

RATIFICATION, RECTIFICATIONS AND POSSIBLE IMPLICATIONS OF THE MAPUTO PROTOCOL ON WOMEN'S RIGHTS IN CAMEROON

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Abstract: Based on a legal analysis of the Maputo Protocol on Women's Rights in Cameroon, the work analyses both the positive and negative impacts of the Maputo Protocol, proposed rectifications, criticisms raised after ratification and possible implications on women's rights in Cameroon. Ratification by Cameroon poses relative problems. The methodology adopted includes collecting archival material from academic research and legal discipline. Findings show that most women lack knowledge of the Maputo Protocol's existence and thus are unaware of its relevance and applicability. The work benefits governments, women groups, and legal scholars.

Keywords: Maputo Protocol, Women's Rights, legal discipline, women groups, legal scholars.

1. INTRODUCTION

Even though there are laws that protect women's rights, women are still deprived of these rights, relegated to the back and discriminated against.

African women's history has developed into a vital and steadily expanding area of research and study, motivated as with other areas of women's history, by the development of the International Feminist Movement. African women's history also paralleled the expansion of African history following World War II, as scholars in and out of Africa began to focus on historical transformations on the African continent. Before the 1970s, there was little available research on African women's history *per se*, although information on women in Africa was found in anthropological and ethnographic studies.² This focus has continued in the preponderance of research on African women appearing in development studies. The first publications in the 1970s dealt with women and economic change and with women as political activists. By the mid-1980s, there were several important extended studies, but only in the 1990s did a substantial number of monographs on specific topics begin to appear. However, most new research is still found in journals and anthology articles. Earlier historical eras were initially neglected, partly due to the difficulty in obtaining historical sources that dealt with women before the nineteenth century.³ Written materials on earlier eras, especially from an African woman's perspective, were scarce because many African communities were decentralised and non-literate. Topics with archival source materials included elite women such as Queen Nzinga, a seventeenth-century ruler in what became known as Angola, and market women along the West African coast who interacted with European traders. Eva, a seventeenth-century African woman who settled in the early Dutch community on the Cape in South Africa and married a European colonist, is also found in archival documentation.

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² <http://www.hrea.org/erc/library/monitoring/HFHR/1-UN-Introduction.html>. accessed on 26/03/2021

³ [En.wikipedia.org/wiki/Maputo](https://en.wikipedia.org/wiki/Maputo); accessed 26/03/2021 International feminist movement is also called Women's Liberation Movement

Egypt was exceptionally strong in sources concerning women in earlier centuries. Source availability influenced a large number of studies on slave women in the 19th century, which is an important issue but did not represent the experience of most women. Enslaved people within Africa were more likely to be women, a reflection of their productive and reproductive contributions to their communities. Scholars have retrieved information on other aspects of the lives of women in the 19th century, as exemplified in research that detailed Women's work in Lesotho, Elite Women in Uganda, and Women's Vulnerability in Central Africa, Swahili Women's Spirit Possession Cults, Asante Queen Mothers' Political Influence, Religious Muslim Women in West Africa, and numerous other specific areas of women's activity. Women's history in this domain, coupled with the marginalisation of women's rights, led to the international recognition of women's rights⁴

Following the recognition that women's rights were often marginalised in the context of human rights, a meeting organised in March 1995 in Lome (Togo) called for the development of a specific protocol to the African Charter on Human and Peoples' Rights to address the rights of women. The OAU assembly mandated the African Commission on Human and Peoples' Rights (ACHPR) to develop such a protocol in Addis Ababa⁴. A first draft produced by an expert group of members of the ACHPR, representatives of African NGOs and international observers, organised by the ACHPR in collaboration with the International Commission of Jurists, was submitted to the ACHPR at its 22nd Session in October 1997 and circulated for comments to other NGOs. Revision in cooperation with involved NGOs took place at different sessions from October to January, and in April 1998, the 23rd session of the ACHPR endorsed the appointment of a Special Rapporteur on Women's Rights in Africa, mandating the rapporteur to work towards the adoption of the draft protocol on Women's Rights.⁵ The OAU⁶ Secretariat received the completed draft in 1999, and in 2000 at Addis Ababa, it was merged with the *Draft Convention on Traditional Practices* in a joint session of the Inter Africa Committee and the ACHPR.⁷ After further work at experts' meetings and conferences during 2001, the process stalled, and the Protocol was not presented at the inaugural summit of the AU in 2002.

