

Human rights commitments relevant to health made by states in Southern Africa: Implications for health equity

**Dr Mercy Kamupira, Professor Leslie London
Health and Human Rights Division
School of Public Health and Family Medicine
University of Cape Town
South Africa**



**Regional Network for Equity in Health in
Southern Africa (EQUINET)**



EQUINET POLICY DISCUSSION PAPER 25

June 2005

Produced with support from IDRC(Canada)

An audit of human rights commitments relevant to health made by member states of the Southern African Development Community (SADC): Implications for advocacy for health equity and the realisation of the right to health

MAP OF THE SADC MEMBER COUNTRIES



TABLE OF CONTENTS

1. BACKGROUND.....	1
2. RATIONALE FOR THE AUDIT	1
3. OBJECTIVES OF THE AUDIT	2
4. DEFINITION OF TERMS	3
5. REVIEW OF THE REGIONAL AND INTERNATIONAL HUMAN RIGHTS INSTRUMENTS RELEVANT TO HEALTH.....	4
5.1 Regional Instruments.....	4
5.2 International Instruments	4
6. OUTLINE OF NATIONAL COMMITMENTS MADE UNDER THESE INSTRUMENTS.....	8
6.1 Angola.....	8
6.2 Botswana.....	9
6.3 Democratic Republic of Congo	10
6.4 Lesotho	11
6.5 Malawi.....	12
6.6 Mauritius	12
6.7 Mozambique.....	13
6.8 Namibia.....	14
6.9 Seychelles	15
6.10 South Africa.....	15
6.11 Swaziland	16
6.12 Tanzania.....	17
6.13 Zambia	18
6.14 Zimbabwe.....	19
7. DISCUSSION.....	21
7.1 What Are The Implications Of Ratification/Accession?.....	21
7.2 What Are General Comments?.....	21
7.3 What if the country does not agree with the entire contents of the treaty?	22
7.4 How is implementation conducted?	26
7.5 How is monitoring conducted?	26
7.6 What is the complaints procedure?	27
7.7 Contact information of treaty bodies	28
7.8 Role of community activists and civil society.....	29
7.9 Using the audit to advance the right to health	30
8. CONCLUSION.....	31
REFERENCES	32

1. BACKGROUND

SADC was established on the 17th of August 1992 at the Summit of Heads of State or Government in Windhoek, Namibia. Since 1980 the Southern African Development Coordination Conference (SADCC) was in existence and this was replaced by SADCⁱ. SADC has 14 Member States namely: Angola, Botswana, Democratic Republic of Congo (DRC), Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, United Republic of Tanzania, Zambia and Zimbabweⁱⁱ. The headquarters of SADC are in Gaborone, Botswana. The working languages of SADC are English, French and Portuguese. Tanzania's President, Benjamin William Mkapa, is the current SADC Chairman. New member states may be allowed to join by unanimous decision of the SADC Summit and upon acceding to the SADC Treaty. The SADC Treaty is a legally binding instrument and it commits member states to the fundamental principles of:

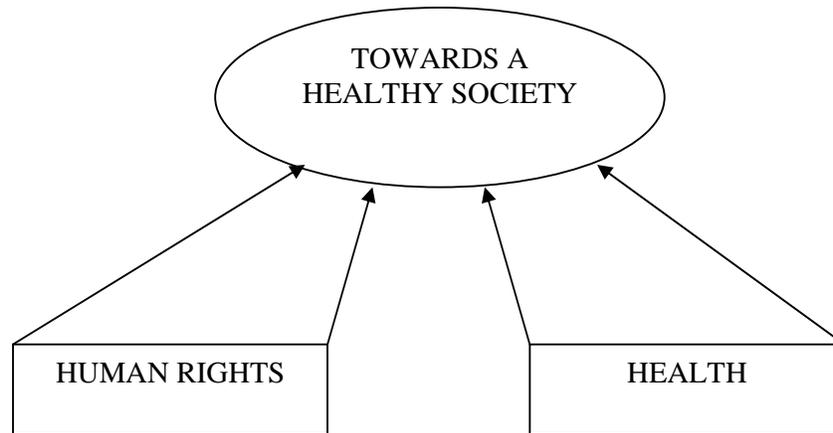
1. Sovereign equality of member States;
2. Solidarity, peace and security;
3. *Human rights*, democracy and rule of law;
4. Equity, balance and mutual benefit.

2. RATIONALE FOR THE AUDIT

Human rights and health are two concepts that are inextricably linkedⁱⁱⁱ. This linkage can be explained in framework made up of three relationships^{iv}. First: Health Policies can either violate or protect human rights depending on their content and the way they are implemented. Second: Violations of any of the human rights will have negative effects on the health of the individuals concerned. According to the World Health Organisation, **health** is defined as a state of complete physical, social and mental well-being and not merely the absence of disease or infirmity. Last: Improving health care provision and upholding human rights are synergistic approaches to achieving the desired goal of a healthy society. Given the nature of the connection between human rights and health, it is essential that world governments commit themselves to respect, protect and fulfil the human rights of their citizens particularly those rights that impact on health.

Currently there is fragmented information regarding the status of ratifications of regional and international human rights instruments relevant to health in the SADC region. This information is crucial to have for various reasons. First, this will provide information to the citizens of these SADC countries on what kind of rights they are entitled to and what commitments their governments have made in terms of ensuring the protection, fulfilment and recognition of these rights. The information will provide a starting point or a platform for the various advocacy groups that aim to advocate for the protection, fulfilment and recognition of the rights of various groups of people.

In summary advancing human well-being requires the complementary approach of promoting and protecting health and human rights. These are the two pillars, and the absence of one leads to a collapse of the vision of a healthy society. The schematic diagram below illustrates the linkages explained above.



The Regional Network on Equity in Health in east and southern Africa (EQUINET), is a network of professionals, civil society members, policy makers, state officials and others within the region who have come together as an equity catalyst, to promote and realise shared values of equity and social justice in health.^v One of the critical areas for the achievement of equity in health that has been identified is how the promotion of human rights can be used as a tool for health equity. This audit is part of that work because it serves as a situational analysis and will help in the identification of regional commitments to human rights that are relevant to health and give an indication of the priority areas for advocacy.

