



REPORT OF THE REGIONAL PARLIAMENTARY MODEL LAWS OVERSIGHT COMMITTEE (RPMLOC) TO THE 54TH PLENARY ASSEMBLY

THEME: “GARNERING INSIGHT INTO THE PACE OF SIGNATURE AND RATIFICATION OF SADC PROTOCOLS”

Mr President, I beg to move that this Plenary Assembly do adopt the Report of the Regional Parliamentary Model Laws Oversight Committee to the 54th Plenary Assembly of the SADC Parliamentary Forum, laid on the table on 22nd November 2023.

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1.0 COMPOSITION OF THE COMMITTEE

The Committee consisted of the following Members:

1. Hon. Ishmael Ndaila Onani, MP, Malawi (**Chairperson**)
2. Hon. Shally Josepha Raymond MP, Tanzania (**Vice-Chairperson**)
3. Hon. Regina Esparon, MP, Seychelles
5. Hon. Rosie Bistoquet, MP, Seychelles
6. Hon. Dithapelo Keorapetse, MP, Botswana
7. To be advised, Lesotho
8. To be advised, Lesotho
9. To be advised, Zimbabwe

2.0 TERMS OF REFERENCE

The functions of the Regional Parliamentary Model Laws Oversight Committee (RPMLOC) are provided for in Article 17(4) of the Constitution of the SADC Parliamentary Forum, *inter alia*, monitoring and evaluation of progress made by SADC Member States in domesticating SADC Model Laws and implementing related laws and policies; and facilitating awareness on specific issues in the Model Laws by engaging with appropriate authorities, grassroots and community-based organisations and the private sector, including the media and encouraging National Parliaments and appropriate authorities to establish a desk/focal person or subcommittees to co-ordinate actions on the various Model Laws. Further, according to Rule 20 of the SADC PF Rules of Procedure, the RPMLOC reports directly to the Plenary Assembly.

3.0 NUMBER OF MEETINGS HELD AND MEETING DATES

The Committee held one meeting from 28th to 29th August 2023 at Radisson Blu Hotel, Johannesburg, South Africa during which it deliberated on the theme “*Garnering insight into the pace of Signature and Ratification of SADC PROTOCOLS*”.

4.0 BACKGROUND

The Regional Parliamentary Model Laws Oversight Committee (RPMLOC), also known as the “Oversight Committee” is established as an organ of the Forum pursuant to Articles 10(1) and 17 of the SADC-PF Constitution. The overarching objective of the Oversight Committee is to act as a dedicated Forum organ to monitor the domestication of Model Laws developed by the Forum, as well as related instruments such as Minimum Standards, Guidelines and related SADC Protocols. Since its inception, the work of the Committee has been crucial to ensure that domestication of Model Laws and related norms becomes a structured activity which is carefully monitored, reviewed and reported upon by national Parliaments in collaboration with Line Ministries.

Since early 2000s, the Forum has also been consistently involved in familiarizing SADC Member Parliaments with SADC Protocols which are developed under the SADC Treaty in view of promoting regional integration by domestication and achieving a harmonization of legal norms at national level. In 2007, the Forum in collaboration with Safer Africa published a Compendium of SADC Protocols and other legal instruments which included more than 20 SADC Protocols such as those on health, education and trade, which have been duly approved by the SADC Council and Summit for application at national level. Since 2007, more Protocols have been approved by the Summit of Heads of States and Government, including the landmark Revised SADC Protocol on Gender and Development (2016) which heightens gender equality by focusing on gender mainstreaming and other measures.

However, it is a stark truth that in 2023, the ratification of SADC Protocols and related instruments have been a challenge noted at the regional level in relation to which an assessment leading to a comprehensive report with clear recommendations is currently being undertaken at the level of the SADC Secretariat. The slow pace of ratification was noted during the proceedings in the margins of the 43rd SADC Council and Summit in Angola and Member States were encouraged to fill in the study questionnaire in that regard.

It was thus an opportunity for the RPMLOC to meet in line with its mandate under the Constitution to consider issues relating to the ratification and domestication of SADC Protocols in order to gain parallel insights regarding the assimilation of Model Laws and the domestication strategies to be adopted. Further, the meeting was also aimed at giving the members a picture of what obtains in member countries regarding the domestication of the Model Law on Child Marriage and Protecting Children Already in Marriage. In this regard, the Committee received two moving and informative testimonies on child marriage, one from Loveness Mudzuru a survivor of child marriage and an activist in eradicating child marriage and protecting children already in marriage. The other from Dr. Nyaravandzayi Gumbonzvandai, AU Goodwill Ambassador on child marriage.