In early 2003, Equality Now (EN) hosted a conference of women's groups to organise a campaign to lobby the African Union to adopt the Protocol, and the Protocol's text was brought up to international standards. The lobbying was successful, the African Union resumed the process, and the finished document was officially adopted by the section summit of the African Union on July 11, 2003,⁸ Bearing in mind the fact that there once existed an era in which Women's Rights were grossly marginalised⁹ through practices such as female genital mutilation, inequality, amongst others, there is, therefore, a need for a search into the methods in which such acquisition is carried, to determine the ideas which ought to be criticised and/or eradicated such as abortion and homosexuality, and those which ought to be appreciated and preserved such as elimination of discrimination against women, right to dignity, elimination of harmful practices, etc.

II. REVIEW OF ISSUES DEALT WITH IN THE MAPUTO PROTOCOL

1. Elimination of Discrimination against Women

Elimination of discrimination against women is relatively not easy for the Cameroonian Government since men still dominate and control power;¹⁰ it is a gradual step for the Cameroonian ministerial positions, the senate, amongst others. Crimes such as rape go unreported because of fear and repercussion from perpetrators of the victim and societal scepticism, condemnations and ostracism. This is so because the laws relating to sexual assaults in Cameroon favour perpetrators rather than victims. The Protocol thus acts as a new hope for women in Cameroon¹¹.

2. Elimination of Harmful Practices

Article 5 of the Protocol states that States Parties *prohibit and condemn all harmful practices that negatively affect women's human rights and are contrary to recognised international standards. States Parties take all necessary legislative and other measures to eliminate such practices, including the creation of public awareness in all sectors of society regarding*

⁴ACHPR'S 31st ordinary session in June 1995.

⁶ Addis Ababa is located in Ethiopia

⁷ International Commission for jurist ,headquarters is at Geneva Switzerland

⁵ Julienne Ondeziel Gnelenga: Congolese lawyer (the first special reporter on women's rights in Africa).

⁶Organization of African unity established in may1963 in Addis Ababa.

⁷African charter on human and people's right.

⁹African women's organization for the rectification and implementation of the Maputo protocol.

¹⁰ Elizabeth Mensch "Gender based discrimination in marriage" volume 2 page 45 2008.

¹¹Yinger and others "a new agenda for women's health and nutrition" (domestic violence and rape).pg. 44

*harmful practices through information, formal and- informal education and outreach programs*¹² These procedures were referred to as female circumcision until the early 1980s when the term “female genital mutilation” came into use, scarification, medicalisation and Para-medicalisation of female genital mutilation and all other practices to eradicate them; Provision of necessary support to victims of harmful practices through basic services such as health services, legal and judicial support, emotional and psychological counselling as well as vocational training to make them self-supporting. Protection of women at risk of being subjected to harmful practices or all other forms of violence, abuse and intolerance, a phenomenon highly practised by the Manyu people of the Ejaghams.¹³

3. Marriage/Separation/Divorce and Annulment of Marriage

The combined efforts of Articles 6 and 7 of the Protocol are that “*States Parties are expected to ensure that women and men enjoy equal rights and are regarded as equal partners in marriage. They shall enact appropriate national legislative measures to guarantee that no marriage takes place without the free and full consent of both parties. States Parties also enact appropriate legislation to ensure that women and men enjoy the same rights in case of separation, divorce or annulment of marriage.*” *The Cameroon Civil Status Registration Ordinance governs marriage in Cameroon, 1981; articles 74 &75.* Despite the country’s constitutional provisions to protect the rights and dignity of all persons, regardless of their sex or gender, equality is still a significant issue. Article 49 of the 1981 ordinance clearly recognises polygamous marriages as a statutory form of marriage¹⁴. Yet, nowhere in this ordinance is polyandry allowed. Although, the effects of this type of marriage are usually devastating not only for women but also for the children. Sadly, unhealthy competition sets in as wives compete for privileged positions while children compete for inheritance at the death of their fathers. Curiously one also notices that while the legal age for a boy to contract a valid marriage is 18 years that of a girl is 15 years.

