



**AGREEMENT AMENDING**

**THE SADC PROTOCOL ON GENDER**

**AND**

**DEVELOPMENT**

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**AGREEMENT AMENDING  
THE PROTOCOL ON GENDER AND DEVELOPMENT**

**PREAMBLE**

We, the Heads of State or Government of:

The Republic of Angola  
The Republic of Botswana  
The Democratic Republic of Congo  
The Kingdom of Lesotho  
The Republic of Madagascar  
The Republic of Malawi  
The Republic of Mauritius  
The Republic of Mozambique  
The Republic of Namibia  
The Republic of Seychelles  
The Republic of South Africa  
The Kingdom of Swaziland  
The United Republic of Tanzania  
The Republic of Zambia  
The Republic of Zimbabwe

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

**TAKING COGNISANCE** of the Sustainable Development Goals (SDGs), Beijing +20 Review and African Union (AU) Agenda 2063 and that Member States are obliged to meet their commitments under these instruments;

**RECOGNISING** that the targets in the SADC Protocol on Gender and Development were aligned to the Millennium Development Goals (MDGs) which expired in 2015 and have since been replaced by the Sustainable Development Goals (SDGs), and that necessitates a review of the Protocol in line with its Article 38 and Article 22 (11) of the SADC Treaty as Amended;

**DETERMINED** to further consolidate and create synergy between the various commitments on gender equality and equity made at regional, continental and international levels in the Protocol in line with said instruments;

**REALISING** that the Protocol requires amendment to align and strengthen it with the said instruments;

**HEREBY AGREED** as follows:

#### **ARTICLE 1**

##### **DEFINITIONS**

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

#### **ARTICLE 2**

##### **AMENDMENT TO ARTICLE 1**

Article 1 of the Protocol is amended by deleting “human trafficking” and replacing it with “trafficking in persons” and inserting it in the appropriate alphabetic order.

#### **ARTICLE 3**

##### **AMENDMENT TO ARTICLE 3**

Sub-paragraph (b) of Article 3 of the Protocol is amended to read as follows:

“(b) to harmonise the implementation of the various instruments to which SADC Member States have subscribed to at the regional, continental and international levels on gender equality and equity which, amongst others, are the Convention on the Elimination of all Forms of Discrimination Against Women (1979); Convention on the Rights of the Child (1989); the International Conference on Population and Development (1994); the Beijing Declaration and it’s Platform For Action (1995); the SADC Declaration on Gender and Development (1997) and it’s Addendum (1998); the UN Security Council Resolution 1325 on Women, Peace and Security (2000); the Protocol

to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003); the United Nations Convention on the Rights of People with Disabilities (2008); the UN Sustainable Development Goals (SDGs), the African Union Agenda 2063, and the Beijing Plus 20 Review or any other legal instruments that may be relevant to this Protocol, in order to accelerate implementation;”.

#### **ARTICLE 4**

##### **AMENDMENT TO ARTICLE 4**

Article 4 of the Protocol is amended by inserting immediately after paragraph 1 the following new paragraph 2:

“2. State Parties shall develop and strengthen specific laws, policies and programmes to achieve gender equality and equity.”

#### **ARTICLE 5**

##### **AMENDMENT TO ARTICLE 5**

Article 5 of the Protocol is amended by deleting “affirmative action” wherever it appears and replacing it with “special measures”.

#### **ARTICLE 6**

##### **AMENDMENT TO ARTICLE 8**

Sub-paragraph (a) of paragraph 2 of Article 8 is amended to read as follows:

“(a) no person under the age of 18 shall marry;”.

#### **ARTICLE 7**

##### **AMENDMENT TO ARTICLE 10**

Article 10 of the Protocol is amended to read as follows:

#### **“ARTICLE 10**

##### **WIDOWS' AND WIDOWERS' RIGHTS**

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

- (a) are not subjected to inhuman, humiliating or degrading treatment;
- (b) automatically become the guardians and custodians of their children when their husband/wife dies, unless otherwise determined by a competent court of law;
- (c) have the right to an equitable share in the inheritance of the property of their spouses;

- (d) have the right to remarry any person of their choice; and
- (e) have protection against all forms of violence and discrimination based on their status.”

