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**SYNTHESIS OF FIRST REPORTS OF MEMBER STATES ON  
THE IMPLEMENTATION OF THE SOLEMN DECLARATION ON  
GENDER EQUALITY IN AFRICA (SDGEA)**

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### **I. INTRODUCTION**

The creation of the African Women's Committee on Peace and Development (AWCPD) in 1998 by the then Organization of African Unity (OAU) and the Economic Commission for Africa (ECA) to advise the Secretary General of OAU and the Executive Secretary of the ECA "on issues concerning African women, peace and development" helped in shaping the gender agenda of the African Union (AU). Notwithstanding its limited mandate, the AWCPD seized the opportunity of the transformation of the OAU to the AU to lobby for greater inclusion of women in the Constitutive Act and the transition process. Their effort resulted in the decision by the OAU Council of Ministers to support consultations to better define the role of women in the transition process (Ibid). This decision was followed-up with a workshop in May 2002 in Addis Ababa, Ethiopia, on "How to mainstream Gender in the AU". The meeting, hosted by the then Women, Gender and Development Division of the OAU, in collaboration with the AWCPD and Femme Africa Solidarité (FAS), recommended among others, the establishment of a Gender Directorate in the office of the Chairperson.

2. Following the success of this meeting, African women's regional networks, led by Femmes Africa Solidarité (FAS) organized three more consultations to define strategies for the implementation of these recommendations. These consultations resulted in the Durban Declaration (2002), the Dakar Strategy (2003) and the Maputo Declaration (2003), which were used to lobby AU members in the 2002 and 2003 summits respectively. The Durban Declaration was used in lobbying at the Assembly of Heads of State (HOS) and Government at their inaugural meeting in Durban, South Africa in 2002, with the resultant adoption of the gender parity principle in the appointment/election of the top leadership of the Commission, the creation of a Directorate for women and gender to mainstream gender in all activities and programmes of the Commission, and the application of the principle of gender equality in the recruitment of senior administrative, professional and technical staff.

3. The gender parity principle was further concretized in 2003 at the Second Ordinary Session of the Assembly of Heads of States and Government in Maputo, Mozambique with women accounting for 50 per cent of elected Commissioners. Also at this Session, the Protocol to the African Charter on Human and People's Rights relating to the Rights of Women was adopted with the objective of making the African Human rights system gender responsive.

4. To further its objective of promoting gender equality at the continental level, the AU Commission set up a Working Group on Gender in March 2004 to help define its gender agenda and the strategies to employ in making the principle of gender equality part and parcel of the Commission's culture. In his address to the working group, Professor Alpha Konaré, the Chairperson of the AU Commission, noted that the challenge confronting the Commission was how to operationalize and carry forward the gender parity principle that was adopted at previous meetings of the Heads of States and Government. He observed further that although numerical equality is important in the march towards gender

equality, it is not a sufficient variable in itself. Prof. Konaré also stated that what is needed is a holistic approach that integrates numerical equality with programmatic change, policies and activities of the AU Commission and the African Union as a whole. Thus, it was agreed that to further the gender equality agenda, African women should develop a plan of action that would be binding on African Heads of States and Government.

5. The outcome of the Working Group on Gender was presented to a wide range of African women's groups for their input before being presented to the Assembly of Heads of States and Government at their 3<sup>rd</sup> Ordinary Session in Addis Ababa, Ethiopia, in July 2004. This was later adopted as the *Solemn Declaration on Gender Equality in Africa (SDGEA)*. In adopting the SDGEA, the HOS and Government, agreed to monitor themselves on gender equality and mainstreaming in their respective countries. The SDGEA reaffirms the commitment of the Heads of State to the principle of gender equality as enshrined in Article 4 (L) of the Constitutive Act of the African Union, as well as other existing commitments, principles, goals and actions set out in the various international, regional, and sub-regional instruments and initiatives on human and women's rights.

6. In the Solemn Declaration on Gender Equality in Africa, the Heads of State and Government agreed to undertake the measures to promote gender equality and women's rights in the following areas: HIV/AIDS and other Related Infectious Diseases; Peace and Security; Child Soldiers and abuse of girl children as wives and sex slaves; Gender-Based Violence and trafficking in women and girls; Expand and promote the gender parity principle; Women's Human Rights; Land, Property and Inheritance Rights; Education; and sign and ratify the Protocol to the African Charter on Human and Peoples Rights.

7. As a follow-up on the SDGEA, the AU's Women, Gender and Development Directorate in collaboration with its NGO partners organised a meeting in January 2005 in Abuja, Nigeria to start the monitoring process of the SDGEA.

## **II. IMPLEMENTATION FRAMEWORK OF THE SDGEA**

8. The First AU Conference of Ministers in Charge of Women Affairs and Gender in October 2005 in Dakar, Senegal developed the reporting and monitoring framework for the SDGEA by AU Member States. As the framework is based on the commitments of Heads of State and Government to specific issues in the SDGEA, it should be understood as the basis to accelerate the implementation of existing national and regional obligations. Thus, the Framework is intended to provide guidance regarding the implementation of the SDGEA as each country has its own national plans for implementing various Declarations. The timeframe for the actions is five years, and this will be reviewed every five years.

9. The implementation of the SDGEA will require Member States to:

- Strengthen the political will to achieve gender equality at the local, national and regional levels;
- Incorporate a gender perspective into the planning processes of all ministries and departments of government and integrate gender dimensions into all

phases of sectoral planning cycles, including analysis, development appraisals, implementation, monitoring and evaluation of policies, programmes, projects and budgets;

- Build in a gender perspective in national development frameworks such as the PRSPs and budgeting frameworks;
- Empower and increase the capacity and resources of national gender machineries;
- Forge links between government, the private sector, civil society and other stakeholders to ensure a co-ordination of efforts and resources; and
- Strengthen and simplify systems for institutionalized collection and use of sex-disaggregated data in statistical analysis, to reveal how policies affect women and men differently

10. Member States are also encouraged to include information on the implementation of the SDGEA in their reports for the African Peer Review Mechanisms on progress towards gender equality under all objectives of the African Peer Review Mechanism.