4. Participation in the political and Decision-Making Process

Article 9(1) (2) of the Maputo protocol calls on States Parties to “... *take specific positive action to promote participative governance and equal participation of women in the political life of their countries through affirmative action, enabling national legislation and other measures to ensure that Women participate without any discrimination in all elections; Women are represented equally at all levels with men in all electoral processes...States Parties shall ensure increased and effective representation and participation of women at all levels of decision-making*”¹⁵ Many women have been integrated into the political life of the country as more women now serve as members of Parliament, mayors, municipal counsellors and top party militants of the various political parties in the country. There is an increased number of women journalists in the country today, and women-related programs are very much encouraged in the public and private media. In Cameroon, women are not legally excluded from participating in politics or public life; however, few are found in the top ranks of political parties. The political arena does not favour women because of their limited financial resources. It is noted that, out of the 180 members of Parliament, women only constitute 30.5% aggregate. The general trend shows that most women endorsed as election candidates have often been alternate rather than substantive candidates. Substantive candidates are the real candidates, while alternate candidates take the place of the substantive candidates in certain rare circumstances. In the 2013 parliamentary elections, the 22 women elected were all alternate members. The low trend of women’s participation also stems from the fact that political parties do not have any veritable policy to promote equality in their parties; women in political parties are usually mobilised for trivialities such as dancing, singing and fanfare, while serious political decisions and activities are reserved for men.¹⁶

5. Right to Education and Training

States Parties are obliged to take specific positive action to promote literacy among women, promote education and training for women at all levels and in all disciplines, particularly in the fields of science and technology, promote enrollment and retention of girls in schools and other training institutions and the organisation of programs for women who leave school prematurely.¹⁷ The Protocol called for the elimination of all forms of discrimination against women and guaranteed equal

¹² Maputo protocol.com accessed 28/04/2021

¹³ Vitals Pemunta Ngambouk: Ejaghams Traditional Practices in the Bayangi land; Cameroon. lol p m

¹⁴ “Reproductive and sexual rights in African Commonwealth Courts “volume 2;pag 509 2004

¹⁵ Ibid

¹⁶ Supra note 33.

¹⁷Article 12(2). Protocol attached to the African charter on human and peoples rights on the rights of women in Africa (Maputo)

opportunity and access in the sphere of education and training. In Cameroon, for example, government efforts in education as a tool for women's empowerment and gender equity tie with the UN assertion that education is one of the most important means of empowering women with the knowledge, skills and self-confidence necessary to participate fully in the development process. This involves the elimination of all stereotypes in textbooks, syllabuses and the media that perpetuate such discrimination, protecting women, especially the girl-child, from all forms of abuse, including sexual harassment, in schools and other educational institutions and providing for sanctions against the perpetrators of such practices, provide access to counselling and rehabilitation services to women who suffer abuses and sexual harassment, integrate gender sensitisation and human rights education at all levels of education curricula including teacher training.

6. Health and Reproductive Rights

These rights are provided for in Article 14 (1) and (2) of the protocol. States Parties ensure that the right to health of women, including sexual and reproductive health, is respected and promoted. This includes The right to control their fertility, the right to decide whether to have children, the number of children and the spacing of children, the right to choose any method of contraception, the right to self-protection and to be protected against sexually transmitted infections. Protect the reproductive rights of women by authorising medical abortions in cases of sexual assault, rape, incest, and where the continued pregnancy endangers the mental and physical health of the mother or the fetus. The Maputo Protocol demands total abortion legalisation.

