



CHAPTER 5

Gender Based Violence

Articles 20-25



16 Days of Activism Protest demanding National Strategy to End GBV in South Africa.

Photo: Gender Links

KEY POINTS

- The new Protocol takes a huge step forward in localising the Sustainable Development Goal 5 by moving from “halving” to “eliminating” gender based violence (GBV).
- Eleven out of the 15 countries have put in place domestic violence and thirteen have sexual assault legislation.
- 14 countries have legislation on sexual harassment and all countries have laws on human trafficking.
- All the countries offer some form of services to survivors of GBV, however, the main challenge remains that the service providers, are mainly under-resourced NGOs.
- 15 countries offer comprehensive treatment including Post Exposure Prophylaxis (PEP) to survivors of violence.
- Seven countries have undertaken Violence Against Women (VAW) Baseline Studies (Mauritius, Botswana, South Africa, Zambia, Zimbabwe, and Seychelles). The Seychelles study includes violence against men for the first time.
- Botswana has set the pace by adding violence against men and conducting a five year follow up study after the 2012 baseline.
- The SADC MER framework adopted nine of the 42 indicators in the VAW Baseline Study. However, of the nine indicators adopted, none measures the prevalence of gender based violence. There is need for all SADC countries to conduct GBV prevalence studies that can be used to track progress towards eliminating GBV.

From
halving
to
ending
GBV!

11
countries
have
laws
on
domestic
violence

What the Protocol requires

Part Two of the SADC Protocol on Gender and Development concerns Constitutional and Legal Rights. This has eight articles, covering Constitutional Rights; Special Measures; Domestic Legis-

lation; Equality in access to justice; Marriage and Family Rights; Persons with Disability; Widows and Widowers Rights; The Girl and Boy Child.

Table 5.1: The Revised Gender Protocol

Former provisions	New provisions
	Article 20: Legal
1. States Parties shall by 2015: (a) enact and enforce legislation prohibiting all forms of gender based violence; (b) 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.	1. States Parties shall: (a) enact and enforce legislation prohibiting all forms of gender based violence; (b) <u>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.</u> (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.
3. States Parties shall, by 2015, review, reform and their criminal laws and procedures applicable to cases of sexual offences and gender based violence to: (a) Eliminate gender bias; and (b) Ensure justice and fairness are accorded to survivors of gender based violence in a manner that ensures dignity, protection and respect.	3. States Parties shall, review, reform and <u>strengthen</u> their laws and procedures applicable to cases of sexual offences and gender based violence to: (a) Eliminate gender bias; and (b) Ensure justice and fairness are accorded to survivors of gender based violence in a manner that ensures dignity, protection and respect.
5. States Parties shall, by 2015: (a) Enact and adopt specific legislative provisions to prevent 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 eradicate national, regional and international. (c) Put in place harmonised data collection mechanisms to improve 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 human trafficking among origin, transit and destination countries; and (e) Ensure capacity building, awareness raising and sensitisation campaigns on human trafficking are put in place for law enforcement officials.	5. States Parties shall: (a) Enact and adopt specific legislative provisions to prevent <u>trafficking in persons</u> 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 <u>trafficking in persons' syndicates</u> ; (c) Put in place harmonised data collection mechanisms to improve <u>research</u> 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 <u>trafficking in persons</u> among origin, transit and destination countries; and (e) Ensure capacity building, awareness raising and sensitisation campaigns on <u>trafficking in persons</u> are put in place for law enforcement officials.
	Article 25: Integrated Approaches
State Parties shall adopt integrated approaches including institutional cross sector structures, with the aim of reducing current levels of gender based violence by half by 2015.	State Parties shall adopt integrated approaches including institutional cross sector structures, with the aim of <u>eliminating</u> gender based violence.

The table reflects the few but significant shifts in the Post 2015 SADC Gender Protocol. These include:

- Article 20.1 of the Post 2015 Protocol adds a new clause, (20.1b), which calls for member states to 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. This provision is significant in that it seeks to address

the social norms, the bedrock upon which harmful practices such GBV are rooted. Article 20.1 (b) of old provision focused on ensuring that perpetrators are brought to book through competent jurisdiction. While this approach is effective, it is limited in that it is more of reactive than proactive.

- Article 20.3 of the new provision adds “strengthening” to reviewing and reforming criminal

laws on gender violence. Despite the existence of GBV laws, there are gaps and loose ends. For instance, most countries have legislation criminalising rape but not many of these address marital rape.

- Article 20.5 of the updated Protocol moves away from “human trafficking” to “trafficking in persons”. It also calls for state parties to improve research and reporting on the types and modes

of trafficking. While all SADC countries now have legislation addressing human trafficking, the challenge remains the lack of empirical research to provide a comprehensive insight into the prevalence or patterns of trafficking within the region¹.