3. OBJECTIVES OF THE AUDIT

The audit aims to

1. conduct a review of the regional and international human rights instruments relevant to health
2. review the national commitments that have been made under these human rights instruments

4. DEFINITION OF TERMS

A **treaty** is an international agreement entered into by 2 or more states governed by International Law. The principal international human rights treaties are multilateral, and are open to any states that want to join. A treaty may be referred to by many different names, such as "convention", "covenant" and "protocol." The obligations contained in a treaty are based on consent. In international law the states that have agreed to be bound by a treaty are known as "states parties".

Acceptance of a treaty is the situation where a state expresses its intention to consent to a treaty subject to ratification. It is a step towards signature and ratification.

Adoption 'of the text of a multilateral treaty is done by the consent of all states, whether or not they were involved in the negotiation of the text, at an international forum. For example the ICCPR and the ICESCR were formally adopted at the 1966 General Assembly. Adoption is invariably associated with a call to all states to sign the treaty: the treaty thus becomes 'open for signature'.^{vi}

Signature is the signing and exchange of treaty instruments by states. 'A state may sign a treaty, thereby indicating its intention to become a party, following any further domestic legislative or executive action such as approval by Parliament and/or the passage of enabling legislation.'^{vii}

Ratification is the formal confirmation and approval of the treaty instrument by a state and the acceptance to be bound by the treaty contents legally. Ratification is also known by terms such as 'acceptance', 'approval' or 'confirmation'.

Accession is where a state did not participate in the negotiating process of a treaty but wishes to enter and be bound by its provisions. Accession has the same effect as signature & ratification.

Entry into force is where the treaty provision begins to apply as agreed by all negotiating states or where consent to be bound has been established by all negotiating states. A certain minimum number of states' ratifications is often needed before a treaty can enter into force

5. REVIEW OF THE REGIONAL AND INTERNATIONAL HUMAN RIGHTS INSTRUMENTS RELEVANT TO HEALTH

There are two main groups of human rights instruments. These are the Regional Instruments and the International Instruments. These are briefly explained below.

5.1 Regional Instruments

AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS

Article 16 of the African Charter on Human and Peoples' Rights is relevant to health. It was adopted by the eighteenth Assembly of Heads of State and Government, June 1981 - Nairobi, Kenya and states that:

1. Every individual shall have the right to enjoy the best attainable state of physical and mental health.
2. State Parties to the present Charter shall take the necessary measures to protect the health of their people and to ensure that they receive medical attention when they are sick.

This entered into force on 21 October 1986.

AFRICAN CHARTER ON THE RIGHTS AND WELFARE OF THE CHILD

For the purposes of the charter a child is defined as anybody below the age of 18 years. Article 4 states that in all cases the best interests of the child shall prevail. Article 14 states that every child shall have the right to enjoy the highest attainable state of physical, mental and spiritual health. The Charter was adopted in Addis Ababa, Ethiopia on 11 July 1990. It entered into force on 29 November 1999.

PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS ON THE RIGHTS OF WOMEN IN AFRICA

This came up after the recognition that women continued to be subjected to various forms of discrimination as well as some harmful practices making them a vulnerable group. Article 14 states that the states shall ensure that the health of women including sexual and reproductive health is respected and protected. This protocol was adopted in Maputo, Mozambique on 11 July 2003.

5.2 International Instruments

THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (ICESCR)

This international instrument recognises that conditions need to be created whereby everyone enjoys their economic, social and cultural rights. Some of these rights include the rights to housing and shelter, health, food, water, land, social security, education and others. Article 12:1 states the following:

The State Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standards of physical and mental health.

The ICESCR entered into force on the 3rd of January 1976

INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR)

This Covenant spells out in more detail the civil and political rights enumerated earlier in the Universal Declaration on Human Rights and is legally binding on those countries that have ratified it. Together, the ICCPR, ICESCR and UDHR are known as the International Bill of Rights^{viii}. The ICCPR includes the right to life, to be free from torture and slavery, to liberty and security, to freedom of movement, association, thought, religion and expression, to equality before the law, to privacy, to equality within marriage, and to the enjoyment of culture. It prohibits all forms of discrimination in the enjoyment of these rights^{ix}.

INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACE DISCRIMINATION (ICERD)

This Convention requires countries to condemn all forms of racial discrimination, whether based on race, colour, descent, or national or ethnic origin, and to pursue a policy of eliminating racial discrimination. Countries must guarantee everyone's right to equality before the law, and to various political, civil, economic, social and cultural rights. ^x (In force 4 January 1969)

CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW),

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted in 1979 by the UN General Assembly. It clearly defines what constitutes discrimination against women. By accepting the Convention, States commit themselves to undertake a series of measures to end discrimination against women in all forms, including:

- to incorporate the principle of equality of men and women in their legal system, abolish all discriminatory laws and adopt appropriate ones prohibiting discrimination against women;
- to establish tribunals and other public institutions to ensure the effective protection of women against discrimination; and
- to ensure elimination of all acts of discrimination against women by persons, organizations or enterprises.

The Convention provides the basis for realizing equality between women and men through ensuring women's equal access to, and equal opportunities in, political and public sectors. The Convention, which entered into force on 3 September 1981, has, as of March 2004, 176 States parties.^{xi}

CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN AND DEGRADING TREATMENT OR PUNISHMENT (CAT),

The definition of torture is given in the convention as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a

person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions". (In force 26 June 1987)

Article 10:1 of the convention highlights the role of medical personnel in the prevention of torture.

Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.

CONVENTION ON THE RIGHTS OF THE CHILD (CRC),

This convention is the most widely ratified treaty in the world. Only the United States and Somalia have not ratified it. The Convention promises children around the world the right to life, liberty, education, and health care. It provides protection to children in armed conflict, protection from discrimination, protection from torture or cruel, inhuman or degrading treatment or punishment, protection within the justice system, and protection from economic exploitation, in addition to many other fundamental protections. It was adopted by the United Nations General Assembly on November 20, 1989^{xii}. In force 2 September 1990

THE INTERNATIONAL CONVENTION ON THE PROTECTION OF THE RIGHTS OF ALL MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES (MWC).