The legalisation of what would be, in effect, abortion-on-demand in Africa¹⁸, as typically interpreted by International Jurists and Western Courts, the language of the Maputo Protocol would legalise any abortion for any woman at any point in pregnancy. The Protocol would abolish all effective restrictions on abortion. Abortion in the Cameroonian penal code is guided by Section 337(1) (2) and 3(a) (b). The effectiveness of abortion laws can be seen in the Court's Opinion by Justice Blackmun, Chief Justice Burger's concurring opinion and Justices White's dissenting opinion in the American case of Roe v. Wade (1972)¹⁹. This case was the most significant in the history of abortion in America.

It provided that abortions should be legal if there were a convincing reason to have one. This decision was immediately updated in Doe v. Bolton²⁰ this is in line with the Cameroonian Constitution. The case of Griswald. v. Connecticut²¹ was to stand as a stepping stone to Roe. v. Wade. The case provided that it was unconstitutional to outlaw contraceptives of any sort. O'Connor, Kennedy and Souter's Court Opinion in the case of Planned Parenthood .v. Casey, 1992, stemmed from laws that required abortion providers to follow specific rules such as parental consent and notification of the baby's age. The court's decision provided the rules which abortion providers must work with to comply with the Law²²

7. Right to Inheritance

Article 21(1) (2) states that a widow has the right to an equitable share in the inheritance of the property of her husband; has the right to continue to live in the matrimonial house. In remarriage, she retains this right if the house belongs to her or she has inherited it. Women and men can inherit equitable shares of their parents' properties.

In Cameroon, the custom which deprives women of their succession rights no longer holds with the adoption of the Constitution of June 2 1972, which proclaims the equality of Cameroonians irrespective of their sex. The rule in Zamcho Florence v. Chibikom Peter Fru and Others (1997) 1 CCLR 212²³, a female child's rights to succession in Cameroon was recognised and established in the landmark case in which Lum fought against her brother and against cultural beliefs and verdict over her father's estate.

The fight started in 1986 and took the parties from the Mezam High Court, through the Court of Appeal to the Supreme Court and back to the South West Court of Appeal. At the close of the trial, her rights over inheritance were established. Before this landmark case recognising a female child's rights to succession was decided, customary law in the Anglophone regions of Cameroon did not recognise the rights of female children to inherit. But by virtue of Section 15 of the Southern Cameroon

¹⁸R.N, John Jefferson Davis PhD. David C. Reardon PhD., Abortion (Abolish human abortion), life issues institute, Black Genocide. Org, Heritage House76Inc&The center for Bio-ethical Reform.

¹⁹ 410 U.S 113432 U.S438(1977)Thesis the first in a series of 1977 abortion

²⁰410 U.S.179(1973)

²¹432 U.S. 182(1965)

²² Jeremy Vasco, "A new agenda for women's health and nutrition"2007, page 44.

²³Black South Africans (the customary law of succession) , 2004 edition; page 7.

High Court Law (SCHCL) of 1955, which sanctions the application of post-1900 English Statutes in matters of Probate, Divorce and Matrimonial Causes, the 1925 Administration of Estate Act applicable in the Anglophone regions of Cameroon made it possible for female children to succeed in the absence of the male children. In the above case, the intestate deceased was survived by five widows, two concubines and 38 children, including the appellant, a married woman and the eldest child of the deceased. She applied to and was made temporary next-of-kin by the Mankon Customary Court²⁴ and, with the declaration, obtained letters of administration which, like the next-of-kin declaration, were also supposed to be temporary. Some of her male relatives were dissatisfied with the grant of letters and brought an action for their revocation. Having failed in the High Court, they appealed to the Bamenda Court of Appeal, which revoked the letters because the respondent could not inherit her father's property, given that she was now married into another family. Dissatisfied with the Bamenda Court of Appeal's Decision, the woman proceeded to the Supreme Court, which quashed and annulled the lower appellate court's decision. The *ratio decidendi* of the ruling was as follows: Not only was the decision of their learned lordships based on sex discrimination in gross violation of the ... contents of the preamble of the Constitution, but it was in total misrepresentation of section 27 of the Southern Cameroon High Court Law which ensures the observance of the native law and custom only on the sole condition that it is neither repugnant to natural justice, equity and good conscience nor incompatible either directly or by implication with any law in force in the Republic, that they applied the so-called principle of native law and custom which sustained discrimination based on the sex of individuals."