## **ARTICLE 8**

### **AMENDMENT TO ARTICLE 11**

Article 11 of the Protocol is amended to read as follows:

## **“ARTICLE 11**

### **THE GIRL AND BOY CHILD**

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

## **ARTICLE 9**

### **AMENDMENT TO ARTICLE 12**

Paragraph 1 of Article 12 of the Protocol is amended to read as follows:

- “1. State Parties shall endeavour to ensure equal and effective representation of women in decision-making positions in the political,

public and private sectors including through the use of special measures as provided for in Article 5. “

**ARTICLE 10**  
**AMENDMENT TO ARTICLE 14**

Article 14 of the Protocol is amended to read as follows:

**“ARTICLE 14**  
**GENDER EQUALITY IN EDUCATION**

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

**ARTICLE 11**  
**AMENDMENT TO ARTICLE 16**

Article 16 of the Protocol is amended to read as follows:

**“ARTICLE 16**  
**MULTIPLE ROLES OF WOMEN**

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

**ARTICLE 12**  
**AMENDMENT TO ARTICLE 17**

Article 17 of the Protocol is amended to read as follows:

**“ARTICLE 17**  
**ECONOMIC EMPOWERMENT**

1. State parties shall undertake reforms to give men and women equal rights and opportunity to economic resources, and improved access to control and ownership over productive resources, land and other forms of property, financial services, inheritance, and natural resources.
2. State Parties shall, review their national trade and entrepreneurship policies, to make them gender responsive.
3. State Parties shall, in accordance with the provisions of special measures in Article 5, develop strategies to ensure that women benefit equally from economic opportunities, including those created through public procurement processes.”

**ARTICLE 13**  
**AMENDMENT TO ARTICLE 19**

Paragraph 1 of Article 19 of the Protocol is amended to read as follows:

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

**ARTICLE 14**  
**AMENDMENT TO ARTICLE 20**

Paragraphs 1 and 5 of Article 20 of the Protocol are amended to read as follows:

- “1. State Parties shall:
  - (a) enact and enforce legislation prohibiting all forms of gender based violence;
  - (b) develop strategies to prevent and eliminate all harmful social and cultural practices, such as child marriage, forced marriage, teenage pregnancies, slavery and female genital mutilation;



- (c) ensure that perpetrators of gender based violence, including domestic violence, rape, femicide, sexual harassment, female genital mutilation and all other forms of gender based violence are tried by a court of competent jurisdiction.
5. State Parties shall:
- (a) enact and adopt specific legislative provisions to prevent trafficking in persons and provide holistic services to the victims, with the aim of re-integrating them into society;
  - (b) put in place mechanisms by which all relevant law enforcement authorities and institutions should eradicate national, regional and international trafficking in persons syndicates;
  - (c) put in place harmonised data collection mechanisms to improve research and reporting on the types and modes of trafficking to ensure effective programming and monitoring.
  - (d) establish bilateral and multilateral agreements to run joint actions against trafficking in persons among origin, transit and destination countries; and
  - (e) ensure capacity building, awareness raising and sensitisation campaigns on trafficking in persons are put in place for law enforcement officials.”

#### **ARTICLE 15**

#### **AMENDMENT TO ARTICLE 25**

Article 25 of the Protocol is amended to read as follows:

#### **“ARTICLE 25**

#### **INTEGRATED APPROACHES**

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

#### **ARTICLE 16**

#### **AMENDMENT TO PART SEVEN**

Part Seven of the Protocol is amended to read as follows:

**“PART SEVEN**  
**SEXUAL AND REPRODUCTIVE HEALTH AND REPRODUCTIVE RIGHTS**

**ARTICLE 26**

**SEXUAL AND REPRODUCTIVE HEALTH AND REPRODUCTIVE RIGHTS**

State Parties shall, in line with the SADC Protocol on Health and other regional and international commitments by Member States on issues relating to health, adopt and implement legislative frameworks, policies, programmes and services to enhance gender sensitive, appropriate and affordable quality health care, in particular, to:

