop held by the core research team (June 2017). These resulted in a report outline that was shared with the consortium for feedback and finalised in August 2017. The report outline and its accompanying protocol for data collection were implemented from August 2018 onwards. The collection of the data, and especially the analysis and the drafting of the report, has been an iterative process, in which the analytical framework has deepened and the drafting of the report text has taken shape.

The data collection, analysis and report drafting were further shaped by discussions, inputs and feedback from both consortium partners and external stakeholders. On 5–6 December 2017, a Regional Research Workshop was held in Nairobi, Kenya. This hosted 42 organisations and activists from different regions of the continent working on the promotion and realisation of women and girls' rights in SRHR. The Regional Research Workshop aimed to strengthen the data collection, analysis and recommendations of the report, and saw the initial findings of the report shared and presented for feedback and comments. The workshop also aimed to provide a space for sharing and learning among the participants with respect to strategies to realise women and girls' rights. On 19 December 2017, a Debriefing Meeting was organised with the European partners of the consortium to share the initial findings of the report and collect their feedback, comments and inputs.

On the basis of the Regional Research Workshop and the Debriefing Meeting, the research team proceeded to further develop and finalise the report chapters. On 5–9 February 2018, the research team met for in-depth discussion of the findings and conclusions, and for alignment with regard to final revisions of the chapter drafts. On this basis, a full draft of the report was prepared between February and April 2018. This full draft was subjected to three mechanisms of feedback and validation.

First, the consortium members shared feedback and comments, both by e-mail and in an Advocacy Meeting in April 2018. Second, four external reviewers were invited to conduct a thorough and critical review of the report; these four external reviewers were all African specialists in the field, and reflected the different rights areas and regions of the continent. They shared their comments and feedback between mid-April and early May. Third, and simultaneously, key findings of the report were shared with external stakeholders in a range of regional, continental and international meetings. These external presentations also offered highly valuable feedback for the final revisions of the report. On the basis of these three feedback and validation mechanisms, the final version of the report was developed in April and May 2018. Throughout the study and report writing process, key specialists from the consortium have provided editorial guidance.

The data collection and analysis for this report covered four main aspects: the study of (1) continental normative frameworks, (2) frameworks of the RECs, (3) national legal and policy frameworks, and (4) the case studies. For the first, on continental normative frameworks, data was collected through desk research. This desk research also included a review of existing secondary data on prevalence and key issues related to the four rights areas (and discussed in the first section of each rights area chapter). For the latter three aspects, the methodology for data collection and analysis is briefly presented here.

## 1.6.2 Methodology for the Regional Economic Communities

Data collection and analysis targeted eight RECs: the Common Market for Eastern and Southern Africa (COMESA), the Community of Sahel-Saharan States (CEN-SAD), the East African Community (EAC), the Economic Community of Central African States (ECCAS), the Economic Community of West African States (ECOWAS), Intergovernmental Authority on Development (IGAD), the Southern African Development Community (SADC) and the Arab Maghreb Union (Union du Maghreb arabe (UMA)).

Of particular importance in filling up knowledge gaps were the RECs' websites and databases, many of which provided information on the status of RECs, key treaties, policies, plans and strategic frameworks. The desk review of the RECs was conducted alongside contacting relevant departments of the RECs and the AU to determine what programmes they had that related to the selected rights areas of primary interest to the report. Subsequently, contact was made with the relevant departments in charge of gender equality and women and girls' rights at COMESA, EAC, ECCAS, ECOWAS, IGAD and SADC. The RECs commendably provided a supportive environment for strategic engagement on the gender issues under consideration.

Visits were made to COMESA, EAC, ECOWAS and SADC, where key informant interviews and focus group discussions were held with relevant officials. These officials also shared literature on updated policies and strategies as well as progress reports. Overall, the field visits to the RECs elicited information and perspectives that would not readily have been otherwise attained. For CEN-SAD, ECCAS, IGAD and UMA, visits did not take place. In the case of IGAD, contacts were established by e-mail and phone, and relevant data was collected in this way. With ECCAS, multiple efforts were made and entries were explored to collect more information on the gender unit's work, but to no avail; the analysis is consequently based on what could be identified through desk research. In the case of both UMA and CEN-SAD, the desk review indicated a low level of activity, for different reasons. A visit was considered of little additional value, as the desk review did not indicate presence of a relevant gender infrastructure or gender equality and women and girls' rights initiatives to learn more about.