- The huge step forward is localising Sustainable Development Goal 5 by moving from “halving” to “eliminating” gender based violence.

Key trends

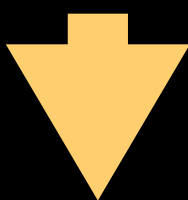
Table 5.1: Trends in GBV 2009, 2015 and 2017

Target 2030	Baseline 2009	Progress 2015	Progress 2017	Variance (Progress - target)
ATTITUDES				
% who say if a woman works she should give her money to her husband				
Highest (0%)			23% (Namibia)	-23%
Lowest			86% (Lesotho)	-86%
% who say if a wife does something wrong her husband has the right to punish her				
Highest (0%)			30% (Zimbabwe)	-30%
Lowest			64% (DRC)	-64%
% who say if a man beats a woman it shows that he loves her				
Highest (0%)			11% (Mauritius)	-11%
Lowest			48% (Mozambique)	-48%
% who say if a woman wears a short skirt she is asking to be raped				
Highest (0%)			15% (Mauritius)	-15%
Lowest (0)			75% (Tanzania)	-75%
LEGISLATION				
Laws on domestic violence in 15 countries	9 (Botswana, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Zimbabwe)	11 (Angola, Botswana, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Zambia, Zimbabwe)	11 (Angola, Botswana, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Zambia, Zimbabwe)	-4 (DRC, Lesotho, Tanzania, Swaziland)
Laws on sexual assault in 15 countries	7 (DRC, Lesotho, Madagascar, Mozambique, Namibia, South Africa, Swaziland)	13 (DRC, Lesotho, Madagascar, Mozambique, Namibia, South Africa, Swaziland, Mauritius, Zambia, Tanzania, Zimbabwe Botswana, Malawi)	13 (DRC, Lesotho, Madagascar, Mozambique, Namibia, South Africa, Swaziland, Mauritius, Zambia, Tanzania, Zimbabwe Botswana, Malawi)	-2 (Angola, Seychelles)
Human trafficking laws in 15 countries	3 (Madagascar, Mozambique, Zambia)	12 (DRC, Lesotho, Madagascar, Mauritius, Mozambique, South Africa, Swaziland, Tanzania, Botswana, Zambia, Zimbabwe, Seychelles)	15 (Angola, DRC, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, South Africa, Swaziland, Tanzania, Botswana, Zambia, Zimbabwe, Seychelles)	0
Sexual harassment laws in 15 countries	2 (DRC, Madagascar)	14 (DRC, Lesotho, Madagascar, Malawi, Mauritius, South Africa, Zambia, Zimbabwe, Namibia, Seychelles, Botswana, Mozambique, Swaziland, Tanzania)	14 (DRC, Lesotho, Madagascar, Malawi, Mauritius, South Africa, Zambia, Zimbabwe, Namibia, Seychelles, Botswana, Mozambique, Swaziland, Tanzania)	-1 (Angola)
GBV SERVICES				
Accessible, affordable and specialised services, including legal aid, to survivors of GBV in 15 countries	9 (Angola, Lesotho, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Zambia, Zimbabwe)	12 (Angola, DRC, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Tanzania, Zambia, Zimbabwe)	12 (Angola, DRC, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Tanzania, Zambia, Zimbabwe)	0

¹ Lowe-Morna, C., Makamure, L., Dube, S. (2016) SADC Gender Protocol Barometer (online) available at <http://genderlinks.org.za/shop/sadc-gender-protocol-barometer-2016/> (accessed 12 July 2017).