In its preamble the convention considers the situation of vulnerability in which migrant workers and members of their families frequently find themselves owing, among other things, to their absence from their State of origin and to the difficulties they may encounter arising from their presence in the State of employment, and highlights the fact that the rights of migrant workers and members of their families have not been sufficiently recognized everywhere and therefore require appropriate international protection.

The convention covers rights and protection for migrant workers at all stages of their migration, from their preparation in their country of origin, the period of transit, their stay in states of employment and their return to and resettlement in their country of origin. On 1 July 2003, the International Convention on the Protection of All Migrant Workers and Members of their Families (the Migrants Rights Convention) entered into force. 27 States are currently parties to the convention. In force 1 July 2003

Regarding the health of migrant workers article 28 states that:

Migrant workers and members of their families shall have the right to receive any medical care that is urgently required for

the preservation of their life or the avoidance of irreparable harm to their health on the basis of equality of treatment with nationals of the State concerned. Such emergency medical care shall not be refused them by reason of any irregularity with regard to stay or employment.

CONVENTION CONCERNING FORCED LABOUR

This Convention undertakes to suppress the use of forced or compulsory labour in all its forms in the countries that become party to the treaty. In the event that there are workers that are needed for compulsory work the convention states that these have to be healthy able-bodied males between the ages of 18 and 45 and for these article 17 states that:

Before permitting recourse to forced or compulsory labour for works of construction or maintenance which entail the workers remaining at the workplaces for considerable periods, the competent authority shall satisfy itself:

(1) That all necessary measures are taken to safeguard the health of the workers and to guarantee the necessary medical care, and, in particular, (a) that the workers are medically examined before commencing the work and at fixed intervals during the period of service, (b) that there is an adequate medical staff, provided with the dispensaries, infirmaries, hospitals and equipment necessary to meet all requirements, and (c) that the sanitary conditions of the workplaces, the supply of drinking water, food, fuel, and cooking utensils, and, where necessary, of housing and clothing are satisfactory;

CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE

The Convention on the Prevention and Punishment of the Crime of Genocide was adopted unanimously by the then 55 member states of the United Nations on 9 December 1948. The occasion was the 3rd UN General Assembly, meeting in Paris. The convention entered into force in 1951.^{xiii}

In the present Convention, genocide is defined as any of a series of acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group. These include:

- Killing members of the group;
- Causing serious bodily or mental harm to members of the group;
- Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- Imposing measures intended to prevent births within the group;
- Forcibly transferring children of the group to another group.

CONVENTION CONCERNING INDIGENOUS AND TRIBAL PEOPLES IN INDEPENDENT COUNTRIES

The convention notes that in many parts of the world these indigenous and tribal peoples are unable to enjoy their fundamental human rights to the same degree as the rest of the population of the States within which they live, and

that their laws, values, customs and perspectives have often been eroded and therefore seeks to address these. Regarding health the convention notes in Article 25: 1 that:

Governments shall ensure that adequate health services are made available to the peoples concerned, or shall provide them with resources to allow them to design and deliver such services under their own responsibility and control, so that they may enjoy the highest attainable standard of physical and mental health.

CONVENTION ON THE PROHIBITION AND IMMEDIATE ACTION FOR THE ELIMINATION OF THE WORST FORMS OF CHILD LABOUR

The convention states that each member which ratifies it shall take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. Article 3 further elaborates what is meant by worst forms of child labour as shown below:

Article 3

For the purposes of this Convention, the term " the worst forms of child labour" comprises:

(a) All forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;

(b) The use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;

(c) The use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;

(d) Work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

6. OUTLINE OF NATIONAL COMMITMENTS MADE UNDER THESE INSTRUMENTS^{xiv}

6.1 Angola

The Republic of Angola is situated in the western region of Southern Africa covers 1,247,000 sq. Angola is the second largest country south of the Sahara after the Democratic Republic of Congo. Angola's population is estimated at 14 million. The population consists of several ethnic groups, the main ones being the Ovimbundu, the Mbundu and the Bakongo. Angola obtained independence from Portugal on 11 November 1975. Portuguese is the official language.

	INSTRUMENT ^{xv}	RATIFICATION/ACCESSION
1	African Charter on Human and Peoples' Rights	2/3/90
2	African Charter on the Rights and Welfare of the Child	11/4/92
3	Protocol to the African Charter on Human and Peoples' Rights on the rights of women in Africa	-
4	The International Covenant on Economic, Social and Cultural Rights (ICESCR),	10/4/92
5	International Covenant on Civil and Political Rights (ICCPR),	10/4/92
6	International Convention on the elimination of all forms of race discrimination (ICERD),	-
7	Convention on the elimination of all forms of Discrimination against Women (CEDAW),	17/10/86
8	Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT),	-
9	Convention on the rights of the Child (CRC),	4/1/91
10	The International Convention on the Protection of the rights of all Migrant Workers and Members of their Families (MWC).	-
11	Convention Concerning Forced Labour	-
12	Convention on the Prevention and Punishment of the Crime of Genocide	-
13	Convention concerning Indigenous and Tribal Peoples on Independent Countries	-
14	Convention on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour	13/6/01

6.2 Botswana

Botswana is a landlocked country in the centre of Southern Africa. The country covers an area of about 582,000 sq. km. The total population is 1.736 million (2002) made up of several ethnic groups. Comprehensive health services are within reach of nearly 90 percent of the population. The emphasis is on primary health care. HIV/AIDS, tuberculosis and malaria are some of the major public health problems in Botswana. The government has supported the establishment of the National AIDS Coordinating Agency (NACA) to confront the challenges posed by HIV/AIDS

	INSTRUMENT	RATIFICATION/ACCESSION
1	African Charter on Human and Peoples' Rights	17/7/86
2	African Charter on the Rights and Welfare of the Child	10/7/01
3	Protocol to the African Charter on Human and Peoples' Rights on the rights of women in Africa	-
4	The International Covenant on Economic, Social and Cultural Rights (ICESCR),	-
5	International Covenant on Civil and Political Rights (ICCPR),	8/12/00
6	International Convention on the elimination of all forms of race discrimination (ICERD),	22/3/74

