

Assessment of the Domestication of Global, Continental and Regional Frameworks into National Policies, Strategies and Frameworks in East and Southern Africa

Facilitators and Barriers



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Acronyms

AIDS	Acquired Immunodeficiency Syndrome
ASRH	Adolescent Sexual and Reproductive Health
CEDAW	The Convention on the Elimination of All Forms of Discrimination Against Women
CSE	Comprehensive Sexuality Education
CSO	Civil Society Organization
DRC	Democratic Republic of the Congo
EAC	East African Community
ESA	East and Southern Africa
ESARO	East and Southern Africa Regional Office
FGM	Female Genital Mutilation
GBV	Gender-Based Violence
HIV	Human Immunodeficiency Virus
ICPD	International Conference on Population and Development
KIIs	Key Informant Interviews
MPoA	Maputo Plan of Action



MPs	Members of Parliament
MSM	Men Who Have Sex With Men
RECs	Regional Economic Communities
RMNCAH	Reproductive, Maternal, Newborn, Child and Adolescent Health
RTHD	Research and Training for Health and Development
SADC	Southern African Development Community
SDG	Sustainable Development Goal
SRH	Sexual and Reproductive Health
SRHR	Sexual and Reproductive Health and Rights
STI	Sexually Transmitted Infection
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFPA	United Nations Population Fund
UNICEF	United Nations Children's Fund
WHO	World Health Organization



Executive Summary

Background

There are numerous international policy frameworks in the field of sexual and reproductive health and rights (SRHR) that are designed to guide SRHR-related national policies. These include, at global level, the International Conference on Population and Development (ICPD) and the Sustainable Development Goals (SDGs). At the continental level, the Maputo Plan of Action (MPoA) operationalizes the Africa Continental Policy Framework on Sexual and Reproductive Health and Rights. The ESA Commitment, which has been endorsed by ministers of health and education from 20 countries in East and Southern Africa (ESA) to deliver comprehensive sexuality education (CSE) and sexual and reproductive health (SRH) services for young people, helps inform the SRHR agenda at regional level. Evidence gathered for a companion piece to this report suggests that significant progress has been made in domesticating these international frameworks.

¹ See Baseline Report: Jana M., Sisimayi, T., Madondo, T., Nkubizi, C., Weiner, R., Clacherty, J., and Monteiro, M. (2023). Assessment of the Domestication of Global, Continental and Regional Frameworks into National Policies, Strategies and Frameworks in East and Southern Africa. Johannesburg: Research and Training for Health and Development

It is, however, not clear what factors might facilitate or hinder further progress. It is against this background that the 2gether 4 SRHR Programme, with funding from the Regional SRHR Team of Sweden, commissioned Research and Training for Health and Development (RTHD). The assessment aimed to provide progress on, and a baseline of, the extent to which global, continental and regional SRHR frameworks have been incorporated into national policy frameworks in ESA. The aspect of the assessment contained in this desk review identified factors that facilitate and hinder the domestication process. 2gether 4 SRHR is a Joint United Nations Regional Programme that harnesses the combined efforts of the Joint United Nations Programme on HIV/AIDS (UNAIDS), the United Nations Population Fund (UNFPA), the United Nations Children's Fund (UNICEF) and the World Health Organization (WHO) in East and Southern Africa to improve the SRHR of all people in the region.

This report presents findings from 21 key informant interviews (KIIs) with stakeholders from 10 purposively selected countries in ESA and representatives of organizations working at a regional level. The 10 countries in the study include Burundi, the Democratic Republic of the Congo (DRC), Kenya, Malawi, Madagascar, South Africa, South Sudan Tanzania, Zambia and Zimbabwe. They were selected on the basis of their regional and language representation (anglophone and francophone countries based in ESA). The selection also provided a mix of countries where the 2gether 4 SRHR Programme is being implemented and where it is not. This report focuses on identifying and understanding facilitators and barriers to the domestication of international SRHR frameworks into national policy frameworks in ESA.

This report presents **findings from 21 key informant interviews**, with stakeholders from **10 purposively selected countries** in ESA and representatives of organizations working at a regional level.



Findings

The study reveals the following facilitators to domestication of international SRHR policy frameworks:



Advocacy from civil society organizations (CSOs) on specific SRHR issues that keep governments accountable to their international commitments.



Internal advocacy and influence by government employees with specific SRHR expertise.



Development partners and CSOs taking on responsibility for offering SRHR services.



Peer learning opportunities and guidance provided by Regional Economic Communities (RECs).



Greater relevance of regional policy frameworks to local contexts.