After this decision, female succession established a precedent that the lower courts so far follow. Previously it would have been heretical or unheard of for a woman to aspire even for the office of a temporary successor, as always, there would be male relatives playing the caretaker role. But what if there is no male in the deceased's family? That decision did not, however, end the squabbles in the Chibikom family, due particularly to the fact the next-of-kin declaration was temporary, a point which the Supreme Court failed to address. The Chibikom case is a milestone in the evolution of women's succession rights in Anglophone Cameroon. It was the first decision on that point from that part of the country to get to the Supreme Court. From the decisions handed down by the courts, it appears that until then, the Supreme Court was not aware that the appellate jurisdictions (the Appeal Courts) of the Anglophone regions almost did not recognise woman's rights to inherit property, whereas that right had been recognised in Francophone Cameroon.

8. Special Protection of Women with Disabilities

Article 23 of the Protocol ensures the protection of women with disabilities and takes specific measures commensurate with their physical, economic and social needs to facilitate their access to employment, professional and vocational training as well as their participation in decision-making; ensure the right of women with disabilities to freedom from violence, including sexual abuse, discrimination based on disability and the right to be treated with dignity"²⁵.

III. EFFECTS OF THE PROTOCOL IN CAMEROON AND ITS APPLICABILITY

1. POSITIVE EFFECTS

a. Socio-economic

The Maputo Protocol is indeed a positive social step towards combating discrimination and violence against women and is significant in promoting and ensuring respect for African women's rights. It is a comprehensive listing of women's rights. It calls on the State to enforce laws about rape and promote girls' education and education on gender equality. The Maputo Protocol gives women the right to peace, education and training, and economic and social welfare. The Government has recently strengthened partnerships with women's civil society organisations and recognised the role of women's organisations in raising awareness of women's rights

b. Right to Work

Concerning women's rights to work in Cameroon, article 11 of the Constitution, section 82(1) (2), and section 3 of the Labor Code recognise the rights of women to work. However, a law introduced in 1981 allows husbands to oppose their

²⁴*Ibid.*

²⁵"Reproductive and Sexual Rights in African Commonwealth Courts", Volume II Gender-Based Discrimination in Marriage, volume 2; page 45

wives' rights to work based on the interests of the household and the children. Women in Cameroon have the right to 14 weeks of maternity leave, paid at 100 % of earnings.

c. Sexual orientation

Apart from the situation of unwanted babies, women with the clauses enshrined in the Maputo Declaration get protected from their sexual choice/orientation. It has been observed that the majority of girls seek abortions to avoid expulsion from schools and social condemnation from society. This leads to clandestine abortions and delays in procuring good medical attention. Adolescents then find themselves with a higher rate of abortion complications. This is highest in countries in which abortion is restricted. The granting of abortion rights, therefore, enhances population maintenance. Suppose women are oriented on its existence and educated on the advantages of the Maputo Declaration on the African economies²⁶ in terms of population control, then it will be an added advantage.

d. Religion and the Protocol

Churches have concerns about abortion and its unspiritual hitch, but religion and law hardly ever come to terms with each other²⁷. The Maputo Declaration works on the set of rules that improve the situation of society, according to what is regarded as problematic in the time. Religion has to do with ethical obligations.

2. NEGATIVE EFFECTS

A. Political Effects

Even after the ratification of the Protocol by the Cameroonian Government, Women remain grossly underrepresented in politics. Discriminatory attitudes about the role of women in public life create barriers to increasing women's participation. In its 2017 report to the Committee on the Elimination of Discrimination against Women, the Government reported the widely held view that women's abilities do not naturally predispose them to engage in politics, a factor underlying the poor representation of women in public life.

b. Land Ownership

Although the law itself does not discriminate against women, customary discriminatory practices continue to restrict women's access to land, legally making it difficult for the Maputo Protocol to be fully implemented²⁸; any person may individually or collectively acquire land rights as long as a land title that designates such property rights is obtained. Due to discriminatory inheritance practices, very few women own land, particularly in rural areas. In assessing women's access to land, the Economic Commission of Africa (ECA) gave Cameroon a score of 1 out of a possible 22.