### **III. NATIONAL DEVELOPMENTS SINCE THE ADOPTION OF THE SDGEA IN 2004**

11. This section is an analysis of developments in the efforts of African governments to implement gender equality measures since the unanimous adoption of the SDGEA by African HOS and Government in July 2004. The report pays special attention to constitutional, legal and administrative frameworks that have been put in place as well as practical measures taken to ensure the effective implementation of instruments and policies that promote women's empowerment, the protection of their rights and supports gender equality.

12. This report, the first in the series of Reports expected from member states on the implementation of the SDGEA, is a synthesis of country reports from Algeria, Burundi, Ethiopia, Lesotho, Mauritius, Namibia, Senegal, South Africa and Tunisia

#### **a) The Popular and Democratic Republic of Algeria Country Report**

- i. Institutional Mechanisms to Promote Women's Empowerment and Gender Equality- Algeria's mechanisms for promoting women's empowerment and gender equality include its constitution, the Family, Nationality and the Penitentiary Codes and the Ministry of Women and the Family.
- ii. Article 1- HIV/AIDS and Other Related Infectious Diseases- Building on the success of its two medium-term programmes in the 1990s, the Algerian government developed a strategic sector based business plan for the 2003-2006 Programme Cycle and a two year action plan was launched in January 2005 to contain the spread of HIV/AIDS. Since transmission is predominately through heterosexual relations (45.29 per cent), the programmes focus is on preventing maternal/foetal transmission at delivery and the distribution of

femidons (female condom) to sex workers. In addition, free and anonymous screening centres were created in all the wilayas (wards).

- iii. Article 2: Peace and Security- No submission was made in relation to this article.
- iv. Article 3: Child Soldiers- No submission was made in relation to this article.
- v. Article 4: Gender-Based Violence- Articles 32-34 of the Constitution and 264-267 of the criminal code not only prohibit violence against women, they also make it a punishable act. Articles 269-272 of the criminal code sanctions acts of violence against minors with sentences ranging between 3-20 years depending on the gravity of the violation. Article 53 of the family code gives married women the right to request divorce in cases of extreme violation. Also, the Ministry of the Family and the Status of Women has designed a project with the UN system (UNIFEM-UNICEF- UNFPA) to develop methodologies, instruments and reference systems for improved service and care for victims of violence.
- vi. Article 5: Gender Parity Principle - Although women's participation in decision-making is guaranteed by the Constitution, their participation level is extremely low when compared to that of men. For example, at the level of the executive, there were only three women at the executive level of government in 2004, four ambassadors, one Wali (Governor) appointed for the first time in 1999, two detached Walis (Governors), one delegate Wali, one General Secretary of a Ministry, four executive assistants of ministries, three General Secretaries of wilayas, three General Inspectors of wilayas and eleven heads of Daïra (wards).
- vii. Article 6: Women's Human Rights-To strengthen Algerian women's human rights, the President ordered the ratification of all international instruments relating to the rights and legal status of women and a review of Algeria's reservations at the ratification of the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW). He also stated that actions should be taken to align national legislation with international laws that promote and protect the rights of women. Consequently, the different national codes were amended to reflect Algeria's international commitments under various treaties and conventions.
- viii. Article 7: Land, Property and Inheritance Rights- Algeria's laws recognise women's rights in the acquisition and ownership of land, and their rights to inheritance. To ensure the protection of these rights especially in the rural areas, the government's rural development policies focus on creating an enabling environment for women to exercise these rights through awareness creation, information dissemination and women-focussed programmes. As at December 2005, 2,396 of 3,144 beneficiaries of craft-related funding were women; 22,315 women had obtained their farmer's card. This card gives women access to the various funding sources, in particular to state subsidies and credit schemes; nearly 600 women had accessed concessionary land development programmes; 591 young women promoters have taken

advantage of government's incentives to establish industries in the rural areas and parity has been achieved in the administrative cadre in the Ministry of Rural Development.

- ix. Article 8: Education- Gender equality in education is enshrined in Article 53 of the Constitution. The same article states that primary education is compulsory and free and guarantees equal access to all educational and training institutions. Adherence to these constitutional guarantees has resulted in massive enrolment rates across all sectors of the Algerian educational system. The enrolment rate of children aged 6 in their first year of primary education is currently close to 100 per cent at 96.04 per cent nationally and 94.69 per cent among girls. For ages 6-15, the national enrolment rate is 93.85 per cent and 94.69 per cent for girls. In secondary education, girls were 50.44 percent and 57.72 percent for the 1995/96 and 2004/5 school years.
- x. Article 9: The Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa- Algeria has set in motion the procedure to ratify the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

#### **b) The Republic of Burundi Country Report**

- i. Institutional Mechanisms to Promote Women's Empowerment and Gender Equality- The Burundian constitution, the Ministry of National Solidarity, Human Rights and Gender in conjunction with gender focal points in all sectoral ministries are the implementing agencies of the government's gender programme, which includes a National Gender Policy that was adopted in 2003.
- ii. Article 1: HIV/AIDS and Other Related Infectious Diseases- Women are the primary focus of the government's HIV/AIDS programme because of their high seroprevalence rate. The government's women-focussed initiative is primarily on prenatal screening and prevention of mother-to-child transmission of HIV/AIDS virus. Women are 70 percent of patients receiving free Anti-Retroviral Treatment(ART).

Article 42 of the Law N° 1/018y protecting HIV-infected people notes that anyone who deliberately infects another person by whatever means shall be prosecuted for attempted manslaughter and punished, according to the provisions of the Penal Code. As such, the government has committed itself to revising the Penal Code, in order to properly punish all perpetrators. Offenders can be imprisoned for up to 20 years.

- iii. Article-2 Peace and Security- Article 14 of the constitution guarantees every citizen their right to live in peace and security. Women's participation in the peace process began with the inter-Burundian peace talks in Arusha, Tanzania in 1998. It continued into the post-accord and post-conflict eras with women organising reconciliation meetings and peace marches and demonstrations; receiving training in peaceful conflict resolution strategies and visiting refugee camps in Tanzania.

