



REPORT OF THE VIRTUAL MEETING OF THE REGIONAL PARLIAMENTARY MODEL LAW OVERSIGHT COMMITTEE HELD ON FRIDAY 09th APRIL 2021 AHEAD OF THE 49th PLENARY ASSEMBLY VIRTUAL SESSION

Seven Chairpersons of Standing Committees attended the meeting, namely:

1. Hon. Bertha M. Ndebele, Chairperson, HSD&SP (MALAWI)(*Acting Chairperson*)
2. Hon. Jeronima Agostinho, Chairperson, DG&HR (MOZAMBIQUE)
3. Hon. Darren Bergman, Vice-Chairperson, DH&HR (SOUTH AFRICA)
4. Hon. Strydom Mpanza, Vice-Chairperson, HSD&SP (ESWATINI)
5. Hon. Peete Peete Ramoqai, Chairperson, GEWA&YD (LESOTHO)
6. Hon. Masy Goulamaly Marie Jeanne, Vice-Chairperson (GEWA&YD) (MADAGASCAR)
7. Hon. Maria do Carmo do Nascimento, Proxy for Hon. Ruth Mendes, Vice-Chairperson, TIFI (ANGOLA)

Apologies were received from:

1. Hon. Anele Ndebele, Chairperson (TIFI), ZIMBABWE
2. Hon. Andre Leon Tumba, Chairperson (FANR), DRC
3. Hon. Marapeleng Malefane, Vice-Chairperson (FANR) LESOTHO
4. Hon. Anne Marie Mbilambangu, Chairperson (RWPC) DRC
5. Vice-Chairperson (RWPC) TANZANIA, not constituted

1.0 WELCOME REMARKS BY THE ACTING CHAIRPERSON – HON. B. NDEBELE

In her opening remarks, the Acting Chairperson welcomed and thanked Members and staff for making time to attend the meeting. She proceeded to highlight that the RPMLOC is a young organ having been established in June 2018. The Acting Chairperson advised the meeting that the RPMLOC is responsible for tracking implementation of Model Laws by SADC Member states, which she noted had been slow to date. She also stated the Committee should anticipate gaining knowledge from the presentations and interventions that would be delivered in the meeting.

She emphasized that until the Model Laws are domesticated and implemented, they have no substantial value and that as the Committee works under the theme “*Augmenting the enhanced execution of Regional obligations by National Parliaments*” Members must be fully aware of what lies ahead.

Lastly, the Acting Chair appreciated the work done by the SG and her staff and declared in preparing for the meeting, which she then declared officially opened

2.0 PRESENTATION ON THE ROLE OF PARLIAMENTARIANS IN DOMESTICATION OF MODEL LAWS - WITH SELECTED FOCUS ON THE SADC PF MODEL LAWS ON HIV/AIDS AND ELECTIONS - PROF OAGILE KEY DINGAKE

Dr. Dingake’s made a presentation on the Role of Parliamentarians in the Domstication of Model Laws. A number of salient features arose from his presentation these are—

1. that the SADC vision of integration and eventual harmonization of laws would suffer a serious setback if the implantation gap is not closed;
2. that SADC-PF is in a state of evolution and moving towards a supranational body with full legislative powers in the course of time - fully embraced by national parliaments and perhaps less so by the national executives;
3. that the failure or reluctance to embrace its Model Laws, by national parliaments, may suggest that the institution may be living ahead of its time;
4. that it is necessary to heed the fact that states are sovereign and, for the introduction of foreign laws into their legal systems to be accommodated, the sovereign's approval is necessary through its Parliament;
5. that the systems of SADC Member States are either Dualistic or Monist and accordingly have a bearing on the domestication of laws;
6. that Model laws are flexible text that allow Member States to make changes to suit their legal systems; and
7. that even in the absence of domestication Model Laws may become soft law.

2.0 OVERVIEW OF THE MANDATE OF THE RPMLOC AND PRIORITY AREAS FOR 2021

Ms. Elizabeth Hove made two presentations presented the overview of the mandate of the RPMLOC. In her brief presentation she informed the Committee that their Terms of Reference emanated from Article 16 (4) of the Constitution. Ms. Hove summarised the work of the Committee to be centred on ensuring that Models Laws are seen to be domesticated at national level and that the Committee’s priorities are informed by its mandate and the standing resolutions regarding its work. The Committee is also guided by

the SADC PF Strategic Plan (2019-2023). Which she briefly shared the SADC Pf Mission, Vision and Strategic Objectives for the benefit of Members.