## 1.6.3 Methodology for national legal and policy frameworks

For each of the four rights area, data was collected at national level regarding countries' legal, policy and institutional frameworks. The first step in this was to collect legal and policy data from each country and to document these in a *national framework table* consisting of four columns, covering (1) constitutional provisions, (2) legal provisions, (3) policy provisions and (4) institutional reforms. These tables entail relevant plausible expressed or implied provisions that promote or hinder the realisation of the specific rights area. The data collection for this relied on in-country primary sources of law such as constitutions and legislation, government websites reporting on their policy and institutional measures (e.g. ministerial websites), state reports to various treaty monitoring bodies, UN and other authoritative international non-governmental organisation (INGO)-run country databases and sources, non-governmental organisation (NGO) reports and other online sources (see Box 1.3 below for an overview of selected data sources on national legal and policy frameworks). These extensive national-level data tables on legal, policy and institutional frameworks are available as digital annexes to the report.<sup>5</sup>

The data and analysis have undergone various verification steps. To begin with, the data collected was counterchecked against a number of sources for consistency. The data was also the subject of verification and discussion during the Regional Research Workshop.<sup>6</sup> The data collection and analysis on national legal and policy framework was challenged by the unavailability of comprehensive data sources on the various rights areas, which made the data collection process lengthy and arduous. In some cases, available databases were found to be outdated or limited in terms of the time period they covered.

### Box 1.3. Selected data sources on national legal and policy frameworks

Convention on the Elimination of All Forms of Discrimination Against Women, Country Reports: <http://www.un.org/womenwatch/daw/cedaw/reports.htm>

UN Women Global Database on Violence against Women: <http://evaw-global-database.unwomen.org/en/countries>

United Nations Population Fund data and reports

UNAIDS data and reports

Guttmacher Institute fact sheets

Center for Reproductive Rights: <http://worldabortionlaws.com/>

Global Network of People Living with HIV, Global Criminalisation Scan: <http://criminalisation.gnplus.net/>

Girls Not Brides: <https://www.girlsnotbrides.org/>

World Health Organization Global Abortion Policies Database <http://srhr.org/abortion-policies/>

Eba, P. (2015). 'HIV-Specific Legislation in Sub-Saharan Africa: A Comprehensive Human Rights Analysis'. *African Human Rights Law Journal*, 224–62: <http://www.ahrj.up.ac.za/eba-p-m#pgfld-1129339>

UN Data, Legal Age of Marriage: <http://data.un.org/DocumentData.aspx?id=336>

African Human Rights Case Law Database: <http://www.chr.up.ac.za/index.php/documents/african-human-rights-case-law-database.html>

<sup>5</sup> These digital annexes are available on the campaign website: [www.rightbyher.org](http://www.rightbyher.org)

<sup>6</sup> Participants of the Regional Research Workshop reviewed the data collected from their country to verify and/or correct it, and offered further information.

The report (in the third section of each of Chapters 5–8) features two elements that are based on these elaborate data tables: legal and policy indicators, which are accompanied by a narrative analysis on that rights area. The **legal and policy indicator tables** comprise selected legal and policy indicators that emerged from the elaborate national-level datasets. For each rights area, we formulated five to seven indicators that capture key aspects of the domestication of the provisions and obligations in the Maputo Protocol and related relevant commitments and instruments (as discussed in the second section of each of these four chapters). These indicators are explained at the start of each of these sections.

Two observations need to be made regarding these legal and policy indicators. First, they are all indicators of whether a certain constitutional or legal provision, or a particular policy, is in place. The legal and policy indicators themselves do not capture the extent to which these legal and policy frameworks are subsequently implemented. Second, in some cases it proved highly challenging to identify legal and policy indicators that were both relevant and feasible. It is, for instance, much easier to establish what the legal age of marriage is than to see whether a country guarantees women's right to control her fertility and choose a method of contraception. Some critical rights concerns are not easily traced in national laws and policies, and certainly not in a comparative analysis of data on all African countries. This needs to be born in mind when considering the indicators. In several cases, the report uses existing secondary comparative data and analysis to support and complement the primary data we collected ourselves.

The **narrative analysis** that accompanies the legal and policy indicators assesses the broader dataset and the main trends observed through legal, policy and institutional provisions. Where possible, it takes into account the implementation of legal and policy frameworks. It also highlights key contestations and gaps.

The legal and policy framework data and analysis in these third sections of Chapters 5–8 are organised and presented by **region**. Each regional sub-section presents the indicator tables and the narrative analysis, covering Western Africa, Eastern Africa, Central Africa, Southern Africa and Northern Africa. These regions are based on a combination of REC membership and the African regions defined by the AU. Their composition is presented in Table 1.2.