1. ECONOMIC EFFECTS

With respect to ownership of property other than land, the law in Cameroon discriminates against women. According to the Civil Status Registration Ordinance No 8102 of June 1981, married women are not fully entitled to use, enjoy or sell their property. The law grants the husband the right to administer communal property, allowing him to sell or mortgage the couple's property without the wife's consent. This law is influenced by customary law, the cases of Achu v Achu and Lum .v. Fru (supra) powerfully illustrate this notion. The law also stipulates that the husband has the right to manage his wife's personal property and exercise all rights to it. And with the coming of the Protocol to Cameroon, little or nothing has been done to amend such laws to suit the provisions of the Maputo Protocol.

IV. EFFORTS OF INTERNATIONAL MOVEMENTS TOWARDS THE PROTOCOL

A. WOMEN IN LAW AND DEVELOPMENT IN AFRICA

Movements such as Women in Law and Development in Africa in Lomé, Togo, called for the development of a specific protocol to the African Charter on Human and People's Rights in March 1995 to address the rights of women in Africa. The OAU assembly mandated the African Commission on Human and Peoples' Rights (ACHPR) to develop such a protocol at its 31st Ordinary Session in June 1995 in Addis Ababa.

²⁶Demographic Health Surveys (DHS) (2004) Cameroon 2004 Executive Summary (English),

²⁷Harvard Law Review ; Positivism and the Separation of Law and Morals, (1957-58), p. 601,

²⁸Nana Stella Fabu,; An analysis of the Economic Situation of Cameroonian women, 2016 p37

B. AFRICA COMMISSION FOR HUMAN AND PEOPLE'S RIGHTS

A first draft produced by an expert group of members of the Africa Commission for Human and Peoples Rights (ACHPR), representatives of African NGOs and international observers, organised by the ACHPR in collaboration with the International Commission of Jurists, was submitted to the ACHPR at its 22nd Session in October 1997 and circulated for comments to other NGOs. Revision in cooperation with involved NGOs took place at different sessions from October to January, and in April 1998, the 23rd session of the ACHPR endorsed the appointment of Julienne Ondeziel Gnelenga, a Congolese lawyer, as the first Special Rapporteur on Women's Rights in Africa, mandating her to work towards the adoption of the draft protocol on women's rights. The OAU Secretariat received the completed draft in 1999, and in 2000, at Addis Ababa, it was merged with the Draft Convention on Traditional Practices in a joint session of the Inter Africa Committee and the ACHPR. After further work at experts' meetings and conferences during 2001, the process stalled, and the Protocol was not presented at the inaugural summit of the AU in 2002²⁹.

C. EQUALITY NOW

In early 2003, Equality Now (EN) hosted a conference of women's groups to organise a campaign to lobby the African Union to adopt the Protocol, and the Protocol's text was brought up to international standards. The lobbying was successful, the African Union resumed the process, and the finished document was officially adopted by the section summit of the African Union on July 11, 2003³⁰.

D. FEMNET

FEMNET is a Pan-African, membership-based African women's rights network founded in 1988 with a unique mandate that involves working with inter-governmental organisations such as the AU and the UN. One of the roles FEMNET plays within the Coalition is the advocacy work around the Protocol. FEMNET has also produced several Coalition books, including a simplified version of the Protocol in English, French and Swahili. FEMNET also convenes annual reviews and planning workshops for the entire Coalition where members share experiences working on the Protocol both at national and regional levels: they then plan jointly, including strategic planning with specific time-bound targets (ratification, raising awareness, targeting various groups, reviewing specific laws, producing materials, etc.). As an organisation, FEMNET has mainstreamed the Protocol into all their projects. For example, over the last two years, they have been working on sexual and reproductive health in Eastern Africa. They worked in partnership with several organisations to get a caravan that went through Kenya, Tanzania, Rwanda and Uganda, talking about the rights to sexual and reproductive health, meeting with policymakers, media, religious groups, and citizens, and disseminating a lot of information while collecting voices of those affected by maternal mortality and morbidity. They took these voices to the AU Summit in 2003 in Kampala to make a compelling case for issues related to reproductive and maternal health³¹. Following that, they began to lobby parliaments in partnership with some of their national Members in these countries to play their oversight role with regard to the commitments their governments have made to implement the rights fixed within the Protocol.