7	Convention on the elimination of all forms of Discrimination against Women (CEDAW),	12/9/96
8	Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT),	7/10/00
9	Convention on the rights of the Child (CRC),	13/4/95
10	The International Convention on the Protection of the rights of all Migrant Workers and Members of their Families (MWC).	-
11	Convention Concerning Forced Labour	-
12	Convention on the Prevention and Punishment of the Crime of Genocide	-
13	Convention concerning Indigenous and Tribal Peoples on Independent Countries	-
14	Convention on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour	13/6/01

6.3 Democratic Republic of Congo

The DRC covers an area of 2,435,409 sq. km, and it is geographically the largest State in Southern/Central Africa. Estimated at 54.9 million (2002), the population is divided into 11 provinces. The DRC represents more than 250 ethnic groups as well as more than 250 languages. AIDS, cholera, hepatitis A., malaria, schistosomiasis, tuberculosis and typhoid fever are some of the major health problems in the DRC. Medical facilities in the country are inadequate.

	INSTRUMENT	RATIFICATION/ACCESSION
1	African Charter on Human and Peoples' Rights	20/7/87
2	African Charter on the Rights and Welfare of the Child	-
3	Protocol to the African Charter on Human and Peoples' Rights on the rights of women in Africa	-
4	The International Covenant on Economic, Social and Cultural Rights (ICESCR),	1/2/77
5	International Covenant on Civil and Political Rights (ICCPR),	1/2/77
6	International Convention on the elimination of all forms of race discrimination (ICERD),	21/5/76
7	Convention on the elimination of all forms of Discrimination against Women (CEDAW),	16/11/86
8	Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT),	17/4/96
9	Convention on the rights of the Child (CRC),	27/10/90
10	The International Convention on the Protection of the rights of all Migrant Workers and Members of their Families	-
11	Convention Concerning Forced Labour	-
12	Convention on the Prevention and Punishment of the	-

	Crime of Genocide	
13	Convention concerning Indigenous and Tribal Peoples on Independent Countries	-
14	Convention on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour	20/6/01

6.4 Lesotho

The Kingdom of Lesotho is situated in the south-eastern region of Southern Africa. It is entirely surrounded by South Africa. The population of Lesotho is about 2.2 million (2001). Lesotho has a network of hospitals, clinics and health centres which provide basic facilities throughout most of the country. During 2003 more health centres were under construction.

	INSTRUMENT	RATIFICATION/ACCESSION
1	African Charter on Human and Peoples' Rights	10/2/92
2	African Charter on the Rights and Welfare of the Child	27/9/00
3	Protocol to the African Charter on Human and Peoples' Rights on the rights of women in Africa	26/10/04
4	The International Covenant on Economic, Social and Cultural Rights (ICESCR),	9/12/92
5	International Covenant on Civil and Political Rights (ICCPR),	9/12/92
6	International Convention on the elimination of all forms of race discrimination (ICERD),	4/12/71
7	Convention on the elimination of all forms of Discrimination against Women (CEDAW),	21/9/95
8	Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT),	12/12/01
9	Convention on the rights of the Child (CRC),	9/4/92
10	The International Convention on the Protection of the rights of all Migrant Workers and Members of their Families	-
11	Convention Concerning Forced Labour	-
12	Convention on the Prevention and Punishment of the Crime of Genocide	29/11/74
13	Convention concerning Indigenous and Tribal Peoples on Independent Countries	-
14	Convention on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour	14/6/01

6.5 Malawi

Malawi is a landlocked country located in southern Central Africa along the western side of part of the Great Rift Valley of Africa. Lake Malawi is the third largest lake in Africa spanning a length of 568 kilometres and a width of between 16 and 80 kilometres. It is the dominant feature of the country, covering one-fifth of Malawi's entire surface area. Malawi has an estimated population of 10.7 million. The main ethnic groups are the Chewa, Tumbuka, Yao and Ngoni. The government is committed to a policy of providing primary health care to all Malawians. The government provides the bulk of general health care services and infrastructure including maternal and child health, primary health care and other specialised clinical services. Malaria, tuberculosis, HIV/AIDS and the continued presence of malnutrition are the most pressing problems facing the authorities at present.

	INSTRUMENT	RATIFICATION/ACCESSION
1	African Charter on Human and Peoples' Rights	17/11/89
2	African Charter on the Rights and Welfare of the Child	16/9/99
3	Protocol to the African Charter on Human and Peoples' Rights on the rights of women in Africa	-
4	The International Covenant on Economic, Social and Cultural Rights (ICESCR),	22/3/94
5	International Covenant on Civil and Political Rights (ICCPR),	22/3/94
6	International Convention on the elimination of all forms of race discrimination (ICERD),	11/7/96
7	Convention on the elimination of all forms of Discrimination against Women (CEDAW),	11/4/87
8	Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT),	11/7/97
9	Convention on the rights of the Child (CRC),	1/2/91
10	The International Convention on the Protection of the rights of all Migrant Workers and Members of their Families (MWC).	-
11	Convention Concerning Forced Labour	-
12	Convention on the Prevention and Punishment of the Crime of Genocide	-
13	Convention concerning Indigenous and Tribal Peoples on Independent Countries	-
14	Convention on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour	9/11/99

6.6 Mauritius

The Republic of Mauritius is situated in the south west of the Indian Ocean, approximately 2,400 kilometres off the south east coast of Africa. The island is only 67 kilometres in length and 46 kilometres at its widest point, and has a total area of 2,040 sq. km. The total population was estimated at 1.21 million in 2002 with an annual growth rate of 1.2 percent. The public health service is free. There are eight private clinics on the islands and four public hospitals.