Ms. Hove then went on to indicate the priorities of the Committee for 2021. She informed the Committee that there would be two Statutory Meetings for the purposes of touching base; and that there are two programs that are to be conducted by virtual means. The programs and their expected outcomes are -

Activity	Objective	Expected Outcome	Timeline
Benchmark with Zambia on the domestication of Model Laws	<ul style="list-style-type: none"> •Familiarise the RPMLOC with the context in which Model Laws are domesticated in Zambia through interface with stakeholders. •Assess and document Zambia's progress in domesticating the Model Laws and report to Plenary. 	<p>Enhanced knowledge for RPMLOC Members on progress on and strategies for the domestication of Model Laws in trans-boundary contexts such as border towns.</p> <p>Adoption and utilisation of best practices on the role of Parliament in domestication Model Laws.</p>	May
Monitoring the domestication of the Model Law on Child Marriages	<ul style="list-style-type: none"> •Acquaint the RPMLOC with the context in the Model Laws on Child Marriages has been domesticated in Zimbabwe •Document Zimbabwe's progress in domesticating 	<p>Enhanced knowledge for RPMLOC Members on progress on and strategies for the domestication of Model Laws in trans-boundary contexts such as border towns.</p> <p>Adoption and</p>	August

	the Model Law on Child Marriages	utilisation of best practices on the role of Parliament in domestication Model Laws.	
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3.0 PRESENTATION ON THE COST OF INACTION- KEY AREAS FOR DOMESTICATION AND OVERSIGHT FOCUSING ON THE MODEL LAW FOR ERADICATING CHILD MARRIAGES AND PROTECTING CHILDREN ALREADY IN MARRIAGE - MS EVA JHALA

The topic of the Cost of In-action Key Areas for Domestication and Oversight Focusing on the Model Law of Eradicating Marriages was made by Ms. Jhala. Ms. Jhala's presentation consisted of four main areas. She began by making the general observation that the Model Law on Eradicating Child Marriage and Protecting Children already in Marriage responds to a resolution of the 35th SADC Parliamentary Forum Assembly held in Mauritius in June 2014 which called for concerted efforts to eradicate child marriages in the SADC Region and was adopted in 2016 at the Forum's 39th Plenary Session held in Ezulwini, Kingdom of Swaziland.

She then went on to inform the meeting of the Key Areas of Model Law for Domestication by SADC Member States. Similarly to Dr. Dingake she mentioned that matter of Sovereignty of States results in delays in domestication. She accordingly highlighted the dualist and monist legal systems.

With regards to effective oversight she underscored that Parliamentarians and Members of the SADC PF and Members of the RPMLOC, in accordance with the terms of reference under the SADC-PF Constitution, it is imperative that the Committee holds the Executive accountable for domestication of the Model Law on child marriages, using oversight functions.

Turning to the Cost of In-action Ms. Jhala opined that it is a truism that the dimensions of gender, including customs, economic, political and legal factors, play a crucial role in determining the cost of inaction, especially as custom does not provide for automatic changed social or economic conditions that may undercut the rationality of a custom; accordingly a proactive approach by the RPMLOC is necessary.

4.0 INTERVENTION BY THE AU GOOD WILL AMBASSADOR – MS. NYARADZAI GUMBONZVANDA

Ms. Gumbozvanda expressed her excitement by the work done so far especially with regards to Model Laws particularly the SADC Model Law on Eradicating Child Marriages as she was part of the process in its development. She spoke of a number of matters but of note to the RPMLOC

was that the work that they are tasked with the authority to unleash the legislation that could change the face of SADC Member States.

In conclusion, the Committee gathered a wealth of knowledge through induction on pertinent matters relating to their work as required by the Statutory Provisions of the Forum and accordingly intends to map a way forward to ensure that set targets are accordingly met.

Hon. Bertha Ndebele
VICE-CHAIRPERSON

Elizabeth Hove
COMMITTEE SECRETARY