Technical and financial support rendered by CSOs and development partners.



Influential figures championing SRHR.

By contrast, domestication has been hampered by the following barriers:

- Cultural and religious sensitivities that have resulted in selective domestication at best.
- Perception that international frameworks are informed by foreign ideas.
- Misalignment between policies and laws.
- Challenges of continuity in a democratic dispensation, coupled with high staff turnover in government.
- Lengthy and complicated policy processes.
- Scramble for domestication during reporting period.
- Limited stakeholder engagement.
- Lack of capacity among government officials.
- Cross-cutting nature of SRHR and the challenge of coordination.
- Competing priorities that push SRHR down the pecking order.
- Poor implementation, rendering the domestication process incomplete.
- The non-binding and unenforceable nature of regional frameworks.
- The policy documents were garnered through an online/internet search and retrieved from UNFPA and partners, as well as from national policy stakeholders.





1

Introduction and Background

Together 4 SRHR is a Joint United Nations Regional Programme with applied learning in 10 countries. It harnesses the combined efforts of the Joint United Nations Programme on HIV/AIDS (UNAIDS), the United Nations Population Fund (UNFPA), the United Nations Children's Fund (UNICEF) and the World Health Organization (WHO) to improve the sexual and reproductive health and rights (SRHR) of all people in East and Southern Africa (ESA), particularly adolescent girls, young people and key populations.



One objective of 2gether 4 SRHR is to create an enabling legal and policy environment for SRHR. To achieve this, the programme supports the development or strengthening of regional SRHR frameworks, laws, policies and strategies (UNAIDS, UNFPA, UNICEF and WHO, 2021).

Global, continental and regional SRHR frameworks provide guidance for countries against which they can benchmark their SRHR policies and interventions. While some of these frameworks have been adopted, evidence gathered for a companion piece to this report² suggests that significant progress has been made in domesticating these international frameworks. However, it is not clear what factors might facilitate or hinder further progress.

It is against this background that the 2gether 4 SRHR Programme, with funding from the Regional SRHR Team of Sweden, commissioned Research and Training for Health and Development (RTHD) to undertake this assessment. The scope of the assessment was to identify progress on, and provide a baseline of, the extent to which global, continental and regional SRHR frameworks have been incorporated into national policies, strategies and frameworks, and to identify factors that facilitate or hinder this process.

This report presents findings from one component of the study that analysed factors that facilitate or hinder the domestication of international SRHR policy frameworks into national policies in ESA.

► 1.1 Sexual and reproductive health and rights policy context

At a global level, the 1994 International Conference on Population and Development (ICPD) in Egypt, broke new ground by defining SRHR and linking reproductive rights to human rights that were already protected under international laws. It is a platform that merged diverse views on human rights, population, sexual and reproductive health (SRH), gender equality and sustainable development into a remarkable global consensus. This consensus placed individual dignity and human rights, including the right to plan one's family, at the very heart of development (United Nations, 1995). In 2019, the international community renewed its commitments towards the ICPD by acknowledging the importance of resolving the unfinished business of the ICPD Programme of Action. In a bid to reach the Sustainable Development Goals (SDGs) by 2030, there was also agreement on the need to realize the strong, evidence-based investment case for ensuring SRHR for all (United Nations, 2019).

SRHR is linked to three of the pillars of sustainable development: social, economic and environmental (Starrs et al., 2018). Linked to the ICPD are the SDGs, agreed to by United Nations Member States in 2015.

² See Baseline Report: Jana M., Sisimayi, T., Madondo, T., Nkubizi, C., Weiner, R., Clacherty, J., and Monteiro, M. (2023). Assessment of the Domestication of Global, Continental and Regional Frameworks into National Policies, Strategies and Frameworks in East and Southern Africa

SDG 3 (Good health and well-being)



Target 3.1 By 2030, reduce the global maternal mortality ratio to less than 70 per 100,000 live births including for family planning, information and education, and the integration of reproductive health into national strategies and programmes.



Target 3.3: By 2030, end the epidemics of AIDS, tuberculosis, malaria and neglected tropical diseases and combat hepatitis, water-borne diseases and other communicable diseases.



Target 3.7: By 2030, ensure universal access to sexual and reproductive health-care services, including for family planning, information and education, and the integration of reproductive health into national strategies and programmes.



Target 3.8: Achieve universal health coverage, including financial risk protection, access to quality essential health-care services and access to safe, effective, quality and affordable essential medicines and vaccines for all.

SDG 5 (Gender equality)



Target 5.2: Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation.



Target 5.3: Eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation.