	INSTRUMENT	RATIFICATION/ACCESSION
1	African Charter on Human and Peoples' Rights	19/6/92
2	African Charter on the Rights and Welfare of the Child	14/2/92
3	Protocol to the African Charter on Human and Peoples' Rights on the rights of women in Africa	-
4	The International Covenant on Economic, Social and Cultural Rights (ICESCR),	3/1/76
5	International Covenant on Civil and Political Rights (ICCPR),	23/3/76
6	International Convention on the elimination of all forms of race discrimination (ICERD),	29/6/72
7	Convention on the elimination of all forms of Discrimination against Women (CEDAW),	8/11/84
8	Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT),	8/1/993
9	Convention on the rights of the Child (CRC),	2/9/90
10	The International Convention on the Protection of the rights of all Migrant Workers and Members of their Families (MWC).	-
11	Convention Concerning Forced Labour	-
12	Convention on the Prevention and Punishment of the Crime of Genocide	-
13	Convention concerning Indigenous and Tribal Peoples on Independent Countries	-
14	Convention on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour	8/6/00

6.7 Mozambique

Mozambique lies on the east coast of Southern Africa. Measuring a total of some 799,380 sq. km in area. The total population is approximately 18.1 million. About 23 percent of the population lives in urban areas, with Maputo and Beira being the main centres. The main illnesses present in Mozambique are malaria, diarrhoea and cholera, with children being the most affected group. Hospitals are found in all the provincial capitals. The largest hospital is located in Maputo. Private health clinics also exist in the major cities. The country's health policy is based on primary care, aimed at controlling the main diseases in the community through promotional, preventive, curative and rehabilitative measures.

	INSTRUMENT	RATIFICATION/ACCESSION
1	African Charter on Human and Peoples' Rights	22/2/89
2	African Charter on the Rights and Welfare of the Child	15/7/98
3	Protocol to the African Charter on Human and Peoples' Rights on the rights of women in Africa	-
4	The International Covenant on Economic, Social and Cultural Rights (ICESCR),	-
5	International Covenant on Civil and Political Rights	21/10/93

	(ICCPR),	
6	International Convention on the elimination of all forms of race discrimination (ICERD),	18/5/83
7	Convention on the elimination of all forms of Discrimination against Women (CEDAW),	11/5/97
8	Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT),	14/10/99
9	Convention on the rights of the Child (CRC),	26/5/94
10	The International Convention on the Protection of the rights of all Migrant Workers and Members of their Families (MWC).	-
11	Convention Concerning Forced Labour	-
12	Convention on the Prevention and Punishment of the Crime of Genocide	18/4/83
13	Convention concerning Indigenous and Tribal Peoples on Independent Countries	
14	Convention on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour	16/6/03

6.8 Namibia

Namibia is in the south west of Africa. The country's surface area is 842,269 sq. km. Namibia is one of Africa's three most sparsely populated countries, with an average population density of 1.7 people per sq. km. The total population is 1.86 million (2001). About 27 percent of the population lives in urban areas Namibia's doctor/patient ratio is around one doctor per 3,650 people. All the major centres in the country have State-run hospitals, while Windhoek has two international-standard private hospitals and one State hospital, all with fully equipped intensive care units. Health care in the country emphasises prevention and treatment of malaria and HIV/AIDS.

	INSTRUMENT	RATIFICATION/ACCESSION
1	African Charter on Human and Peoples' Rights	30/7/92
2	African Charter on the Rights and Welfare of the Child	13/7/99*
3	Protocol to the African Charter on Human and Peoples' Rights on the rights of women in Africa	11/8/04
4	The International Covenant on Economic, Social and Cultural Rights (ICESCR),	28/2/95
5	International Covenant on Civil and Political Rights (ICCPR),	28/2/95
6	International Convention on the elimination of all forms of race discrimination (ICERD),	11/12/82
7	Convention on the elimination of all forms of Discrimination against Women (CEDAW),	23/12/92
8	Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT),	28/12/94
9	Convention on the rights of the Child (CRC),	30/10/90
10	The International Convention on the Protection of the rights of all Migrant Workers and Members of their Families (MWC).	-

11	Convention Concerning Forced Labour	-
12	Convention on the Prevention and Punishment of the Crime of Genocide	18/11/94
13	Convention concerning Indigenous and Tribal Peoples on Independent Countries	-
14	Convention on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour	15/11/00

6.9 Seychelles

This archipelago in the south western Indian Ocean is made up of 115 islands. The total land area of Seychelles is 455.3 sq. km. Seychelles has a total population of 82,000. Primary health care is of a high standard. Health clinics staffed with doctors and nurses are located in each district and include medical, dental, physiotherapy and family planning units. Private clinics providing medical and dental facilities also exist. The health service is dependent on expatriate personnel.

	INSTRUMENT	RATIFICATION/ACCESSION
1	African Charter on Human and Peoples' Rights	13/4/92
2	African Charter on the Rights and Welfare of the Child	13/2/92
3	Protocol to the African Charter on Human and Peoples' Rights on the rights of women in Africa	-
4	The International Covenant on Economic, Social and Cultural Rights (ICESCR),	5/8/92
5	International Covenant on Civil and Political Rights (ICCPR),	5/8/92
6	International Convention on the elimination of all forms of race discrimination (ICERD),	6/4/78
7	Convention on the elimination of all forms of Discrimination against Women (CEDAW),	4/6/92
8	Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT),	4/6/92
9	Convention on the rights of the Child (CRC),	7/10/90
10	The International Convention on the Protection of the rights of all Migrant Workers and Members of their Families (MWC).	1/7/3
11	Convention Concerning Forced Labour	-
12	Convention on the Prevention and Punishment of the Crime of Genocide	5/5/92
13	Convention concerning Indigenous and Tribal Peoples on Independent Countries	-
14	Convention on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour	28/9/99

6.10 South Africa

The Republic of South Africa occupies the southernmost part of the African continent. The total population of the country is around 45.4 million. There were some 200 hospitals with 23,000 beds and 357 provincial hospitals in

2002. Malaria is endemic in some parts of the country and tuberculosis has been a problem in South Africa for more than 200 years. The biggest health issue facing the country at present is HIV/AIDS, with an estimated 1,500 new infections occurring daily.