- iv. Article 3: Child Soldiers- The phenomenon of child-soldiers is part of Burundi's social reality because of its 11 years civil war history. Thus, as part of the process of post-conflict reconstruction and rehabilitation, Articles 30, 44-46 of the constitution guarantees the protection and promotion of children's rights. In addition, a project of Demobilisation, Reintegration and Prevention of the Recruitment of Child soldiers is operational to put an end to child soldering in the society.
- v. Article 4: Gender-Based Violence- As part of its efforts of creating a society free of violence against women, the Burundian government is revising the Penal Code to punish infractions and has embarked on a nationwide awareness campaign on violence against women. The government is also preparing an emergency action plan to fight violence against women. A female-headed morality squad was recently created and includes a minors unit. Furthermore, the government has ratified CEDAW and is seeking its implementation.
- vi. Article 5: Gender Parity Principle - Article 4 of the Electoral code of April 2005 and Articles 51 and 129 of the constitution are the legal guarantees to ensure parity in all policy decisions. Paragraph 1 of Article 129 of the constitution ensures a minimum of 30 percent of women in all political decision-making institutions. These constitutional arrangements, together with the government's commitment, have resulted in significant progress in women's participation in the public political space.
- vii Article 6: Women's Human Rights- The promotion and the protection of human rights are central in the reconstruction process in post-conflict Burundi. In addition to the following constitutional guarantees in Articles 18, 20-23, the Burundian government is also applying the following international, regional and national and instruments, CEDAW, the CRC, the SDGEA, the Protocol to the African Charter of Human and Peoples' Rights and the National Gender Policy to ensure the promotion and protection of all the human rights of women and girls.
- viii. Article 7: Land, property and Inheritance Rights- Despite the progressive steps made to protect women's human rights, the law on succession, matrimonial regimes and gifts is governed by tradition and custom which is discriminatory against women and Article 126 of the People and Family Code which makes it mandatory for women to the seek the consent of their spouses in the disposal of household property should be revised.
- ix. Article 8: Education- Despite the existence of Article 53 in the constitution guaranteeing equal access to education, the abolition of school fees at the primary school level, and the government's efforts in mobilising parents to enrol and maintain their daughters/wards in school, the number of girls' in primary schools is still low, compared to those of boys. For example, in 2002/3 school year the net enrolment for boys was 87.6 percent compared to girls 66.7 percent. Women were also more than 20 percentage points (32.73 percent to men's 54.92 percent) behind men in the adult literacy sector.

- x. Article 9: The Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa- The government of Burundi has adopted the Protocol to the African Charter on Human and Peoples' Rights on Women's Rights. Although it has not yet been ratified, its provisions are used widely in meetings, speeches and other governmental and non-governmental activities.

**c) The Federal Democratic Republic of Ethiopia Country Report**

- i. Institutional Mechanisms to Promote Women's Empowerment and Gender Equality- Ethiopia's institutional mechanisms and policy framework for promoting gender equality are its constitution, a gender policy on women adopted in 1993 and the Ministry of Women's Affairs that has the responsibility of ensuring the participation and empowerment of women in political, economic, social and cultural arenas.
- ii. Article 1: HIV/ AIDS and Other Related Diseases- Although there is no specific legislation to combat the spread of HIV/AIDS, there are basic supportive legislations to contain it and other related infectious diseases. Among these are Articles 34 (4) and 35 (9) of the constitution which provide the right to health care and the right to protection from harmful customs and practices and Article 514 of the Penal Code (**Year**) which makes the wilful or negligent act of infecting a person with any kind of disease punishable by law. Efforts are underway to enact specific legislation for HIV/AIDS. However, an HIV/AIDS policy was adopted and the strategic plan developed for its implementation.

The 2005/06 report of the HIV/AIDS Prevention and Control Office indicates that voluntary counselling and testing service were provided in 658 health institutions with 229,850 females and 221,537 males beneficiaries in 2004/05. 94 per cent of patients were treated free of charge, of which the majority were females. According to the Fifth Report on HIV/ AIDS (2004) issued by the Ministry of Health, the total prevalence rate was 4.4 percent. Out of this figure, 54 percent were females of which 96,000 were less than 15 years of age.

Malaria prevention and treatment mechanisms are in place in line with the National Strategic Plan for Control of Malaria in Ethiopia, which is prepared based on the framework of the WHO Global Roll Back Malaria (RBM) Strategy. The TB and Leprosy Control Programmes focus on whose reducing their incidence and prevalence as well as the occurrence of disability and psychological suffering related to both diseases. Presently, the mortality rate resulting from both diseases is reduced to such extent that both diseases are no longer public health concerns

- iii. Article 2: Peace and Security- No submission was made in relation to this article in the Ethiopian country report.
- iv. Article 3: Child Soldiers- The Ethiopian government noted that the phenomenon of child-soldiers is not an issue for them. Article 36 of the constitution forbids engaging children in exploitative practices or hazardous task that are harmful to their well-being. The labour law prohibits the employment of children less than 14 years old. Rape committed against children is a very grave offence under Article 589 & 597 of the Penal Code. The law also prohibits abduction and trafficking of

children; and the penal code makes provision for the protection of children against pornographic performances and materials.

v. Article 4: Gender-Based Violence

Rape, abduction, FGM and early marriage are the main gender-based violence perpetrated against Ethiopian women. The National Plan of Action for Gender (2000-2010) particularly addresses gender-based violence, FGM and other harmful practices which sectoral Ministries, regional offices and NGOs are implementing. The revised criminal code took into account gender equality issues by criminalizing and making certain acts against women punishable by law. For example, Article 620 criminalizes abduction and increased the punishment from three to twenty years' imprisonment.

vi. Article 5: Gender Parity Principle- Article 3 of the constitution provides equal opportunity for women to participate in the decision making process by giving them the right to vote and be elected. Article 13 (1) of the Civil Service Proclamation No 262/2002 prohibits discrimination on the basis of sex. The proclamation also incorporates an affirmative action clause by stating that preference "shall be given to female candidates who have equal or close scores to that of male candidates". Furthermore, the ruling party reserved 30 percent of contested seats for women in the 2005 election. As a result, the number of women in parliament increased significantly.

vii. Article 6: Human Rights of Women- A Human Rights Commission was established in 2000 to reinforce the various constitutional guarantees and international commitments to which Ethiopia is a signatory. The objectives of the Commission are to sensitise the public about human rights, to ensure that they are respected and to take necessary measures when they are violated. Similarly, the Ombudsman was established in 2000 with the objective of fostering good governance and the rule of law by ensuring that citizen's rights are respected.

viii. Article 7: Land, Property and Inheritance Rights- The Federal Rural Land Administration Law 1997 stipulates the rights of women in holding, administering, and transferring of land. It also provides for women's participation in decision-making on land-related matters. Women are given priority by governmental and non-governmental credit institutions in the disbursement of their loans.

ix. Article 8: Education-Progress has been made in the implementation of the Beijing commitments on education, and towards achieving goal 2 of the Millennium Development Goals (MDGs), achieve Universal Primary Education (UPE). The concerted effort of governmental organisations and NGOs has resulted in an increase in the level of girls' primary school enrolment which was only 19 per cent 15 years ago to 71.5 per cent in 2005. However, the success achieved in girls' enrolment rate in primary school is not repeated at the secondary school level as only 19.8 percent of girls were enrolled in the 2004/5 school year compared to boys 34.6 percent.