All
15
SADC
countries
have
laws
on
trafficking
in
persons

SGDI
first
61%
in 2017



CSC
has
dropped
from
68%
in 2015 to
66%
in 2017

Target 2030	Baseline 2009	Progress 2015	Progress 2017	Variance (Progress - target)
Specialised facilities including places of shelter and safety in 15 countries	2 (Mauritius, South Africa)	12 (Angola, DRC, Lesotho, Malawi, Mauritius, South Africa, Zimbabwe, Namibia, Zambia, Botswana, Swaziland, Mozambique)	14 (Angola, DRC, Lesotho, Madagascar, Malawi, Mauritius, South Africa, Tanzania, Zimbabwe, Namibia, Zambia, Botswana, Swaziland, Mozambique)	-1(Seychelles)
Comprehensive treatment, including post exposure prophylaxis (PEP) in 15 countries	2 (South Africa - Sexual Offences Act, Mozambique-HIV AIDS Act)	15 (DRC, Lesotho, Madagascar, Malawi, South Africa, Zimbabwe, Tanzania, Seychelles, Botswana Namibia, Mauritius, Swaziland, Zambia, Angola, Mozambique)	15 (DRC, Lesotho, Madagascar, Malawi, South Africa, Zimbabwe, Tanzania, Seychelles, Botswana Namibia, Mauritius, Swaziland, Zambia, Angola, Mozambique)	0
COORDINATION, MONITORING AND EVALUATION				
Integrated Approaches: National Action Plans in 15 countries	7 (DRC, Mauritius, Namibia, Seychelles, South Africa, Swaziland, Tanzania)	14 (Angola, DRC, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia, Zimbabwe, Botswana)	15 (Angola, DRC, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia, Zimbabwe, Botswana)	0
By 2030 construct a composite index for measuring GBV in 15 countries	None	7 (Botswana, DRC, Mauritius, South Africa, Zambia, Zimbabwe, Angola)	9 (Botswana, DRC, Lesotho, Mauritius, South Africa, Zambia, Zimbabwe, Angola, Seychelles)	6 (Malawi, Namibia, Mozambique, Madagascar, Swaziland)
By 2030 provide baseline data on GBV in 15 countries	None	6 (Botswana, Mauritius, four provinces of South Africa, four provinces of Zambia, Lesotho Zimbabwe, Tanzania).	7 (Botswana, Mauritius, four provinces of South Africa, four provinces of Zambia, Lesotho Zimbabwe, Tanzania).	8 (Angola, DRC, Malawi, Namibia, Mozambique, Madagascar, Tanzania, Swaziland)
SCORES				
SGDI 100%			61%	-39%
CSC 100%	47%	68%	66%	-34%

Table 1.5 shows that:

- **Attitudes** that fuel gender violence (used in 2017 as proxy indicators for gender violence) vary greatly in the region. For example, 86% of women and men in Lesotho said that “if a woman works, she should give her money to her husband”, compared to 23% in Namibia. While only 15% of those interviewed in Mauritius said that “if a woman wears a short skirt she is asking to be raped”, 75% of respondents in Tanzania agreed or strongly agreed with this statement.
- **Legislation:** To date eleven out of the fifteen countries (from 9 countries in 2009) have put in place domestic violence and thirteen have sexual assault legislation; four countries (Tanzania, Swaziland, DRC and Lesotho) are still to enact specific laws. In 2009, two countries had laws on sexual harassment and three on human trafficking. To date, 14 countries have legislation on sexual harassment and all countries have laws on human trafficking. While these efforts are commendable, evidence has shown that review,

amendment and enactment of laws and policies do not translate to enforcement and implementation. Resistance in recognising various forms of GBV as crime is still strong within the region.

- **GBV Services:** In 2009, nine countries offered accessible, affordable and specialised services, including legal aid, to survivors of GBV. Now all the countries offer some form of services to survivors of GBV. The main challenge remains that the service providers (who are mainly NGOs) are under-resourced with limited capacity to deliver on their mandates. In most countries, the services are concentrated in urban areas while rural areas remain under serviced or not serviced at all. The number of countries that offer places of safety has risen from only two countries in 2009 to 14 in 2017. However, the number and quality of services and resources available to survivors of GBV remains sub-standard. Small NGOs run most of the services, particularly shelters.

² Lowe-Morna, C and Walter, D. (2009). SADC Gender Protocol Barometer. Gender Links website, available at <http://genderlinks.org.za/shop/sadc-gender-protocol-baseline-barometer-2009/> (accessed 12 June 2016).

- There has been an increase in the number of countries providing **Post Exposure Prophylaxis (PEP)**. In 2009, only two countries provided this service to survivors of sexual violence under statutory obligation². Today all 15 countries offer comprehensive treatment including PEP to survivors of violence.
- **Co-ordination of GBV programmes:** To date seven countries have undertaken the GBV Baseline Studies (Mauritius, Botswana, South Africa, Zambia, Zimbabwe and Lesotho) from a baseline of zero in 2009.

Scores - SGDI and CSC

The SADC Gender and Development Index (SGDI) is a composite empirical measure of progress. In the case of GBV, this is complex because police

data is unreliable and less than half the countries in the region have undertaken prevalence studies. However, included in these studies is a 25-question attitude survey administered widely around the SADC region as part of the Alliance work, with a sample of over 40,000 in 2016. Four of these indicators (see the "attitude" section in the trends table) have been selected as "proxy" indicators for GBV. This gives an SGDI score for GBV for the first time (an average of 61% for the region). The Citizen Score Card (CSC) is a measure of how citizens (women and men) rate their governments' efforts to provide accessible and quality services. This score has also been expanded to take account of the new additions in the Post 2015 era. Not surprisingly, the overall score dropped from 68% to 66% with these tougher tests in place.