Target 5.6: Ensure universal access to sexual and reproductive health and reproductive rights as agreed in accordance with the Programme of Action of the ICPD and the Beijing Platform for Action and the outcome documents of their review conferences.

At a continental level, the Maputo Plan of Action (MPoA) 2016-2030 provides guidance to African countries on SRHR and focuses on achieving universal access to comprehensive SRH services. The plan is premised on SRHR as defined at ICPD 1994 and ICPD25 and in the MPoA, taking into account the life cycle approach. The definition of SRHR includes the following elements: adolescent sexual and reproductive health (ASRH); maternal health and newborn care; safe abortion care; family planning; prevention and management of sexually transmitted infections (STIs), including HIV and AIDS; prevention and management of infertility; prevention and management of cancers of the reproductive system; addressing mid-life concerns of men and women; health and development; the reduction of gender-based violence (GBV); interpersonal communication and counselling; and health education (African Union, 2016).

In 2013, ministers of health and education from 20 countries in ESA endorsed the ESA Commitment, which commits governments to increasing access to comprehensive sexuality education (CSE) and SRH services for young people. This commitment was renewed in 2021 and aligned to SDG agenda 2030.³

In 2019, the Southern African Development Community's (SADC) Strategy for Sexual and Reproductive Health and Rights in the SADC Region (2019-2030) was launched as a ground-breaking strategy with a corresponding scorecard to measure progress. The strategy provides a framework for Member States to fast-track a healthy sexual and reproductive life for the people in the region, creating an environment where they are able to exercise their rights.⁴ Based on the lessons in developing the SADC SRHR Strategy, the East Africa Community (EAC) is currently in the process of redeveloping an EAC SRHR Bill.

³ https://www.youngpeopletoday.org/_files/ugd/364f97_b99daa2ed6c846bda782eb5c443130ee.pdf

⁴ <https://hivpreventioncoalition.unaids.org/wp-content/uploads/2020/07/SADC-SRHR-Strategy-2019-2030-for-public.pdf>



2

Assessment Objectives

The specific objectives of this assessment are two-fold:

1

Identify factors that facilitate the **domestication of key global, continental and regional frameworks on SRHR, HIV and GBV** in ESA.

2

Identify factors that **act as barriers to the domestication** of these frameworks.

These specific objectives are linked to two broader objectives that are addressed in two companion reports, presented separately. These broader objectives are:



Assess and develop a baseline of the extent to which **regional SRHR frameworks incorporate humanitarian issues**, and the extent to which **regional humanitarian frameworks incorporate SRHR**.



Measure and develop a baseline of the extent to which regional frameworks on SRHR are **incorporated into national laws, policies and strategies**.



3

Methodological Approach

To identify and understand the factors that facilitate or hinder domestication of international SRHR frameworks, a qualitative approach was adopted using key informant interviews (KIIs). Key informants are individuals who are close to the domestication process in each country of interest or at a regional level. They are able to share insights into the facilitators and challenges of domestication of the international policy frameworks. Ten countries from the 23 ESA countries were selected, from which key informants were identified for interviews.

The following country selection criteria were used:

- Applied learning countries of the 2gether 4SRHR programme versus non-focus countries. This means the assessment involved a mix of countries, some of which are provided with programme support and others which are not
- Regional coverage (ESA)
- A mix of anglophone and francophone countries
- Inclusion of countries in humanitarian situations
- Inclusion of countries where the researchers were based (for ease of logistics, language and the utilization of social capital)

Based on these criteria, the following countries were selected:

National level

No.	Country	Applied learning	Region	Anglo / Franco	Humanitarian	Researcher based
1	Burundi	No	East	Franco	Yes	Yes
2	DRC	No	East	Franco	Yes	No
3	Kenya	Yes	East	Anglo	Yes (hosts refugees)	No
4	Madagascar	No	East / Island	Franco	Yes	No
5	Malawi	Yes	South	Anglo	No	No
6	South Africa	Yes	South	Anglo	No	Yes
7	South Sudan	No	East	Anglo	Yes	No
8	Tanzania	No	East	Anglo	Yes (hosts refugees)	No
9	Zambia	Yes	South	Anglo	No	No
10	Zimbabwe	Yes	South	Anglo	No	Yes



▶ 3.1 Data collection

A total of 21 KIIs were conducted as shown in the tables below:

National level

No.	Country	Government Official	CSO Representative
1	Burundi	1	1
2	DRC	1	1
3	Kenya	1	0
4	Madagascar	1	1
5	Malawi	1	1
6	South Africa	1	1
7	South Sudan	1	1
8	Tanzania	1 (development partner)	0
9	Zambia	1	1
10	Zimbabwe	1	1

Regional level

No.	Key informant	KIIs
2	EAC CSO	1
2	SADC CSO	1
1	SADC Secretariat	1

▶ 3.2 Data analysis

Comprehensive notes were compiled during the KIIs. The write ups were analysed thematically to distil the key facilitators and barriers of policy domestication.