Furthermore, the Committee received an insightful presentation by the SADC PF Secretary General on: Stocktaking of status of ratification of SADC Protocols and related instruments to date and Stocktaking of challenges and bottlenecks in the ratification of SADC Protocols – The regional perspective. The Committee also received three informative country presentations on the ratification of international instruments which further highlighted challenges and bottlenecks in the ratification of such international instruments in particular, SADC Protocols. These presentations gave the members a picture of what obtains at national level in as far the ratification and domestication of international instruments is concerned and made recommendations for addressing the said challenges and bottlenecks. In this regard, the Members received presentations from three member countries; namely, Eswatini, Angola and Zambia.

5.0 SUMMARY OF PRESENTATIONS

yhA synopsis of the key issues raised in the presentations made during the meeting is set out below.

- a) The Committee noted the need to encourage Member Countries to sign the Agreement Amending the SADC Treaty for transformation of the Forum to a SADC Parliament so that the SADC Model Laws could be binding on Member Parliaments and not just persuasive. In this regard, Members noted with concern the SADC Member Countries tardiness in ensuring the transformation process as, since only 9 Member States had signed the Agreement out of the 12 required signatures for the Agreement to come into force. Further, the Members noted that the latter process was yet to be followed by signing and ratification of the relevant Protocol which has to be done within a period of six months after signing of the SADC Treaty.
- b) The Committee noted with appreciation from the testimonies of the child marriage survivor and activist and the AU Ambassador on Child Marriage that there was a lot being done to address child marriage in the region and in domestication initiatives of the SADC Model Law on Eradication of Child Marriage and Protecting Children Already in Marriage.
- c) The Committee noted the recommendations put forward by the child marriage survivor and the AU Ambassador on Child marriage, in particular the criminalization of child marriage; engaging with religious leaders to ensure that no culture nor religion should be used to encourage child marriage or forced marriage or sex with a child; the enforcement of court decisions that seek to implement the eradication of child marriage, a case in point being the Tanzanian landmark ruling against child marriage that all marriages under 18 years were illegal and unconstitutional, and that there was need for research in child marriage and mental health as the victims and survivors go through long-lasting trauma and mental challenges.
- d) The Committee was, through the update on actions taken by the Secretariat, informed of the milestones in ensuring that the Committee implemented its mandate of monitoring the domestication of SADC Model Laws. In particular, the development and implementation of the scorecards to track the progress on domestication of the Model Laws in the Member States.
- e) The Committee noted with appreciation that the SADC PF exists to support the implementation capacity of SADC with regards to the SADC Protocols and to offer support where it was possible in order that there

was no duplication of efforts by the two institutions in enhancing regional cooperation and development.

- f) The Committee noted with concern the challenges and bottlenecks encountered in ratification and domestication at national level and appreciated the recommendations and strategies for possible solutions to address the identified challenges and bottlenecks, in particular the role of the Committee and the members of Parliament in addressing the latter.
- g) The Committee further noted the obstacles which hamper ratification namely: competing international interests; misalignment of national policies; unwillingness to take ownership; the leftist versus the rightist debate; lack of visibility on policies. Further, the Committee noted from the stock taking of the ratification of SADC Protocols that international law moves quickly and must be attended to urgently to address issues of mutual interest. Further that at regional and international level policy visibility was crucial in addressing such issues.
- h) The Committee also noted the issues that were provided for in the SADC Protocols and which would be addressed and implemented with the ratification of the Protocols, which needed to be given priority by the Members of Parliament, including the issue of the VISA exemptions among the SADC Member States which is addressed by the Protocol on the Facilitation of Free Movement of persons; the status of Gender Based Violence in the SADC Region; and Trade and Economic Integration issues in the SADC region such as those addressed by the African Continental Free Trade Area (The AfCFTA Agreement). Further, the Committee noted that there was a Guide to the AfCFTA Agreement and a module for Parliamentarians offered by TRALAC to assist them in monitoring the implementation of trade related obligations by their governments.
- i) The Committee noted that Members of Parliament should exercise their oversight role through putting questions and raising motions and exercise their mandate through Parliamentary Committees to put pressure on the Executive to speed up ratification of SADC Protocols and other international instruments.
- j) The Committee further noted that Parliaments should develop effective monitoring systems at national level to track ratification and domestication and enactment of the laws required to give effect to international instruments.
- k) The Committee appreciated that the tracking of the ratification of Protocols and domestication by member Parliaments to give effect to

international instruments could be done by the development of effective monitoring systems at national level.