V. CRITICISMS OF THE MAPUTO PROTOCOL

A. RELIGIOUS CRITICISMS

1. CHRISTIANS

There are two contentious issues in the Maputo Protocol which have brought about its opposition; the article on reproductive health, especially on the legalisation of abortion, which Catholics and other Christians mainly oppose; and the provisions on female genital mutilation, polygamous marriages and other traditional practices. These are some of the reasons that have led to the slow ratification of the Protocol by many African states. Out of the 55 African Union Member states 52 have so far signed the Protocol and as of June 2018, 36 African countries have ratified it, while 15 of the signatories are yet to do so. Three Countries have neither signed nor ratified the Maputo Protocol³².

²⁹AU Executive Council endorses protocol on women's rights. Pan African News Agency (PANA) Daily Newswire, September 7, 2003 page 34

³⁰" Respect for Rights, Desires is the only path to Peace", , Catholic News Service; January 8, 2015

³¹UNICEF: Towards ending female genital mutilation, press release UNICEF, 7 February 2006.

³²<http://au.int/newsevents>. accessed on 1/06/2021.

Arch Bishop Christian Tumi made public statements criticising the Government for joining 35 other African nations by ratifying the Maputo Protocol. According to him, the Government's decision to ratify this much-needed women's rights document was an offense to the human family and opens the door to legalising homosexuality.³³ The Christians carried placards, some of which read "homosexuality is an abomination" and "do not legalise sin." The association of the African conferences of Bishops and the one in Madagascar had spoken, and quite a number of dioceses have already spoken. That is why organised manifestations ended with a mass to pray for those involved in these practices. On April 19, 2007, a joint statement was released by many prominent African bishops as quoted: *"We would like to draw the attention of the political leaders of Africa to our strong reservations concerning some aspects of Article 14 of the Maputo Protocol... We observe that the rights of women to protect and promote their sexual and reproductive health in this article excludes the rights of the couple, the family and the larger society (civil, traditional, cultural and religious) from playing a part in promoting precisely women's rights to their health care. For instance, the authorisation to have recourse to abortion and the choice of any method of contraception by the women (Article 14, (1)c (2) c) is particularly incompatible with our Catholic Church teaching, tradition and practice... Additionally, the Church has continually affirmed since the first century that it is a moral evil for any person or agent to procure an abortion. This teaching has not changed and remains unchangeable... In light of this, we observe that abortion and infanticide are abominable crimes to almost all of our African cultures, traditional societies and religions."*³⁴

Pope Francis has described the Protocol as "an attempt to trivialise abortion surreptitiously". The Roman Catholic bishops of Africa oppose the Maputo Protocol because it defines abortion as a human right. The US-based pro-life advocacy organisation, Human Life International, describes it as "a Trojan horse for a radical agenda." In Uganda, the powerful Joint Christian Council opposed efforts to ratify the treaty on the grounds that Article 14, in guaranteeing abortion "in cases of sexual assault, rape, incest, and where the continued pregnancy endangers the mental and physical health of the mother or the fetus," is incompatible with traditional Christian morality. In an open letter to the Government and people of Uganda in January 2006, the Catholic Bishops' Conference of Uganda set out their opposition to the ratification of the Maputo Protocol. It was nevertheless ratified on July 22 2010.³⁵

2. MUSLIMS

In Niger, the Parliament voted 42 to 31, with 4 abstentions, against ratifying it in June 2006. In this Muslim country, several traditions banned or deprecated by the Protocol were common. Nigerian Muslim women's groups in 2009 gathered in Niamey to protest what they called "the satanic Maputo Protocol", specifying limits to the marriage age of girls and abortion as objectionable. In Djibouti, however, the Protocol was ratified in February 2005³⁶ after a sub-regional conference on female genital mutilation called by the Djibouti Government and No Peace without Justice, at which the Djibouti Declaration on female genital mutilation was adopted. The document declared that the Koran does not support female genital mutilation; on the contrary, practising genital mutilation on women goes against the precepts of Islam.