4

Findings: Facilitators

Qualitative interviews with key informants from the 10 selected countries and regional bodies reveal a range of factors that facilitate the domestication of international SRHR policy frameworks into national policies and strategies. These are discussed below.

► 4.1. The role of civil society organizations in policy design and domestication processes



4.1.1 Advocacy

At regional level, civil society organizations (CSOs) advocate for the inclusion of specific SRH issues (such as adolescent health) into regional policies and frameworks. At national level, CSOs are also engaged in advocacy initiatives to compel governments to domesticate and implement international instruments and standards to which the governments are signatories. This is often done through partnerships with other like-minded organizations. The quote below illustrates this CSO effort:

“

Government has signed up to a number of international commitments, and we are interested in the Maputo Protocol, CEDAW [The Convention on the Elimination of All Forms of Discrimination Against Women] – specifically on SRH. Government also made fresh commitments under ICPD+25, so we advocate for government to take action. We also advocate for the ESA Commitment, so government should domesticate and implement. We also engage government on implementation of SDGs related to SDG 3 and 5.

”

CSO representative, Malawi, 28 October 2022



4.1.2 Participation in Technical Working Groups

Some CSOs are part of national Technical Working Groups on SRHR-related issues where they participate in reviewing existing policy frameworks and developing new ones. These fora give CSOs an opportunity to advocate for inclusion of specific SRHR issues into policies and domestication of international commitments. CSOs in almost all 10

countries in this study were said to be involved in providing technical (and sometimes financial) input to government policy initiatives regarding SRHR. This includes design, policy domestication, implementation and evaluation of the policies.



4.1.3 Holding governments to account

Related to the advocacy role, CSOs also hold governments to account for their international commitments and local policy promises. For instance, where countries report on the Maputo Protocol, CSOs also produce “shadow” reports that present an independent perspective of the progress made on its domestication. At the local level, CSOs are said to represent the voice of the people that hold politicians to account.

CSOs therefore use this leverage to hold governments accountable to their international commitments. The role of CSOs in the domestication processes is so important that key informants in Burundi attribute the slow progress in ratifying such instruments as the Maputo Protocol, to government crackdown on CSOs, particularly since the 2010 political upheaval.

“

Civil society movements represent the lived experience of communities and there is nothing that politicians fear more than the communities themselves, because it is these people to whom they have to appeal for votes. If you have strong civil society movements then you are more likely to get the attention of politicians.

”

EAC CSO representative, 28 November 2022



4.1.4 Policy implementation that bypasses formal domestication process

Given the many challenges associated with domestication as expounded in Section 5 below, CSOs sometimes use relevant information from international SRHR frameworks to implement

their own programmes at country level. This is carried out without waiting for formal ratification or incorporation of the international standards into local policies.

► 4.2. The role of development partners

The main role of development partners has been to provide technical and financial support to the domestication process, including reporting through

accountability mechanisms, as well as on the implementation of specific interventions.

“

We make sure that these [international] strategies are reflected in government strategies; we influence the government and provide technical support to make sure that provisions of these instruments are reflected... We also provide technical support to report on them; for example reporting on SRHR strategies' indicators.

”

Development partner representative, Tanzania, 4 November 2022

► 4.3. The role of government employees

Drawing on their technical expertise and experience, there is potential for bureaucrats to influence politicians in a number of ways. They can advocate for the domestication of relevant international policy provisions into national policies, the adoption

of SRHR-related policies, and the passing of laws at country level. A case in point is the effort of Malawian bureaucrats in advocating for safe abortion provision in Malawian laws.

“

Our department has advocated a lot on safe abortion. The Abortion Bill is in Parliament now and we are waiting. But we provide post-abortion care at the moment. The issue of abortion is very relevant. Stats show that there are a lot of maternal deaths due to unsafe abortion. There is resistance because most MPs [Members of Parliament] are not aware of the implications of the Bill and its justification.

”

Ministry of Health representative, Malawi, 2 November 2022

► 4.4. Peer learning, guidance and relevance of regional frameworks

Regional bodies, such as SADC and EAC that develop regional frameworks are said to provide ideal forums for peer learning in a non-threatening environment. In such spaces, countries can learn how neighbouring states handle similar SRHR issues. For instance, SADC countries have learnt from each other about how to best address the common challenge of child marriage.