6.0 COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

Based on the presentations, the Committee:

- 1. Emphasized** that Members of Parliament must champion the SADC agenda in Parliament by exercise their oversight role in ensuring the ratification and domestication of SADC Protocols and that this could be done through questions and motions and deliberating such issues in Parliament Committees.
- 2. Reaffirmed** that ratification and domestication of SADC Protocol was a vehicle for regional cooperation and integration in addressing issues of mutual interest in the SADC region.
- 3. Reiterated** that member countries must address the challenges and bottlenecks encountered at national level to ensure the timely ratification and domestication of SADC Protocol by member countries.
- 4. Realised** that despite the adoption of the SADC Model Law on Eradicating of Child Marriage and Protection of Children Already in Marriage, some Member Countries have done a lot in addressing the issue of child marriage and that some did not seem to be putting the required effort.
- 5. Noted** with regret the tardiness of some SADC Member states in making the SADC PF transformation a reality and to ensure that SADC Model Laws are binding in Member States.
- 6. Reiterated** that Member Parliaments should ensure that adequate funds are allocated to programmes, activities or sectors that relate to the ratification and domestication of SADC Protocols and develop mechanisms for monitoring the processes of ratification and domestication of the Protocols.
- 7. Noted** with appreciation the active role SADC PF Secretariat was playing in ensuring the monitoring of the domestication of the SADC Model Laws through the development and implementation of the scorecards to track the progress on domestication of the Model Laws in the Member States.
- 8. Recognised** the support offered by the SADC Secretariat in enhancing regional cooperation and development through capacitating the Committee and Member Parliaments in ensuring the ratification and domestication of the SADC Protocols and Model Laws.

9. Recalled that the ratification and domestication of regional and international instruments promoted regional integration and the harmonization of legal norms at national level.

Now, therefore, the Regional Parliamentary Model Laws Oversight Committee resolves and recommends to the 54th Plenary Assembly to:

- i) Urge** SADC Member States to ratify and domesticate the SADC Protocols to ensure the harmonization of laws in addressing issues of mutual interest in the SADC region;
- ii) Implore** SADC Parliaments to push for the domestication of the SADC Model Law on Eradicating Child Marriage and Protecting Children Already in Marriage and for the enforcement of the laws that are put in place at national level;
- iii) Encourage** SADC Member States to sign the SADC PF Transformation Agreement to fast track the process of transforming the Forum to a SADC Parliament to ensure the full implementation of its programmes and initiatives as a Regional Parliament; and
- iv) Authorize and direct** the Secretariat to continue to request member Parliaments to encourage member countries to sign the Agreement to amend the SADC Treaty to give effect to the SADC PF Transformation to a SADC Parliament and to continue in familiarizing SADC Member Parliaments with SADC Protocols which are developed under the SADC Treaty with a view of promoting regional integration by domestication and achieving a harmonization of legal norms at national level.

7.0 CONCLUSION

Since its establishment, the RPMLOC has methodically considered domestication issues related to Model Laws, Minimum Standards as well as related UN treaties which contain similar norms. The consideration of domestication issues relating to SADC Protocols was thus a missing link which needed to be considered by the Committee for it to have a complete picture of the domestication landscape within the context of regional integration.

Given its constitutional mandate, RPMLOC is enjoined to ensure that Member countries are encouraged to ratify and domesticate the SADC Protocols and implement the provisions of the Protocols as well as related instruments such as Minimum Standards, Guidelines and related SADC Protocols.

It is also apposite to note that the ratification and eventual domestication of SADC Protocols may also act as a catalyst to the domestication of SADC Model Laws due to the existence of related themes. For instance, the SADC Protocol

on Health which advocates for enhanced investments in the health sector could accelerate progress made on the Minimum Standards for Key Populations in the context of HIV as the latter aims to promote universal health coverage in the SADC Region.

Hon. Ishmael Ndaila ONANI
CHAIRPERSON

Ms. Thoko GUMEDZE
COMMITTEE SECRETARY

8.0 APPENDICES

Appendix II – List of Officials

Ms. Boemo Sekgoma, Secretary General
Ms. Yapoka Mungandi, Director –Finance and Corporate Services
Ms. Clare Musonda, Director – Corporate Governance
Mr. Sheuneni Kurasha, Programme Manager – DGHR
Ms. Agnes Lilungwe, Executive Assistant to the Secretary General
Mr. Ronald Windwaai, ICT Officer
Ms. Paulina Kanguatjivi, Assistant Procedural Officer and Coordinator
Ms. Thoko Gumedze, Committee Secretary
Mr. Pedro Lusakalalu, Interpreter

Appendix III – List of Staff from Member Parliaments

Ms. Barbara N. Dithapo, Clerk, Parliament of Botswana
Mr. Lesebi Keekag, Assistant Clerk, Parliament of Botswana

Appendix III - Resource Person

Ms. Boemo Sekgoma, Secretary General
Dr. Nyaravandzayi Gumbonzvandai, AU Goodwill Ambassador
Ms. Loveness Mudzuru, Child Marriage Survivor, Rozaria Memorial Trust
Mr. Almicar Mario Quinta, Parliament of Angola
Mr. Joseph Sianyabo, Deputy Parliamentary Legal Counsel, Zambia
Ms. Thoko Gumedze, Legal Clerk, Eswatini Parliament and Committee Secretary