- x. Article 9: The Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa- The Ethiopian government signed the Protocol on the African Charter on Human and Peoples' Rights on the Rights of Women in Africa in June 2004 and the ratification process is underway.

**d) The Republic of Lesotho Country Report**

- i. Institutional Mechanisms to promote Gender Equality and Empower Women- The Constitution, the supreme law of the country, has a Bill of Rights that guarantees equal rights to all Basotho citizens. The Ministry of Gender and the Gender and Development Policy adopted in 2003 are Lesotho's institutional framework and official policy document for promoting gender equality and women's empowerment respectively.
- ii. Article 1: HIV/AIDS and Other Related Infectious Diseases- The Sexual Offences Act 2003 protects victims/survivors of sexual violence. It recognises the wilful exposure of a person to HIV and provides for increased punishment for offenders. The Gender and Development Policy, the National Action Plan on Women, Girls and HIV/AIDS (2005), the draft national HIV/AIDS Policy (2006) and a National AIDS Commission are the frameworks in place to prevent the spread of HIV/AIDS. The draft national HIV and AIDS Policy proposes a multi-sectoral approach to tackling the problem of HIV/AIDS. It also emphasises support to the most vulnerable groups such as women and children.
- iii Article 2: Peace and Security- Lesotho is in the process of developing specific peace and security programmes as stipulated in the SDGEA.
- iv. Article 3: Child Soldiers- No submission was made in relation to Article 3, but was reported that the minimum age to qualify for recruitment as a soldier is 18 years.
- v. Article 4: Gender-Based Violence- The Sexual Offences Act 2003 was enacted to consolidate laws relating to sexual offences, combat increasing sexual violence and prescribe appropriate sentences for violations. The Act recognises marital rape as an offence. Under this law, the minimum penalty is eight years imprisonment and the maximum is death sentence. In addition to the law, there are several programmes to sensitise the public on the effects of violence on women and to protect victims of abuse these include, the yearly 16 Days of Activism Against Gender-Based Violence campaigns undertaken by government and non-governmental organisations, the provision of free medical exams for survivors of sexual violence and emergency contraceptive pills for all survivors/victims of sexual violence. In addition, the government provides free legal aid services to survivors of sexual violence to ensure reporting of abuse.

Other forms of violence such as femicide, which is the killing of women, child sexual abuse, common assaults and stalking, are punishable under Common Law. In relation to child sexual abuse, a study found that 33 percent of participants had experienced

unwanted sex before their 18<sup>th</sup> birthdays.<sup>7</sup> Trafficking in women is considered a crime. In collaboration with South Africa, the government of Lesotho has taken measures to control cross boarder trafficking by refusing resident permits to individuals who engage in trafficking of women and girls. In addition, the labour Code Order (1992) does not allow a person less than 18 years to engage in Foreign Service.

- vi. Article 5: Gender Parity Principle- Lesotho's current parliament has by far the largest representation of women in the country's political history. They account for 14 and 33 percent of members of the National Assembly and Senate respectively and at the local government level, women represent not less than 30 per cent of District administrators, secretaries and councillors. In addition, 41 and 32 percent of Executive Committee members of the ruling and opposition parties respectively are women. This change is a result of the various policy measures instituted by the government to ensure gender parity in politics and public decision-making institutions. The Prime Minister invited women into politics by presenting them with a 50/50 key in the 2006 International Women's Day celebration. The Local Government Electoral Amendment Act in 2004 reserves 30 percent of all electoral seats for women and the ruling party's decision to reserve a minimum of central committee positions for women ensured their increased political participation.
- vii. Article 6: Women's Human Rights- The Married Persons' Equality Bill white paper approved by Cabinet in 2006 will open avenues for the Married Persons' Equality Bill to be discussed in Parliament. The purpose of the white paper and particularly its Bill is to equalise marital statuses of spouses and protect the human rights of women.
- viii. Article 7: Land, Property and Inheritance Rights- The Land Act of 1979, though non-discriminatory in nature, its implementation is based on a discriminatory legal instrument, the Deeds Registry Act of 1967. According to the Deeds Registry Act, no land can be registered in the name of a woman married in community of property. The Land Review Commission Report (2000) recommended the need to review the Deeds Registry Act such that it becomes gender sensitive, in line with the provisions in Section D of the Gender and Development Policy Strategy.
- ix. Article 8: Education- *Despite having achieved parity and in some case surpassed it (at the primary level girls 50 percent; secondary 55.9), it was observed in a gender audit of the education sector in 2003, that the system is characterised by bias, insensitivity and discrimination. Thus, in its Education Sector Strategic Plan 2005-2015, the Ministry targeted the "elimination of gender disparities in primary and secondary education by 2015".*
- x. Article 9: The Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa- Lesotho has fully ratified the Protocol. The government is creating awareness on this Protocol and the need to domesticate it.

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<sup>7</sup> In Lesotho a child is anyone below 18 years.