**Table 1.2. Regions used in the report and their composition**

| Regional unit of analysis | Countries covered (and number of countries)  | REC membership  | Overlap with other regions <sup>7</sup>   |
|---------------------------|--|---|---|
| <b>Western region</b>     | Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, The Gambia, Ghana, Guinea-Bissau, Guinea, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo (15 countries)         | All ECOWAS members  | No overlap  |
| <b>Eastern region</b>     | Burundi*~, Djibouti~, Eritrea~, Ethiopia~, Kenya*~, Rwanda*, Somalia~, South Sudan*~, Sudan~, Tanzania* and Uganda*~ (11 countries)  | <ul style="list-style-type: none"> <li>• EAC members (six, marked with *)</li> <li>• IGAD members (eight, marked with ~)</li> </ul> | <ul style="list-style-type: none"> <li>• Rwanda and Burundi also in Central region and ECCAS members</li> <li>• Tanzania also in Southern region and SADC member</li> <li>• Seven COMESA members<sup>8</sup></li> </ul> |
| <b>Central region</b>     | Angola, Burundi, Cameroon, CAR, Chad, Congo Republic, DRC, Equatorial Guinea, Gabon, Rwanda and São Tomé & Príncipe (11 countries)   | All ECCAS members   | <ul style="list-style-type: none"> <li>• Rwanda and Burundi also in Eastern region (EAC member)</li> <li>• Angola and DRC also in Southern region and SADC member</li> </ul>  |
| <b>Southern region</b>    | Angola, Botswana, Comoros, DRC, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe (16 countries) | All SADC members  | <ul style="list-style-type: none"> <li>• Angola and DRC also in Central region and ECCAS members</li> <li>• Tanzania also in Eastern region (EAC member).</li> <li>• Nine COMESA members<sup>9</sup></li> </ul>         |
| <b>Northern region</b>    | Algeria, Egypt, Libya, Mauritania, Morocco, Tunisia and Western Sahara <sup>10</sup> (seven countries)   | UMA members, except for Egypt and Western Sahara)   | Two COMESA members <sup>11</sup>  |

<sup>7</sup> See Chapter 4 on overlap membership with CEN-SAD.

<sup>8</sup> The countries of the Eastern region that are also members of COMESA are Djibouti, Eritrea, Ethiopia, Kenya, Rwanda, Sudan and Uganda (see also Chapter 4).

### 1.6.4 Methodology for case studies

The aim of the case studies is to give an insight into the different initiatives and strategies used by different groups, actors and organisations to realise women and girls' rights and to advance the women's rights agenda. The case studies show and reflect what is happening across the continent, at various levels and in a range of arenas, to promote, protect and expand women and girls' rights in SRHR. As such, the case studies deepen and extend the analysis of the four rights areas in specific contexts and at specific levels, while emphasising strategies of change. These case studies are of much value to the report, as they can inform and inspire CSOs and activists, African multipliers and opinion-formers, as well as policy-makers, about the range of strategies that can be pursued to advance the implementation of women and girls' rights in SRHR in Africa. By documenting these efforts and reflecting on these strategies, the case studies provide a sense of the possible.

After an initial broader scoping of potential case studies, the selection of the case studies was based on a set of criteria that included the need to present a combination of different initiatives/drivers of non-actors and state actors at national, regional or continental levels. The set of case studies was expected to capture and reflect the (potential) diversity and complementarity of groups and actors engaged in advancing women and girls' rights, and which strategies, initiatives and alliances work and what challenges and contestations may be encountered along the way. An important criterion was that the case study had to convey strategic insights and lessons of value to future action, or can inspire action in other countries or regions.

Non-state actors include a wide range of CSOs, SRHR and women's rights NGOs and activists, youth champions and leaders, faith-based organisations, and religious or traditional leaders. These actors use different channels for advocacy such as legal action and political, social, religious and traditional channels. They can seek to hold states to account on their commitments, calling for domestication and implementation of existing instruments they have signed up to; advocate at national level for the adoption and/or implementation of new policies and new legislation; or mobilise to advocate for public attitude/behaviour change and awareness-raising. State actors include policy-makers, politicians, parliamentarians and professional bodies in their efforts to domesticate and implement commitments at different stages. This can concern the signing and ratifying of existing instruments, legal reform and policy change (law, policies, actions plans and strategies) or constitutional change.

Selection of the case studies was guided by a need to ensure coverage of different levels (continental, regional, national and subnational). We also sought a geographical balance, and attempted to identify case studies from the different regions of the continent. However, although the final set of case studies chosen for this report represent many countries and regions, the geographical balance is unfortunately not optimal: there are few case studies from the Central and Northern regions and some countries feature in multiple case studies. Some promising and interesting case studies eventually did not make it to the report because of a lack of sufficient data; because time and resources to document them were too limited; or because the key actors involved could not be reached or contacted. The final set of case studies does cover countries that have and have not ratified the Maputo Protocol (in the latter case, on Madagascar and Niger in particular).