A South African government official emphasized the learning opportunities in regional settings.

“

It is always important to learn from each other as countries – what works in one country might not work in another even though there is a general consensus on the process that was done. Spaces such as conferences and meetings are good for learning and also creating a relationship.

”

*Department of Health official,
South Africa, 28 October 2022*

Key informants, at both regional and country levels, observed that the geographical and cultural proximity of countries in a region, ensures that the guidance offered by regional frameworks are more relevant and appropriate than global frameworks. In the formulation of regional policy frameworks as compared to the formulation of global policy frameworks, this regional relevance is said to be enhanced by a higher level of participation and input by Member States.

Discussions with key informants revealed, though not prominently, that WHO policies are more regularly incorporated into national policies as compared to Africa Union and SADC policies. This was attributed to WHO having focal persons at country level who are responsible for ensuring domestication and dissemination of policies. Governments can, therefore, easily access WHO country focal persons to get guidance and support at both the policy design and implementation stages. This is a scenario regional bodies could emulate.





► 4.5. Influential figures championing sexual and reproductive health and rights

Key informants, especially those in Kenya and Madagascar, as well as at regional level, highlighted the influential role that SRHR champions (specifically politicians and local leaders that share the same values) play in SRHR policy design and domestication. These champions are key players who have an interest in specific elements of SRHR and/or recognize the importance of developing and strengthening national SRHR policy frameworks. These champions need to be mobilized in all strategic policy institutions, such as in Parliament, Cabinet, government departments and at regional level.

“

Ensuring that you have strategic leaders who are influential and able to make statements that will change the way others think is very critical. That is one thing I have seen work.

”

EAC CSO representative, 28 November 2022

“

You need the good will of the leaders at all levels. From national right down to local. If you can get the president to talk about menstrual health, then that is very influential.

”

*Ministry of Health official, Kenya,
28 November 2022*



5

Findings: Barriers

Alongside the many existing facilitators to the incorporation of international and regional SRHR frameworks into national policies, sit a number of barriers that threaten to impact the pace towards full and effective domestication in ESA.

► 5.1. Selective domestication, politics and culture

There is often government selectivity in domestication processes. For various reasons, governments often choose to domesticate specific provisions and ignore others. Some key informants from CSOs and governments in ESA attributed this selectivity to a lack of political will. One example is the piecemeal domestication of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) through the Gender Equality Act in Malawi. Other, more prominent reasons include, cultural and religious sensitivities that have resulted in politicians fearing the loss of support if they advocate for “unpopular” policies. A case in point is the stalling of the Termination of Pregnancy Bill in Malawi, and controversies surrounding CSE in schools and abortion in countries like Malawi, South Sudan, Tanzania and Zambia.

“

It [the issue of abortion] is very culturally and religiously sensitive. Hence, in Parliament for example, no political party wants to be associated with endorsing abortion... In ESA, it's the same thing. Some of the topics in CSE are culturally sensitive and some misconstrue that CSE will teach children to engage in premarital sex.

”

CSO representative, Malawi, 28 October 2022

“

International policies are not featured much in South Sudan policies; this is mostly because of some of the language used which policy makers in South Sudan are not comfortable with. The definition of SRHR access is internationally a right for every human being, however, in South Sudan there are limitations due to culture and context... Issues of key populations being accepted; this is not culturally appropriate in South Sudan.

”

South Sudan CSO representative, 7 October 2022

Regarding cultural resistance to measures aimed at curbing child marriage and female genital mutilation

(FGM) in Kenya, a key informant from the Ministry of Health stated:

“

If we don't understand what the communities' needs really are then our attempt to impose a law on them can have negative repercussions.

”

*Ministry of Health official, Kenya,
22 November 2022*

In Burundi and Madagascar, key informants, particularly those from the government, indicated their governments were against certain provisions within international standards. Most notable of these is Article 14 of the Maputo Protocol which these governments perceive as an entry point to legalisation of abortion – something in opposition to their religion, culture and laws. Many states have,

in fact, registered reservations to Article 14.2(c) of the Protocol, which protects the rights of women to access abortion in cases of sexual assault, rape and incest, and where the continued pregnancy endangers the mental and physical health of the mother or the life of the mother or the foetus. Asked what would make Burundi ratify the Maputo Protocol, a government official responded:

“

The complete removal of some of the points in Article 14 for example, and provide funding to the government to accelerate this process.