	INSTRUMENT	RATIFICATION/ACCESSION
1	African Charter on Human and Peoples' Rights	9/7/96
2	African Charter on the Rights and Welfare of the Child	7/1/00
3	Protocol to the African Charter on Human and Peoples' Rights on the rights of women in Africa	-
4	The International Covenant on Economic, Social and Cultural Rights (ICESCR),	3/10/94*
5	International Covenant on Civil and Political Rights (ICCPR),	10/3/99
6	International Convention on the elimination of all forms of race discrimination (ICERD),	9/1/99
7	Convention on the elimination of all forms of Discrimination against Women (CEDAW),	14/1/96
8	Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT),	9/1/99
9	Convention on the rights of the Child (CRC),	16/7/95
10	The International Convention on the Protection of the rights of all Migrant Workers and Members of their Families (MWC).	-
11	Convention Concerning Forced Labour	-
12	Convention on the Prevention and Punishment of the Crime of Genocide	10/12/98
13	Convention concerning Indigenous and Tribal Peoples on Independent Countries	-
14	Convention on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour	7/6/00

6.11 Swaziland

The Kingdom of Swaziland is a landlocked country located in Southern Africa. It covers a land area of just over 17,364 sq. km, making it the smallest country in the southern hemisphere. It is bordered by South Africa and Mozambique. The estimated population of Swaziland is around 1.10 million. The government has introduced a programme to expand the country's medical facilities so that all people will be within walking distance of a hospital or rural clinic. There are 176 hospitals, clinics and health centres in the country run by government, NGOs, missions, industries or privately-owned. Treatment at all government-run medical centres is heavily subsidised. Government's efforts to provide universal health care are supplemented by non-governmental organisations.

	INSTRUMENT	RATIFICATION/ACCESSION
1	African Charter on Human and Peoples' Rights	15/9/95
2	African Charter on the Rights and Welfare of the Child	29/6/92*
3	Protocol to the African Charter on Human and Peoples' Rights on the rights of women in Africa	-
4	The International Covenant on Economic, Social and Cultural Rights (ICESCR),	26/4/04
5	International Covenant on Civil and Political Rights (ICCPR),	26/4/04
6	International Convention on the elimination of all forms of race discrimination (ICERD),	7/5/69
7	Convention on the elimination of all forms of Discrimination against Women (CEDAW),	25/4/04
8	Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT),	25/4/04
9	Convention on the rights of the Child (CRC),	6/10/95
10	The International Convention on the Protection of the rights of all Migrant Workers and Members of their Families (MWC).	-
11	Convention Concerning Forced Labour	-
12	Convention on the Prevention and Punishment of the Crime of Genocide	-
13	Convention concerning Indigenous and Tribal Peoples on Independent Countries	-
14	Convention on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour	23/10/02

6.12 Tanzania

The United Republic of Tanzania includes the Indian Ocean islands of Pemba and Zanzibar and the mainland territory formerly known as Tanganyika. It covers an area of 945,200 sq. km. The total population of Tanzania is estimated at 33.6 million (2002). There are over 120 ethnic groups. For about 30 years after independence, health services in Tanzania were provided almost exclusively by government, with a limited number of private services offered in major towns. Currently Tanzania has a network of hospitals and health centres, both government-run and private. The government has also implemented a Public Health Education programme to identify prevailing health problems such as HIV/AIDS, malaria and tuberculosis and provide information on prevention and control.

	INSTRUMENT	RATIFICATION/ACCESSION
1	African Charter on Human and Peoples' Rights	18/2/84
2	African Charter on the Rights and Welfare of the Child	23/10/98*
3	Protocol to the African Charter on Human and Peoples' Rights on the rights of women in Africa	-
4	The International Covenant on Economic, Social and Cultural Rights (ICESCR),	11/9/76

5	International Covenant on Civil and Political Rights (ICCPR),	11/9/76
6	International Convention on the elimination of all forms of race discrimination (ICERD),	26/11/72
7	Convention on the elimination of all forms of Discrimination against Women (CEDAW),	19/9/85
8	Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT),	-
9	Convention on the rights of the Child (CRC),	10/7/91
10	The International Convention on the Protection of the rights of all Migrant Workers and Members of their Families (MWC).	-
11	Convention Concerning Forced Labour	-
12	Convention on the Prevention and Punishment of the Crime of Genocide	5/4/84
13	Convention concerning Indigenous and Tribal Peoples on Independent Countries	-
14	Convention on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour	12/9/01

6.13 Zambia

Zambia's population is approximately 11.3 million (2002) of which about 1.432 million live in the capital city of Lusaka. Zambia has a network of government hospitals and clinics as well as a growing private sector health care system.

	INSTRUMENT	RATIFICATION/ACCESSION
1	African Charter on Human and Peoples' Rights	10/1/84
2	African Charter on the Rights and Welfare of the Child	28/2/92*
3	Protocol to the African Charter on Human and Peoples' Rights on the rights of women in Africa	-
4	The International Covenant on Economic, Social and Cultural Rights (ICESCR),	10/7/84
5	International Covenant on Civil and Political Rights (ICCPR),	10/7/84
6	International Convention on the elimination of all forms of race discrimination (ICERD),	5/3/72
7	Convention on the elimination of all forms of Discrimination against Women (CEDAW),	21/7/85
8	Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT),	6/11/98
9	Convention on the rights of the Child (CRC),	5/1/92
10	The International Convention on the Protection of the rights of all Migrant Workers and Members of their Families (MWC).	-
11	Convention Concerning Forced Labour	-

12	Convention on the Prevention and Punishment of the Crime of Genocide	-
13	Convention concerning Indigenous and Tribal Peoples on Independent Countries	-
14	Convention on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour	10/12/01

6.14 Zimbabwe

Zimbabwe is situated between the Limpopo and Zambezi rivers. The country is bounded by Mozambique to the east, Zambia to the north and north west, South Africa to the south, and to the south west by Botswana. Zimbabwe has a population of 13.89 million (2001). About 31 percent of the population lives in urban areas. The HIV/AIDS pandemic and related TB epidemics in Zimbabwe continue to have enormous impact on the health of the population. The country's health services have experienced an acute shortage of drugs, medical supplies and personnel in recent years.