3. OTHER CRITICISMS

Open letters were forwarded to President Biya by prominent critics, the likes of Chief A.S Ngwana³⁷; Dr. Alphonse Fankem, a Panelist, focused his presentation on abortion risks, especially on a woman's health, that abortion complications lead to death, perforation of the uterus, kidney and liver problems and in some cases, affect the sight. He enjoined all Catholics to work against anything that puts human life in jeopardy. Africa is not overpopulated. The assumption is often used to promote the Maputo Protocol and other such ideological plans, assuming that there are too many black people and that the world's wealthy nations must work to reduce their numbers in cooperation with African governments. Population projections for Africa usually assume that the AIDS pandemic will be brought under control quickly, which is a questionable assumption. Africa is a land of tremendous natural resources that would be wealthy if it did not suffer from political and economic exploitation. The Maputo Protocol is another example of wholesale social engineering imposed on Africa.³⁸

³³ Cardinal Tumi "Abortion, the door to legalize Homosexuality" the Cameroon panorama ,13 July 2009 pg. 23.

³⁴ Thaddeus M .Baklinski: Lifesite news letters, July 17 2009 accessed 2/06/2021

³⁵ UNICEF: towards ending female genital mutilation, press release, UNICEF, February 2016

³⁶ African Union: Rights of women Protocol adopted, press release, Amnesty international, 22 July 2003

³⁷ National Chairman, Cardinal Democratic Party (CDP) of Cameroon and human rights defender.

³⁸ Supra note 5.

VI. CONCLUSION

The attempts and advancements made by the State in putting into place some legal instruments and policies for promoting and protecting Women's Rights should be acknowledged. The difficulties and challenges recognised as stated in the state reports towards ensuring the effectiveness of this Protocol cannot be underestimated. Cognisance has been taken of the State's proposals to increase their effectiveness in promoting women's rights through grassroots awareness and advocacy, legislative reforms, reduction of poverty and HIV/AIDS transmission, strengthening of institutional mechanisms, and strengthening of partnerships with development partners and civil society.

A clear objective of the Maputo Protocol is to implement abortion in African countries. If the purpose of the Maputo Protocol is to fight female genital mutilation, abortion and other women's rights issues, the objectives are attained. Morality and good conscience are the foundation of religious bodies. The Protocol should not be used to introduce practices viewed by society to be negative such as homosexuality, gay marriage and the like.

Africans have always treasured life and family. The Maputo Protocol is an unprecedented document seen as an assault on developing human life in the womb and the traditional family. Africa's power lies in the vibrancy of its young population, its natural resources, and the Maputo Protocol inspired by Europeans, themselves presently suffering from a declining population; Africa must preserve family values. Bearing in mind the equitable maxim, "*summa jus summa injuria or summa injuria lex summa crux*", which holds that one's quest for optimum rights can lead to the highest injustice, the demands of the Maputo Protocol, can instead lead to the highest injustice done to women; or the extensive need for equality by women can spark up a female revolution which might lead to another world devastation.

All these, notwithstanding that the complete establishment of women as men's equals are almost unattainable in Cameroon; if attainable, a gradual process will not quickly be established. It is necessary to highlight and recommend that in addition to the measures indicated in the state report, the elimination of discrimination and the respect of women's rights will be more effective through the following: The formulation of programs and actions geared towards the elimination of patriarchal foundations and established stereotyped roles; including the elimination of societal attitudes hindering the *jure* and the *facto* equality of women is necessary in the promotion of women issues. The improvement of access to information in general and to gender issues in particular; the creation of monitoring indicators to evaluate the progress of the status of women and mainstreaming of gender in all laws, policies and programs; and the repeal of all discriminatory laws as well as enforcement mechanisms for the implementation of national and international instruments that ensure gender equality are vital.

One can therefore conclude that African Nations that have not yet ratified the Maputo Protocol should tread with caution. If preventing ratification is impossible, States should make formal reservations to the pro-abortion language in article 14.

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