**e) The Republic of Mauritius Country Report**

- i. Institutional Mechanisms to promote Gender Equality and Empower Women- The constitution, the gender policy and its national action plans and the Ministry of Women's Rights, Child Development and Family Welfare are the institutional framework for the promotion of gender equality in Mauritius. The Ministry's primary objective is to develop and execute policies and programmes to improve the status of women, children and safeguard their rights, protecting them from abuse and discrimination and to ensure that women enjoy equal opportunities and equal rights within society.
- ii. Article 1: HIV/AIDS and Other Related Infectious Diseases- The National Aids Committee (NAC) is the highest multi-sectoral body on HIV/AIDS. The prevention of mother to children transmission project was set up in 1999. HIV test and counseling are offered to all pregnant women attending antenatal clinic in the public sector. Free ART is also given to pregnant HIV-positive women during the last trimester and to the newborn for six weeks. As a result transmission rate has reduced from 20 percent to 1 percent. An HIV and AIDS Preventive Measures Bill is being prepared to prevent and control the spread the disease. The draft Bill also provides for the punishment of any person who knowingly places other persons at risk of being infected with the HIV/AIDS virus.
- iii. Article 2: Peace and Security- Mauritius advocates the inclusion of women in peace building and conflict resolution, as well as the protection of their rights in war-torn societies. Women are nominated regularly to participate in training courses/seminars/workshops pertaining to Peace and Security. Also, the participation of women in electoral observer missions is promoted.
- iv. Article 3: Child Soldiers- The rights of children are safeguarded under the Child Protection Act enacted in 1994 and amended in 2005. Recruitment into the armed forces is regulated under the Public and Discipline Forces Service Commission and only those above 18 years are eligible for recruitment. The incidence of child soldiers was observed to be irrelevant in Mauritius.
- v. Article 4: Gender- Based Violence- A Protection from Domestic Violence Act was adopted in 1997 to assist victims of gender –based violence in obtaining protection from their abusive spouses. It was amended in 2004 in conjunction with all other laws that were discriminatory towards to women. The Ministry of Gender operates family support offices across the country to help families in distress. A sexual offence (Miscellaneous Provisions) Act was passed in 2003.
- vi. Article 5: Gender Parity Principle- Women's representation in the current parliament 2005-10 increased three fold from their 2000-5 participation rates. Women account for less than 20 percent of political appointees in the different categories. In the national decision-making structure in public service, Mauritius has fulfilled both the 30 percent minimum stated in the Beijing Platform and the SADC Declaration.

- vii. Article 6: Women's Human Rights- Mauritius is strengthening existing institutional and human resource capacity to implement international, regional and national instruments it has acceded to/or developed in relation to women's human rights.
- viii. Article 7: Land, Property and Inheritance Rights- Women have the same rights as men to conclude contracts and administer property in their own name, without interference or the consent of their male partner. They also have the same inheritance rights and rights to credit as men.
- ix. Article 8: Education- Mauritius has attained the objectives of Goal 2 of the MDGs.
- x. Article 9: The Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa- The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa was signed by Mauritius in Addis, Ababa on 28 January 2005 with reservations on Articles 6(b), 6(c), 10(2)(d), 11 and 14(2)(c) of the Protocol. The State Law Office has advised that there is no legal impediment to ratify and that the reservations on ratification are to be maintained.

**f) The Republic of Namibia Country Report**

- i. Institutional mechanisms to Promote Gender Equality and Women's Empowerment- Namibia's institutional mechanisms to promote gender equality and women's empowerment are its Constitution, the National Gender Policy (1997) and the Gender plan of Action (1998) and the Affirmative Act (No.29 of 1998).
- ii. Article 1: HIV/AIDS and Other Related Infectious Diseases- The Namibian government has put in place a range of policy initiatives to stem the rate of HIV/AIDS infection in the country. These include a Bill of Rights in the Constitution that addresses issues of HIV/AIDS and human rights, guidelines for the provision of ART (2003), an HIV/AIDS Charter of Rights and a Code in employment and education and the draft national policy on HIV/AIDS (2005). The Third Medium-term Plan under the National Strategic Plan on HIV/AIDS has been finalised to guide the national programme from 2004 to 2009. The RMB initiatives have been adopted to mobilise partners and the community for malaria control.
- iii. Article 2: Peace and Security- Gender desks have been established at the Ministry of Safety and Security and the Ministry of Defence and a strategy and action plan for mainstreaming gender has been developed. Women were deployed in peacekeeping operations in various African countries.
- iv. Article 3: Child Soldiers- The Children's Act (No 33 of 1960) makes it an offence for any person having custody of a child to ill treat, neglect or abandon that child in such a way that unnecessary suffering or injury to the child's mind or body is likely to occur. The Immoral Practices Act (No 23 of 1957) makes it an offence for an adult to have sexual relations with a girl less than sixteen years

of age. The Combating of Rape Act No 8 of 2000, makes it a crime for an adult who is older than three years or above, to have sexual relation with a girl or boy less than fourteen years of age.

- v. Article 4: Gender-Based Violence- The Domestic Violence Act No.4 of 2003 reinforces the Combating of Rape Act of 2000. The Act explicitly defines domestic violence as a crime and provides a broad definition of domestic violence that includes physical, sexual, economic, intimidation, verbal or psychological and emotional abuse and harassment. In its effort to curtail the widespread incidence of violence in the society, the government in collaboration with its stakeholders under wrote the annual 16 days of activism campaign on No Violence Against Women.
- vi. Article 5: Gender Parity Principle- Namibia has adopted the SADC Declaration on 30 percent participation and representation of women in the public political space. Overall, women account for 27 percent of the membership of the parliament. There have been greater improvements at regional and local levels. However, it is in local government that Namibia has surpassed the SADC minimum target of 30 percent women representation by 2005.
- vii. Article 6: Women's Human Rights- The government has enacted laws to ensure equality of opportunity for women, to enable them participate fully in all spheres of the society. In this regard, it has ensured the application of the principle of non-discrimination in the remuneration of men and women and provides maternity and related benefits to women. The government through the Ministry of Gender Equality and Child Welfare provide legal literacy workshops to both men and women on women's human rights.
- viii. Article 7: Land Property and Inheritance Rights- Married Persons Equality Act (No 1 of 1996) abolished the marital power of the husband. It also entitled female farmers to equal as well as independent land ownership under the Agricultural (Commercial) Act<sup>8</sup>. The Communal Land Reform Act No 5 of 2002 provides for the equal rights of women to apply for and be granted land rights in communal areas. Before the Communal Land Reform Act, women had little chance of acquiring land after their husband's death.
- ix. Article 8: Education- The survival rate or the share of Grade 1 learners that reach Grade 5 has been increasing steadily, from 75 percent in 1992 to 94 percent in 2001. The literacy rate among 15 – 24 age bracket is higher for females than males. The adult literacy rate is 83.7 percent for women and 84.4 percent for men.
- x. Article 9: The Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa- The Namibian Government ratified the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa in August 2004. On 16<sup>th</sup> – 17<sup>th</sup> November 2005, the Ministry of Gender Equality and Child Welfare held a National Workshop to recommend programmes to ensure the full implementation of the Protocol. Furthermore,

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<sup>8</sup> This Act allows the government to appropriate agricultural land for the purpose of land reform and redistribution.

consultative meetings with relevant stakeholders were held on the Protocol to work out strategies on the implementation of the workshop recommendations.