”

Ministry of Health official, Burundi, 2022

Piecemeal domestication has also been attributed to governments' bid to attract international funding but when, in fact, the governments are not committed to implementing what is promised in policy documents. For example, Malawi includes men who have sex with

men (MSM) provisions in national HIV frameworks, yet, MSM is legally prohibited. This also speaks to a general misalignment between policies and laws in many countries as indicated in section 5.3 below.

Much as international frameworks harmonize policies and provide guidance, key informants highlighted the need to understand and acknowledge that countries

have different contexts. Therefore, not all provisions in international frameworks will be incorporated in local frameworks.

“

Countries have different dynamics [hence the] need to be cautious of blanketing countries. What works in one country might not work in another.

.....
*Ministry of Health official, South Africa,
28 October 2022*

”

Regional bodies such as SADC, adopt the principle of variable geometry. This is where Member States are allowed to domesticate selected provisions they agree with and leave out or delay the domestication of those that may not be appropriate to their specific context. This, as discussed in Section 4.4, provides room for peer learning in a non-threatening environment.

Lack of data was cited as one barrier to context specific adoption or adaptation of international frameworks. Countries do not always have updated data on the current situation to make relevant and appropriate context specific decisions.

► 5.2. Perception that international frameworks are informed by foreign ideas

Related to cultural sensitivities being a barrier to domestication of international agreements, is the perception that some ideas contained in international frameworks are “western” and have no relevance in African countries. One key informant used the Maputo Protocol as an example, reporting that while the Protocol provides for a wide range of rights for different groups, in some countries key populations are seen as a western

idea that is not relevant or recognized in the local context.

In this context, development partners are sometimes perceived as foreign agents promoting foreign ideas. As reported in Section 4.2, development partners provide technical and financial support in the domestication process. However, some key informants suspect that during the formulation and domestication of international policy frameworks, development partners sometimes push their own agendas and ideologies on developing countries. This perception applies more to global frameworks than regional frameworks – the latter, as already discussed in 4.4, is often considered more relevant.

“

There is always a challenge when funders come in and have their own needs and indicators and these might not be relevant to the country.

.....
*Department of Health official, South
Africa, 28 October 2022*

”

► 5.3. Misalignment of policies, laws and other frameworks

Key informants prominently highlighted a misalignment of policies and laws as one key barrier to effective domestication and implementation of international policy frameworks on SRHR. While new policies have emerged that incorporate international SRHR commitments, many countries lack enabling laws to give effect to these policies. In worst case scenarios, some existing policies and laws contradict the spirit and letter of the new

policies. In Malawi for instance, key informants observed that different pieces of legislation provide for different minimum ages of marriage, hampering efforts to end child marriage.

In Tanzania, key informants highlighted misalignments between some provisions in international frameworks and local laws:

“

Some of the provisions are difficult to domesticate – for example, the abortion component of the Maputo Protocol is not palatable in our context. Safe abortion is not palatable; in our penal code, abortion is illegal unless there is a risk to the mother or the unborn child.

.....”
Development partner representative, Tanzania, 2022

In Malawi for instance, key informants observed that **different pieces of legislation provide for different minimum ages of marriage, hampering efforts to end child marriage.**



► 5.4. Challenges of policy continuity in democratic dispensation and bureaucratic turnover

Many democratic governments in Africa hold regular elections, most commonly every five years. This is said to affect continuity in policy enactment and implementation since some governments are progressive in policy domestication, while others are more conservative. This is also complicated by priority changes as different political parties take control of governments. In this context, the advocacy role of CSOs as presented in Section

4.1.1, has been touted as bringing a semblance of continuity and a reminder to governments of their international commitments.

Similarly, there is frequent change of personnel within government departments involved in domestication and accountability processes; this is said to affect continuity.

“

Government personnel changes often at these accountability forums and there is no continuity.

”

*Development partner representative,
Tanzania, 4 November 2022*

► 5.5. Lengthy and complicated policy making process

While each country has its specific policy making process, one underlying commonality is the lengthy and complicated nature of the process, as well as the impact of competing interests among multiple stakeholders. The complexity of the process has often been touted as being rigorous, a way to ensure that policies are inclusive and reflect the needs and priorities of the country. However, the prolonged nature of the process often poses a challenge to speedy incorporation of

international commitments into national policies, let alone formulation and implementation of homegrown policies. This is complicated by the ever-changing social context that may render some policy provisions obsolete, even before they are domesticated and implemented.

As a result, key informants believe it easier to change or formulate strategies as compared to policies.