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

**ARTICLE 27**

**HIV AND AIDS**

1. State Parties shall take every step necessary to adopt and implement gender sensitive policies and programmes, and enact legislation that will address prevention, treatment, care and support in accordance with, but not limited to, the Maseru Declaration on HIV and AIDS and the SADC Sponsored United Nations Commission on the Status of Women Resolution on Women, the Girl Child and HIV and AIDS and the Political Declaration on HIV and AIDS.
2. State Parties shall ensure that the policies and programmes referred to in sub-Article 1 take account of the unequal status of women, the particular vulnerability of the girl child as well as harmful practices and biological factors that result in women constituting the majority of those infected and affected by HIV and AIDS.
3. State Parties shall:
  - (a) develop gender sensitive strategies to prevent new infections;

- (b) ensure universal access to HIV and AIDS treatment for infected women, men, girls and boys; and
- (c) develop and implement policies and programmes to ensure appropriate recognition of the work carried out by care givers, the majority of whom are women, the allocation of resources and the psychological support for care-givers as well as promote the involvement of men in the care and support of people living with HIV and AIDS.”

#### **ARTICLE 17**

#### **AMENDMENT TO ARTICLE 28**

Paragraph 1 of Article 28 of the Protocol is amended to read as follows:

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

#### **ARTICLE 18**

#### **AMENDMENT TO ARTICLE 29**

Article 29 of the Protocol is amended as follows:

- (a) the heading of the Article to read as follows:  
**“ARTICLE 29  
GENDER IN MEDIA, INFORMATION AND COMMUNICATION”**;
- (b) paragraph 1 of the Article to read as follows:  
“1. State Parties shall enact legislation, and develop national policies and strategies including professional guidelines and codes of conduct to prevent and address gender discrimination in the media.”;  
and
- (c) paragraph 4 of the Article to read as follows:  
“4. State parties shall take measures to promote the equal representation of men and women in the ownership of, and decision making structures of the media.”

**ARTICLE 19**  
**INSERTION OF PART TEN**

The Protocol is amended by inserting immediately after Article 30 the following new Part Ten:

**“PART TEN:**  
**GENDER AND ENVIRONMENT**

**ARTICLE 31**  
**GENDER AND ENVIRONMENT**

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

- (a) address the impact of climate change and environmental degradation on gender;
- (b) promote active participation, by men, women, boys and girls, in the protection of the environment, mitigation of climate change and promotion of sustainable exploitation and use of natural resources;
- (c) develop policies, strategies, and programmes to address the gender issues with respect to the environment, climate change and sustainable development;
- (d) conduct research to assess the differential gendered impacts of climate change and put in place effective adaptation measures.”

**ARTICLE 20**  
**AMENDMENT TO PART TEN**

The numbering of Part Ten of the Protocol and its subsequent Articles are amended by changing their numbering in a sequential manner continuing from Article 31 of new Part Ten.

**ARTICLE 21**  
**AMENDMENT TO ARTICLE 33**

Paragraph 1 of Article 33 of the Protocol is amended to read as follows:

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

## **ARTICLE 22**

### **AMENDMENT TO ARTICLE 35**

Paragraph 1 of Article 35 of the Protocol is amended to read as follows:

- “1. State Parties shall ensure the implementation of this Protocol at the national level in line with SADC Implementation Action Plans and SADC Monitoring, Evaluation and Reporting Framework.”

## **ARTICLE 23**

### **ENTRY INTO FORCE**

This Agreement shall enter into force on the date of its adoption by a decision of three-quarters of the Member States that are Parties to the Protocol.

## **ARTICLE 24**

### **DEPOSITARY**

1. The original texts of this Agreement shall be deposited with the Executive Secretary of SADC, who shall transmit certified copies to all Member States.
2. The Executive Secretary of SADC shall register this Agreement with the Secretariat of the United Nations, the Commission of the African Union and such other organisation as the Council may determine.

**IN WITNESS WHEREOF** the undersigned, being duly authorized thereto, have signed this Agreement on the dates indicated.

Done at the Kingdom of Swaziland, this 31<sup>st</sup> day of August, 2016, in three (3) original texts in the English, French and Portuguese languages, all texts being equally authentic

  
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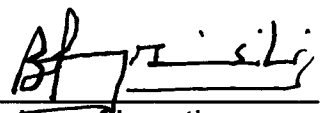
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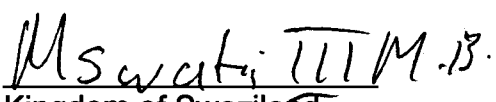
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