### **g) The Republic of Senegal Country Report**

- i. Institutional mechanisms to Promote Gender Equality and Women's Empowerment- The national constitution, the Family Code, the National Strategy for Gender Equality and Equity for 2005-15 and the Ministry of Women and Family are the institutional and policy bodies for coordinating gender equality programmes in Senegal.
- ii. Article 1: HIV/AIDS and Other Related Infectious Diseases- To curtail the spread of the disease and make life more meaningful for HIV/AIDS victims, the Senegalese National Assembly is reviewing the law on discrimination against people living with HIV/AIDS, the protection of women and girls against rape and all other forms of violence, and the criminalization of the voluntary transmission of HIV. The National AIDS Control Plan supports voluntary screening centres, and provides free ART to all HIV-positive or AIDS-infected persons.

The malaria control programme provides free treatment to pregnant women suffering from malaria and distributes treated bed net to people who need them. The number of recipients who have accessed the programme arose by 20 percentage points from 22 percent to 42 percent.

- iii. Article 2: Peace and Security- Women's organisations in the Casamance region have mobilised for peace by organising peace marches, prayer sessions in the sacred forests and workshops to strengthen the peace-building capacities of their leaders to enable them participate in peace negotiations.
- iv) Article 3: Child Soldiers- In addition to various legal provisions to protect children from armed conflicts and trafficking, the government and its partners have initiated specific programmes providing social support, education and awareness creation on land-mines for victims and a reconstruction and economic revival plan to revitalise the economy.
- v. Article 4: Gender-Based Violence- Law No.99-05 of 1999 prohibits female circumcision, sexual harassment, incest, and domestic violence or any form of assaults causing bodily harm to a woman, especially rape. In addition, moral, physical and financial neglect, adultery, bigamy and forced marriage are punishable offences.
- vi. Article 5: Gender Parity Principle- Despite government's and women's commitment to the principle of gender equality, Senegalese women's presence in the public decision-making arena is well below the 30 per cent minimum agreed in the Beijing Platform for Action.
- vii. Article 6: Women's Human Rights- Women workers have equal tax status with men and their families are now included in their health plan. The government is sensitising policy-makers on its various international and regional commitments

on women's human rights. In addition, the women's lawyers association has been given a consultative status at the Presidency.

- viii. Article 7: Land, Property and Inheritance- The Ministry of Women and Family has organised periodic advocacy campaigns targeting Mayors and Presidents of Rural Communities to ensure the enforcement of constitutional provisions on women's access to land. Furthermore, the Ministry of Women is implementing a Community Interest Area project aimed at facilitating women's access to land, by providing financial and material support for the development of these lands. To ensure the mainstreaming of women's gender concerns in land matters, the Senegalese President made it mandatory for women's organisations to be represented on the technical committees of the Land Reform Commission.
- ix. Article 8: Education- The focus of the government's education programme is on increasing girls' enrolment and retention rates in school. Thus far, the government has recorded an increase in the proportion of girls' enrolled in school to 48.3 percent in 2004. The gross enrolment rate for girls increased from 72.3 percent in 2003 to 80.6 percent in 2005. Programmes such as the Female Leadership Support Fund, which provides funding for emerging girls' initiatives and introductory sessions to Information Communication Technologies have been introduced to motivate adolescent girls to stay in school.
- x. Article 9: The Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa- Senegal ratified the Protocol to the African Charter on Human and Peoples' Rights in November 2004.

#### **h) Republic of South Africa Country Report**

- i. Institutional Mechanisms and Policy Framework for Gender Equality- South Africa's institutional mechanism to promote gender equality include its constitution, a national gender machinery<sup>9</sup> comprising structures within government and civil society such as the Executive i.e. the Office on the Status of Women (OSW) and Gender Focal Points (GFP) in National Departments, the Commission on Gender Equality (CGE) as well as the Joint Parliamentary Committee on the Improvement of the Quality of Life and Status of Women and civil society and Non-Governmental Organisations. Thus, gender mainstreaming is the responsibility of all Cabinet Ministers, public sector officials and government agencies, whilst all human rights institutions established under the South African Bill of Rights, Section 9, have the responsibility to promote women's rights.
- ii. Article 1: HIV/AIDS and other Related Infectious Diseases- The National Health Act, enacted in 2004 (no. 61 of 2004) focuses on the right to dignity, integrity and rights to privacy including rights of women and children to health care. It

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<sup>9</sup> "an integrated package" of structures located at various levels of state, civil society and within the statutory bodies<sup>9</sup>.

builds on the Comprehensive HIV and AIDS Prevention, Care, Management and Treatment Plan for South Africa, adopted in November 2003<sup>10</sup>, as well as the HIV, AIDS and STD Strategic Plan adopted early in 2000 as part of a comprehensive and holistic response to HIV and AIDS. The programme includes life skills, PEP, prevention of mother to child transmission, the distribution of femidoms and partnership programmes on women and gender related aspects of HIV and AIDS. The HIV/AIDS campaigns also focus on adolescents, especially young women.

Given the co-infection of TB and HIV and women's high sero-prevalence rate, TB is now one of the leading causes of death among females. Although the national target of 85 percent cure rate has not been achieved, a noticeable improvement has been observed in the containment and spread of the disease.

As a result of the government's malaria control programme, the number of malaria cases has continued to drop since 2000. The national target for malaria case fatality is to maintain a rate of below 0.5%, which has become a strategic target for the health sector in South Africa for the period 2004 -2009.