“

It is easier to change strategies than policies. The policy process is long, given the standards we set ourselves such as: do the first review, submit to cabinet secretariat, they review and give feedback, work on it again – the presidential technical working group. This can take long. This is a good thing [though] to make sure that the policies reflect the needs of the country.

”

Development partner representative, Tanzania, 4 November 2022

► 5.6. Rushed domestication processes close to reporting period

Key informants across the selected countries (especially from CSOs and development partners) observed that countries often scramble to domesticate international commitments when they are close to the end of a reporting period. In

this way, they are perceived as appearing to be actively involved in domestication. This results in half-hearted and rushed processes that may not truly reflect the provisions of the international commitments.

► 5.7. Limited stakeholder engagement

Key informants highlighted the limited range of stakeholders engaged in policy domestication and accountability processes. This affects policy ownership and compliance.

It was also observed that African Union policy deliberations involve high-level government delegations and often have limited involvement of CSOs. As a result, during domestication and implementation at national level, many CSOs are also not involved.

“

We are not fully engaging all relevant stakeholders to maximize acceptance and domestication, to make sure things are understood by all stakeholders. During a reporting meeting for SADC SRHR indicators for example, some stakeholders were missing and this affected the reporting.

”

Development partner representative, Tanzania, 4 November 2022

“

There is need to have CSO advocates that participate in the [African Union] meetings, together with the [government] departments. This will ensure they work together at country level after the meetings and make sure policies are translated into action.

”

CSO representative, South Africa, 13 November 2022

► 5.8. Lack of capacity among government officials

There was a reported lack of capacity among government officials who are entrusted with health-related policies, including domestication of international frameworks. These include lower ranking government officials who do the bulk of policy formulation and implementation work. High ranking officers in some countries were said to be better off since they attend the majority of international forums where domestication

issues are discussed. Related to this is high staff turnover in key policy positions in government. This, as already discussed in Section 5.4, deprives government institutions of experienced staff trained in SRHR. Key informants expressed the need for greater efforts to build the capacity of government officials in policy design and domestication processes.

► 5.9. Cross-cutting nature of sexual and reproductive health and rights and coordination challenges

SRHR cuts across multiple sectors such as reproductive health, HIV and AIDS and gender, among others. Having to engage with various

structures, processes and stakeholders can result in coordination challenges at policy design, implementation and monitoring levels.

“

We have Directorate of Reproductive Health and also Directorate on HIV; GBV is also under another Ministry of Gender. It is therefore a challenge to come up with one SRHR policy framework; it needs a lot of consultations from different sectors and they themselves have their own strategies.

”

Ministry of Health official, Malawi, 2 November 2022

SRHR cuts across multiple sectors such as **reproductive health, HIV and AIDS and gender, among others.**



► 5.10. Competing priorities

It emerged, particularly in conflict prone countries, such as Burundi and South Sudan, that SRHR is not prioritized at country level. In Burundi for example, key informants from both government and CSOs observed that for a country that has been

struggling with a prolonged conflict, issues such as peacebuilding and poverty are prioritized over SRHR. This, in turn, affects domestication efforts and policy design in SRHR.

“

The Maputo Protocol is dead end my friend. Burundi is poor and the government has many pressing issues, such as the fight against hunger and poverty. We don't have money to fund reviews of international or continental laws that are against our culture...you know what I am talking about.

”

Ministry of Health official, Burundi, 2022

► 5.11. Policy enactment is not enough, we need implementation

Key informants often linked policy domestication with implementation. It was felt that domestication is incomplete if policy provisions are not implemented on the ground. The key informants

observed that among the international provisions on SRHR that have been incorporated into local policy frameworks, few are implemented.

“

Malawi is a country that produces very good policy documents, but when it comes to implementation nothing happens.

”

CSO representative, Malawi, 28 October 2022

“

ESA Commitment provides for CSE in schools, but in schools we are still using an old curriculum – a life skills curriculum on these issues. There is need for review of this curriculum to reflect changes that have occurred over time.

”

CSO representative, Malawi, 28 October 2022

Language and the specificity of cultural contexts were some of the factors further highlighted as hampering the domestication and implementation of many policies. To paraphrase a representative of a regional CSO:

Domestication of international SRHR policies into national frameworks is not working to a large extent due to the issue of language and context. Frameworks are often drafted year after year

and they continue to pile up, therefore putting a strain on domestication efforts. Further, Member States are often signing protocols and other frameworks as a form of political will, yet the most effective political will is in domestication and implementation rather than signing.

Government key informants also highlighted financial and human resource challenges as hampering implementation of policies.