Once the potential case studies had been selected for the shortlist, key informant interviews were held to obtain more insights. These took place mostly via phone or Skype, and via e-mail, and where possible happened face-to-face, for instance during the visits to the RECs or in the context of the Regional Research Workshop. Publications and reporting on the case studies also proved valuable information. Once the write-up had been carried out, the initiators/drivers were contacted for validation and cross-checking before publication.

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<sup>9</sup> The countries of the Southern region that are also members of COMESA are Comoros, DRC, Madagascar, Malawi, Mauritius, Seychelles, Swaziland, Zambia and Zimbabwe (see also Chapter 4).

<sup>10</sup> We were not able to find reliable information on legislation and policies on women and girls' rights in SRHR for Western Sahara, for any of the rights areas. The legal and policy indicator tables indicate 'missing data' for this country in Chapters 5–8.

<sup>11</sup> The countries of the Northern region that are also COMESA members are Egypt and Libya (see also Chapter 4).

## Chapter 1

# ENDNOTES

- i UNECA, AUC and UNFPA. (2013). *Addis Ababa Declaration on Population and Development beyond 2014*. African Regional Conference on Population and Development, Addis Ababa, 3–4 October (ECA/ICPD/MIN/2013/4, 4 October), p.6 and p.7, respectively. [www.unfpa.org/sites/default/files/resource-pdf/addis\\_declaration\\_english\\_final\\_e1351225\\_1.pdf](http://www.unfpa.org/sites/default/files/resource-pdf/addis_declaration_english_final_e1351225_1.pdf)
- ii Preamble to the Constitution of WHO as adopted by the International Health Conference, New York, 19 June–22 July 1946; signed on 22 July 1946 by the representatives of 61 States (Official Records of WHO, no. 2, p. 100) and entered into force on 7 April 1948. The definition has not been amended since 1948. See [www.who.int/suggestions/faq/en/](http://www.who.int/suggestions/faq/en/)
- iii OHCHR and WHO. (2008). 'The Right to Health'. Factsheet 31. Geneva: OHCHR and WHO. <http://www.ohchr.org/Documents/Publications/Factsheet31.pdf>
- iv ACHPR. (2014). General Comment No. 2 on Article 14.1(a), (b) and (c) and Article 14.2(a) and (c) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, para. 6. See also Starrs, A., Ezeh, A., Barker, G. et al. (2018). 'Accelerate Progress: Sexual and Reproductive Health and Rights for All'. Report of the Guttmacher-Lancet Commission', p.9.
- v UN Women. (1995). *Beijing Platform for Action*. United Nations Fourth World Conference on Women, September, Section C. Women and Health, Para. 96. <http://www.un.org/womenwatch/daw/beijing/platform/health.htm>
- vi See also IPPF. (1997). *Charter on Sexual and Reproductive Rights Guidelines*. London: IPPF. [https://www.ippf.org/sites/default/files/ippf\\_charter\\_on\\_sexual\\_and\\_reproductive\\_rights\\_guidelines.pdf](https://www.ippf.org/sites/default/files/ippf_charter_on_sexual_and_reproductive_rights_guidelines.pdf)
- vii ACHPR General Comments Nos 1 and No. 2 also refer to SRHR.
- viii See also Addis Ababa Declaration, para. 44 (under 'Health') and also Starrs, A., Ezeh, A., Barker, G. et al. (2018). 'Accelerate Progress: Sexual and Reproductive Health and Rights for All'. Report of the Guttmacher-Lancet Commission'.
- ix This has also been clearly articulated in the Beijing Platform for Action (of the Fourth World Conference on Women, United Nations 1994), in particular under 'Women and Health', and paras 93–97 and in the recently published report of the Guttmacher-Lancet commission: Starrs, A., Ezeh, A., Barker, G. et al. (2018). 'Accelerate Progress: Sexual and Reproductive Health and Rights for All'. Report of the Guttmacher-Lancet Commission', p.9.
- x WHO (2006). *Defining Sexual health: report from a technical consultation on sexual health 28-31 January 2002 Geneva*. Geneva: World Health organisation, p. 5.
- xi WHO (2006). *Defining Sexual health: report from a technical consultation on sexual health 28-31 January 2002 Geneva*. Geneva: World Health organisation, p. 5.  
WHO (2010). *Developing sexual health programmes: a framework for action*. Geneva, p. 3.  
WHO (2015). *Sexual health, human rights and the law*. Geneva, p. 5.
- xii Ibid.
- xiii Ibid.