	INSTRUMENT	RATIFICATION/ACCESSION
1	African Charter on Human and Peoples' Rights	30/5/86
2	African Charter on the Rights and Welfare of the Child	19/1/95
3	Protocol to the African Charter on Human and Peoples' Rights on the rights of women in Africa	-
4	The International Covenant on Economic, Social and Cultural Rights (ICESCR),	13/8/91
5	International Covenant on Civil and Political Rights (ICCPR),	13/8/91
6	International Convention on the elimination of all forms of race discrimination (ICERD),	12/6/91
7	Convention on the elimination of all forms of Discrimination against Women (CEDAW),	12/6/91
8	Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT),	-
9	Convention on the rights of the Child (CRC),	11/10/90
10	The International Convention on the Protection of the rights of all Migrant Workers and Members of their Families (MWC).	-
11	Convention Concerning Forced Labour	-
12	Convention on the Prevention and Punishment of the Crime of Genocide	13/5/91
13	Convention concerning Indigenous and Tribal Peoples on Independent Countries	-
14	Convention on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour	11/12/00

Table 1 overleaf provides a summary of treaty ratifications by SADC member states.

Table 1. Summary of the treaty ratifications by SADC member states

	ACHPR	ACRC	ACRW	ICESCR	ICCPR	ICERD	CRC	CEDAW	CAT	ICRMW	CPPCG	CCL
Angola	2 Mar 90	11 Apr 92	-	10 Apr92	10 Apr92	-	4 Jan91	17 Oct/86	-	-	-	13 Jun01
Botswana	17Jul 86	10 Jul 01	-	-	8 Oct00	22 Mar74	13 Apr95	15 Sep96	7 Oct 00	-	-	3 Jan00
DRC	20Jul 87	-	-	1 Feb77	1 Feb77	21 May76	27 Oct90	16 Nov86	17 Apr96	-	-	20 Jun01
Lesotho	10 Feb92	27 Sep00	26 Oct04	9 Dec92	9 Dec92	4 Dec71	9 Apr92	21 Sep95	12 Dec01	-	29 Nov74	14 Jun01
Malawi	17Nov 89	16 Sep99	-	22 Mar94	22 Mar94	11 Jul96	1 Feb91	11 Apr87	11 Jul97	-	-	19 Nov99
Mauritius	19 Jun 92	14 Feb92	-	3 Jan76	23 Mar76	29 Jun72	2 Sept90	8 Nov84	8 Jan93	-	-	8 Jun00
Mozambique	22 Feb89	15 Jul98	-	-	21 Oct93	18 May83	26 May94	11 May97	14 Oct99	-	18 Apr83	16 Jun03
Namibia	30Jul 92	13 Jul99	11 Aug04	28 Feb95	28 Feb95	11 Dec82	30 Oct90	23 Dec92	28 Dec94	-	18 Nov94	15 Nov00
Seychelles	13 Apr 92	13 Feb92	-	5 Aug 92	5 Aug 92	6 Apr78	7 Oct90	4 Jun92	4 Jun92	1 Jul03	5 May92	28 Sep99
South Africa	9 Jul 96	7 Jan 00	-	03 Oct94	10 Mar99	9 Jan99	16 Jul95	14 Jan96	9 Jan99	-	10 Dec98	7 Jun00
Swaziland	15 Sep95	29 Jun92	-	26 Jun04	26 Jun04	7 May69	6 Oct95	25 Apr04	25 Apr04	-	-	23 Oct02
Tanzania	18 Feb84	23 Oct98	-	11 Sep76	11 Sep76	26 Nov72	10 Jul91	19 Sep85	-	-	5 Apr84	13 Sep01
Zambia	10 Jan 84	28 Feb92	-	10 Jul84	10 Jul84	5 Mar72	5 Jan92	21 Jul85	6 Nov98	-	-	10 Dec01
Zimbabwe	30/5/86	19 Jan95	-	13 Aug91	13 Aug91	12 Jun91	11 Oct90	12 Jun91	-	-	13 May91	11 Dec00

NB. The date indicated in black is the date of accession or ratification. The date indicated in red indicates that the state is only a signatory. The icon '-' indicates the countries have not yet ratified the treaty

7. DISCUSSION

7.1 What Are The Implications Of Ratification/Accession?

Accession or ratification of a human rights treaty is an essential step in the great effort to perpetuate human rights. It is an indication at the highest level that the state is committed to fulfilling, protecting and respecting human rights and taking measures to avoid any situations that may result in the violation of the concerned rights. However, the success of the ratified treaties is dependent on the state's willingness and readiness to develop an implementation strategy that puts into practice the contents and obligations of the treaty. Various fears arise about the social and legal consequences of ratification such as fears regarding the resource implications of the implementation of the signed treaties. However, state obligations on the socio-economic rights may be qualified by progressive realisation or subject to the availability of resources or there may be a mechanism of international assistance and cooperation

7.2 What Are General Comments?

General comments are statements that provide more clarification, guidance or elaborations to the various sections of the treaties. General Comments are also known as Recommendations. For example, General Comment 14 on the Highest Attainable Standard of Health provides more guidance on the implementation of the right to the highest attainable standard of health that is stated in Article 12 of the ICESCR. The third point of the general comment states that there are a variety of other rights and facilities that is necessary for the recognition of this right.

The right to health is closely related to and dependent upon the realization of other human rights, as contained in the International Bill of Rights, including the rights to food, housing, work, education, human dignity, life, non-discrimination, equality, the prohibition against torture, privacy, access to information, and the freedoms of association, assembly and movement. These and other rights and freedoms address integral components of the right to health.^{xvi}

According to general comment 14 paragraph 11; the right to health extends beyond medical care and treatment but also includes the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information, including on sexual and reproductive health. The concept of access to health care is further elaborated in paragraph 12 of the General Comment. Access to health care has four dimensions to it. These are:

1. Non-discrimination: health facilities, goods and services must be accessible to all, especially the most vulnerable or marginalized sections of the population without discrimination on any of the prohibited grounds.