► 5.12. Regional frameworks not binding and enforceable

One challenge highlighted, although not prominently, is the non-binding nature of regional policy frameworks on Member States, posing

a challenge for enforceability, compliance and domestication of the frameworks. Countries appear to have significant room to ignore provisions at will.

6

Recommendations

Based on the identified facilitators and barriers to international policy framework domestication into national policies, the following recommendations are made:

- Harmonize policies and laws to reflect international commitments and enable enforceability at local level.
- Increase consultations with the country policy makers, policy implementers and grassroots organizations before adoption of international frameworks. Doing so can increase relevance, ownership and compliance of the frameworks. Focus should be on the reality of the situation on the ground and the benefits to the most vulnerable communities. Frameworks should be context specific, applying to realities within the Member States.
- Larger budgets should be allocated to the domestication and implementation of policies.
- Build the capacity of key government policy makers and implementers, and find ways to prevent high staff turnover.
- Harness the advocacy and implementation role of CSOs through increasing their engagement and support.
- Implement social and behaviour change initiatives to harness cultural good practices and address harmful cultural practices in SRHR.

7

References

- African Union (2004). Protocol to the African Charter on Human And Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights. Available at <https://au.int/en/treaties/protocol-african-charter-human-and-peoples-rights-establishment-african-court-human-and>.
- African Union (2015). African Union Humanitarian Policy Framework. Available at <https://www.peaceau.org/uploads/humanitarian-policy-framework-rev-final-version.pdf>.
- African Union (2016). Maputo Plan of Action (2016-2030) for the Operationalisation of the Continental Policy Framework for Sexual and Reproductive Health and Rights. Available at https://au.int/sites/default/files/pages/32895-file-maputo_plan_of_action_english.pdf.
- Equality Now (2021). The Maputo Protocol Turns 18 Today. But What Does This Mean For Women And Girls In Africa? Available at https://www.equalitynow.org/news_and_insights/maputo_protocol_turns_18/
- Heidari, S., Onyango, M. A. and Chynoweth, S. (2019). Sexual and reproductive health and rights in humanitarian crises at ICPD25+ and beyond: consolidating gains to ensure access to services for all. *Sexual and Reproductive Health Matters*, vol. 27, Issue 1, pp. 343-345. Available at <https://doi.org/10.1080/26410397.2019.1676513>.
- International Planned Parenthood Federation (IPPF) (2018). The State of African Women - Chapter 2: Key findings and conclusions. Available at <https://africa.ippf.org/sites/africa/files/2018-09/SOAW-Report-Chapter-2-Key-Findings-and-Conclusions.pdf>.
- Joint United Nations Programme on HIV/AIDS (UNAIDS), United Nations Population Fund (UNFPA), United Nations Children's Fund (UNICEF) and World Health Organization (WHO). (2020). *2gether 4 SRHR: Annual Narrative Report 2020*.
- Joint United Nations Programme on HIV/AIDS (UNAIDS), United Nations Population Fund (UNFPA), United Nations Children's Fund (UNICEF) and World Health Organization (WHO) (2021). *2gether 4 SRHR: Mid-Term Review Report 2018-2020*.
- Starrs, A. M. et al. (2018). Accelerate progress—sexual and reproductive health and rights for all: report of the Guttmacher–Lancet Commission. *Lancet*, vol. 391, Issue 10140, pp. 2642-2692. Available at <https://www.thelancet.com/action/showPdf?pii=S0140-6736%2818%2930293-9>.
- United Nations Educational, Scientific and Cultural Organization (UNESCO) (2018). Situation analysis on early and unintended pregnancy in Eastern and Southern Africa. Available at <https://healtheducationresources.unesco.org/library/documents/situational-analysis-early-and-unintended-pregnancy-eastern-and-southern-africa>.
- United Nations Population Fund (UNFPA) (2019). *Accelerating the promise: The report on the Nairobi Summit on ICPD25*. Available at <https://www.unfpa.org/publications/accelerating-promise-report-nairobi-summit-icpd25>.
- United Nations Population Fund (UNFPA) (2020). *Harmonization of the Legal Environment on Adolescent Sexual and Reproductive Health in East and Southern Africa*. Available at <https://esaro.unfpa.org/en/publications/harmonization-legal-environment-adolescent-sexual-and-reproductive-health-east-and>.
- United Nations Population Fund East and Southern Africa Regional Office (UNFPA ESARO) (2021). *Adolescent pregnancy*. Available at <https://esaro.unfpa.org/en/topics/adolescent-pregnancy>.



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