- iii. Article 2: Peace and Security- In response to UNSC resolution 1325, South Africa has formed partnerships with civil society and communities to promote women's rights and participation in peace processes, campaigned for equitable representation of women in the International Criminal Court (ICC) and the inclusion of gender violence in the list of war crimes<sup>11</sup>. Additionally, South Africa has deployed a number of women to participate at operational levels in the UN and the AU-sponsored Peace Keeping Missions and involved senior women in peace-keeping and preventive diplomacy related to decision-making in the continent and other areas on a regular basis.
- iv. Article 3: Child Soldiers- The government developed and implemented an inter-sectoral National Plan of Action (NPA) on the Implementation of the Rights of the Child, and the establishment of the Office on the Rights of the Child (ORC), in the Presidency, to coordinate and monitor the implementation of the NPA.
- v. Article 4: Gender-Based Violence- The Sixteen days of No Violence Against Women and Children Campaign launched in 1999 was extended to a 365 days campaign in 2006. The government adopted a two-pronged strategy to prevent gender-based violence namely, a multi-sectoral approach to preventing violence (including a comprehensive law reform programme) and the strengthening of institutional mechanisms for coordinating violence against women.

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<sup>10</sup> Combines prevention, support care and treatment for HIV and AIDS associated conditions.

<sup>11</sup> This resulted in appointment of Judge Navanethem Pillay, who has contributed to the ICC's jurisprudence on violence against women.

- vi. Article 5: Gender Parity Principle- In 2005, South Africa participated in the SADC review of the 30 percent target representation of women in political and decision-making positions, to align it with the AU's parity principle. In 2006, the South African Cabinet adopted a target of 50 percent representation of women at all levels of decision making in all spheres of government. The representation of women in political and decision-making positions in South Africa, in many areas, exceeds the SADC quota of 30 percent and is moving towards achieving the AU's target of 50 percent.
- vii. Article 6: Women's Human Rights- Government's efforts at promoting and protecting the rights of women include the enactment of legislation, enlightenment and education campaigns to sensitise the public of the ongoing legal reform process to promote human rights. Laws to prevent and prohibit unfair discrimination such as the Employment Equity Act No.55 of 1998 and the Promotion of Equality and Unfair Discrimination Act No.4 of 2000 have been enacted. Moreover, gender discriminatory clauses in the citizenship and nationality laws have been removed thereby giving both women and men equal rights in respect of acquisition and transfer of citizenship rights.
- viii. Article 7: Land, Property and Inheritance Rights- Since 1994, the South African government has integrated gender considerations in its restitution, tenure reform and land redistribution policy instruments which have been implemented to alleviate asset poverty, amongst other objectives. In addition, women's rights to inherit as men have been established and the principle of primogeniture abolished. A sectoral Land Reform Gender Policy<sup>12</sup> was developed to create an enabling environment for women to access, own, control, and use and manage land, as well as access credit for productive use of land.
- ix. Article 8: Education- The National Education Policy Act no. 27 of 1996 provides for the achievement of equitable educational opportunities, redress past inequalities and advance the status of women. Progress in education is ahead of the MDGs, and more importantly, the male to female enrolment ratio is greater than one, indicating that slightly more girls are enrolled in schools than boys. South Africa has as many girls as boys participate in its school system, although there are gender disparities at primary level with more boys than girls enrolled. These, however, are reversed in the secondary level with more girls than boys enrolled.
- x. Article 9: The Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa- The Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa was signed and ratified in July 2004.

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<sup>12</sup> Currently a draft document produced by the Department of Land Affairs.

## i) The Republic of Tunisia Country Report

- i. Institutional mechanisms to Promote Gender Equality and Women's Empowerment- The principle of gender equality is embedded in the Tunisian Constitution, the "National Pact" signed on November 8, 1988 by representatives of political parties and civil society and the statute of the Ministry of the Women, Family, Children and Elderly Affairs (MAFFEPA).
- ii. Article 1: HIV/AIDS and Other Related Infectious Diseases- An HIV/AIDS national programme and strategy was adopted in 1987 to curb the spread of the disease. Free medical care is provided to all HIV/AIDS infected persons, the Tenth Development Plan (2002-6) advocates a national plan for preventing foetal infection and a treatment plan for all sexually-transmitted diseases. The goal is to curb the spread of the HIV/AIDS by 2015.
- iii. Article 2: Peace and Security-The women's department within Tunisia's National Red Crescent Organisation, conducts awareness campaigns in schools and for women's organisations to develop a culture of peace in the society.
- iv. Article 3: Child Soldiers- A National Observatory for information, documentation and research on the protection of children's right was established by order No. 2002-327 of February 14 2002. The Observatory is in charge of promoting and disseminating the culture of children's rights within relevant structures by popularising the CRC and the Code for the Protection of Children. The establishment of the High Council of Children chaired by the Prime Minister created another avenue for monitoring the status of children and the implementation of the national action plan on children. The labour code forbids the employment of children less than 18 years in hazardous occupations.
- v. Article 4: Gender-Based Violence- The Penal and Personal Status Codes were reviewed and amended in 1993 to reflect the principle of gender equality. This amendment significantly strengthened the right of women to protect their physical integrity. The amendment of Law No. 2004-73 of August 2, 2004 on morality and sexual harassment brought the concept of sexual violence into national legislation for the first time.
- vi. Article 5: Gender Parity- Items 5 and 16 of the Presidential Electoral Programme promote women's access to high level decision-making positions. Item 5 of the Electoral Programme entitled "New Horizons for Women" reserves 20 percent of electoral seats for women. Similarly, Item 16 "Women: from Equality to Active Partnership" is aimed at getting a minimum 30 percent female representation in the public-political space. These measures resulted in over 20 percent of electoral seats being reserved for women in commune and municipal elections.
- vii. Article 6: Women's Human Rights- The revision of the four codes (personal, penal, nationality and labour) in line with the principle of gender equality in 1993 further consolidated the rights of women. A great leap towards gender

equality was made in 1997, when gender discrimination was explicitly raised to the rank of a constitutional principle, as outlined in Article 8 of the constitutional Law No. 97-65 of October 27. The promulgation of Law No. 98-75 of October 28, 1998 amended by Law No. 2003-51 of July 7, 2003 allowed unmarried women to pass on their paternal names to their children, the amended Nationality Code law No.93-62 of June 23 1990 and No.2002-4 of January 21 2002 gave women the right to pass on their citizenship to their children through a joint declaration by both parents or by the mother if the father fails to assume his duty.