The
2017
 Barometer
 gives an
SGDI
 score
 for
GBV
 for the
1st
 time
 (average
 of
61%
 for the
 region)

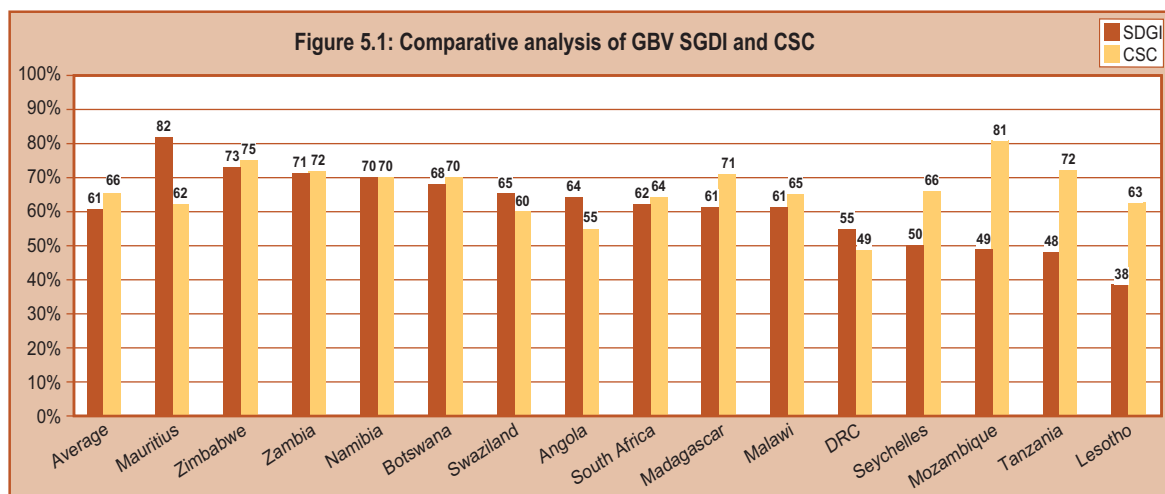


Marching against GBV in Namibia.

Photo: Gender Links

SDGI
61%

CSC
66%



Source: Gender Links, 2017.

Figure 5.1 compares the SGDI and CSC scores for 2017. It shows that overall at 61% for the SGDI and 66% for the CSC, these scores (based on empirical data and perceptions respectively) are quite close. Variance is calculated as the difference between the SGDI and CSC. Mauritius had the

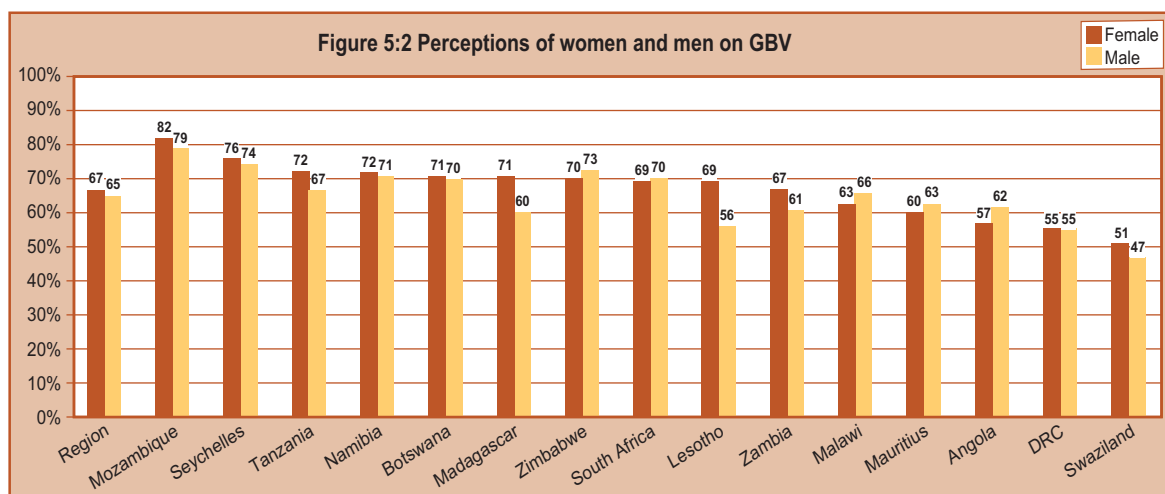
highest positive variances (i.e. people who are more sceptical than what the numbers tell us). Mozambique, Lesotho and Tanzania had the highest negative variances, i.e. where citizens are more optimistic than what the facts on the ground tell us.

♀

67%
scored
higher
than

♂

65%



Source: Gender Links, 2017.

Figure 5.2 provides sex disaggregated data on the CSC for the sector for 2017. On average women (67%) had slightly higher scores than men (65%). As this sector largely concerns GBV, it is a positive sign that women are overall more optimistic than

men about the progress achieved. This is especially so in Lesotho and Seychelles, which have the highest variance between women and men. In Tanzania, Botswana, Malawi, Mauritius, and Swaziland, women are slightly less optimistic than men.