- viii. Article 7: Land, Property and Inheritance Rights- All discriminatory clauses affecting women's inheritance rights have been revoked and their inheritance and succession rights guaranteed. For example, the Code of Obligations and Contracts outlaws gender discrimination in terms of ownership, acquisition, management or disposal of property. The return mechanism grants girls the benefit of the whole estate if they are the sole heirs; the compulsory bequest gives children born of a deceased son or daughter the right to benefit from a claim on inheritance; the system of joint ownership of property by spouses established under the Law No. 98-91 of November 9, 1998, vested ownership rights in the couple. It noted that the recourse to this regime is optional and does not apply to the inheritance procedure.

In the agricultural sector, the wage of women workers has been brought in line with those of male workers in the same category, thus ending the system of 15 difference in the pay of the female agricultural labourers.

- ix. Article 8: Education - Equal access of all to education, without discrimination, is not only a right enshrined in law, but a legal obligation liable to sanctions in case of default. The strict enforcement of this law has made it possible to attain a schooling rate of 99.1 percent for children aged 6, with equality between boys and girls. For the 6-14 age bracket, the enrolment rate for girls as well as boys increased to around 94 percent in 2004, from 83.2 percent in 1994, while for the 6-16 years age bracket, the enrolment rate of girls went from 86.5 percent in 1997-1998 to 90.1 percent in 2001-2002, then to 91.4 per cent in 2002-2003, against 88.4 percent, 90.1 percent and 90.4 percent for boys, respectively. The enrolment rate for girls aged 12-18 years rose from 67.4 percent in 1997-1998 to 74.9 per cent in 2001-2002 to reach 77.8 per cent in 2002/3. Women's illiteracy recorded significant decreases in the last few years. The rate of women beneficiaries increased from 85.8 percent in 1998 to 87.6 percent in 2000, against 12 percent for men. The programme succeeded in reducing the illiteracy rate of rural women to less than 28 percent by the end of 2005.
- x. Article 9: The Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa- The Protocol is being discussed for ratification.

#### **IV. ASSESSMENT THE COUNTRY REPORTS**

13. It can be argued from the submitted country reports that the principle of gender equality is now part and parcel of the political discourse and/or agenda of African

governments. In addition to constitutional guarantees, each of the submitting country has at least one institutional mechanism and/or policy framework to ensure the achievement of gender equality in their respective countries. The adoption of the SDGEA reinforced earlier commitments agreed to by African governments. Legal reforms and programmes to control the HIV/AIDS pandemic and promote and protect the women's human rights have been in various sectors of the society have been instituted; women's representation in politics and decision-making positions and girls enrolment rate in primary school sector have increased. Various national programmes and legislation to protect the rights of children have been enacted. International, regional, sub-regional and national instruments have been translated into local languages and disseminated to the public. A lot of progress has been made since the adoption of the SDGEA but a lot more needs to be done also.

#### **Article 1**

14. Most of the HIV/AIDS programmes and legislation failed to address the issue of discrimination and/or stigmatisation. In the case of Namibia that has developed a comprehensive policy addressing this problem, the policy is yet to be adopted by the government. In addition, most report countries totally ignored TB and malaria control in their reports.

#### **Article 2**

15. Despite UNSC 1325 (2000), most reporting countries completely ignored the issue of women's representation and participation in conflict resolution and management.

#### **Article 3**

16. All countries should launch a campaign on the issue of child soldiers because of the increasing use of mercenaries in civil conflicts all over the continent.

#### **Article 4**

17. Most of the initiatives on gender-based violence focus primarily on legislation without corresponding programmes and/or projects to back up legislation. The challenge for most governments is how to marry legislation, the provision of support services and advocacy programmes for women to know their rights and access these services.

#### **Article 5**

18. Governments should put into practice the AU parity principle in the election and appointment of women in politics and public decision-making positions.

#### **Article 6**

19. Although all reporting countries have signed and/or ratified various international, regional and sub-regional instruments promoting and protecting women and children's rights, most have not enacted laws to further these commitments.

### **Article 7**

20. All reporting governments have put in place measures to promote women's property rights but they have failed to show the percentage of women have access to credit facilities or own land in their various country reports.

### **Article 8**

21. Although all country reports talked of increased enrolment in primary and secondary education for girls and women's adult literacy rates very few showed the programmes and/ or projects that were put in place to effect the change.

### **Article 9**

22. Countries that have not ratified the Protocol should be urged to do so in the shortest possible time.

23. Other issues to be considered for inclusion in the country reports are the constraints being faced in implementing gender equality issues in general each of the article and the strategies that are in place to overcome these challenges; comparative data should be given for comparisons on the progress being achieved; sex disaggregated data should as also be provided for comparative analysis and monitoring progress; legislation should be updated in line with the SDGEA and other commitments. Finally, although the AU advocates partnership in the implementation of the SDGEA, all the national reports lacked inputs from NGOs.

## **V. CONCLUSION: THE WAY FORWARD**

24. As already observed, considerable success has been noted in the implementation of the SDGEA as well as several challenges. In order to move the SDGEA agenda forward, there is need to first, increase the number of countries submitting their annual reports to the AU for monitoring and evaluation of the implementation process. This can be done by mobilising country representatives to the AU to convey the importance of submitting annual SDGEA reports to the AU's Gender and Development unit. This action should be followed up at the sub-regional levels with the gender officers at the RECs. Finally, the gender unit should liaise with members of the AWCPD and the AU's gender working group for them to emphasize to the Ministries of Gender/Women's Affairs the significance of presenting their annual reports to the AU.

25. In relation to the issue of NGOs participation in the SDGEA process, the AU has to popularise the Declaration widely among African NGOs moving beyond its traditional allies to incorporate a broad segment of women's groups across the continent. After this initial step, NGOs should be encouraged to their annual forums and submit shadow reports to the AU for consideration.

2007

# Synthesis of first reports of member states on the implementation of the solemn Declaration on gender equality in Africa (SDGGEA)

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