2. Physical accessibility: health facilities must be within safe physical reach for all sections of the population. Underlying determinants of health, such as safe and potable water and adequate sanitation facilities should also be within safe physical reach.
3. Economic accessibility (affordability): health services must be affordable for all. Payment for health-care services, as well as services related to the underlying determinants of health, has to be based on the principle of equity and poorer households should not be disproportionately burdened with health expenses as compared to richer households.
4. Information accessibility: accessibility includes the right to seek, receive and impart information and ideas concerning health issues.

Although General Comments that give guidance on the implementation of the rights may accompany the human rights instruments, there is no instrument that is presented with a specific implementation strategy so it is entirely upon the state party to do so. Once ratification has occurred the state should make it its chief priority to realise these rights.

7.3 What if the country does not agree with the entire contents of the treaty?

If there is a contradiction with the law of the country, the country can express its reservations, understandings and declarations. A reservation is defined as “any unilateral statement made by a state which purports to exclude or modify the legal effect of certain provisions of that treaty in its application to that state. It is effectively a statement of intent addressed to all other parties to the treaty to the effect that it proposes to interpret or implement a specific treaty provision in a certain way.”^{xvii} Table 2 summarises the reservations that have been made by the SADC countries to the human rights treaties that are relevant to health.

Table 2. Reservations made by SADC countries on Human Rights Instruments

Country	Instrument	Reservation
Botswana	ICCPR	The Government of the Republic of Botswana considers itself bound by: a) Article 7 of the Covenant to the extent that "torture, cruel, inhuman or degrading treatment" means torture inhuman or degrading punishment or other treatment prohibited by Section 7 of the Constitution of the Republic of Botswana. b) Article 12 paragraph 3 of the Covenant to the extent that the provisions are compatible with Section 14 of the Constitution of the Republic of Botswana relating to the imposition of restrictions reasonably required in certain exceptional instances."
	CRC	"The Government of the Republic of Botswana enters a reservation with regard to the provisions of article 1 of the Convention and does not consider itself bound by the same in so far as such may conflict with the Laws and Statutes of Botswana." <i>Article 1 For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.</i>
DRC	ICCPR	The Government of the People's Republic of Congo declares that it does not consider itself bound by the provisions of article 11 [...] <i>Article 11 of the International Covenant on Civil and Political Rights is quite incompatible with articles 386 et seq . of the Congolese Code of Civil, Commercial, Administrative and Financial Procedure, derived from Act 51/83 of 21 April 1983. Under those provisions, in matters of private law, decisions or orders emanating from conciliation proceedings may be enforced through imprisonment for debt when other means of enforcement have failed, when the amount due exceeds 20,000 CFA francs and when the debtor, between 18 and 60 years of age, makes himself insolvent in bad faith.</i>
Lesotho	CEDAW	The Lesotho government made a reservation on the CEDAW related to article 2, which relates to equality of opportunities for men and women even in leadership. "The Government of the Kingdom of Lesotho declares that it does not consider itself bound by article 2 to the extent that it conflicts with Lesotho's constitutional stipulations relative to succession to the throne of the Kingdom of Lesotho and law relating to succession to chieftainship."

Mauritius	CEDAW	"The Government of Mauritius does not consider itself bound by paragraph 1 of article 29 of the Convention, in pursuance of paragraph 2 of article 29."1. <i>Any dispute between two or more States Parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court. 2. Each State Party may at the time of signature or ratification of the present Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by that paragraph with respect to any State Party which has made such a reservation.</i>
	CRC	"[Mauritius] . . . with express reservation with regard to article 22 of the said Convention." <i>States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties. 2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.</i>
Mozam- bique	CERD	"The People's Republic of Mozambique does not consider to be bound by the provision of article 22 and wishes to restate that for the submission of any dispute to the International Court of Justice for decision in terms of the said article, the consent of all parties to such a dispute is necessary in each individual case." Any dispute between two or more States Parties with respect to the interpretation or application of this Convention, which is not settled by negotiation or by the procedures expressly provided for in this Convention, shall, at the request of any of the parties to the dispute, be referred to the International Court of Justice for decision, unless the disputants agree to another mode of settlement.

South Africa	CERD	<p>The Republic of South Africa-</p> <p>(a) declares that, for the purposes of paragraph 1 of article 14 of the Convention, it recognises the competence of the Committee on the Elimination of Racial Discrimination to receive and consider communications from individuals or groups of individuals within the Republic's jurisdiction claiming to be victims of a violation by the Republic in any of the rights set forth in the Convention after having exhausted all domestic remedies, and</p> <p>(b) indicates that, for the purposes of paragraph 2 of article 14 of the Convention, the South African Human Rights Commission is the body within the Republic's national legal order which shall be competent to receive and consider petitions from individuals or groups of individuals within the Republic's jurisdiction who claim to be victims of any of the rights set forth in the Convention</p> <p>A State Party may at any time declare that it recognizes the competence of the Committee to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of a violation by that State Party of any of the rights set forth in this Convention. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration.</p> <p>2. Any State Party which makes a declaration as provided for in paragraph 1 of this article may establish or indicate a body within its national legal order which shall be competent to receive and consider petitions from individuals and groups of individuals within its jurisdiction who claim to be victims of a violation of any of the rights set forth in this Convention and who have exhausted other available local remedies.</p>
Swazi-land	Declaration on CRC	<p>"The Convention on the Rights of the Child being a point of departure to guarantee child rights; taking into consideration the progressive character of the implementation of certain social, economic and cultural rights; as recognized in article 4 of the Convention, the Government of the Kingdom of Swaziland would undertake the implementation of the right to free primary education to the maximum extent of available resources and expects to obtain the co-operation of the international Community for its full satisfaction as soon as possible."</p>
Zambia	ICESCR	<p>Reservation: "The Government of the Republic of Zambia states that it reserves the right to postpone the application of article 13 (2) (a) of the Covenant, in so far as it relates to primary education; since, while the Government of the Republic of Zambia fully accepts the principles embodied in the same article and undertakes to take the necessary steps to apply them in their entirety, the problems of implementation, and particularly the financial implications, are such that full application of the principles in question cannot be guaranteed at this stage"</p>

7.4 How is implementation conducted?

Implementation can be done in various ways such as starting with a review of current laws to identify gaps in the national laws. A task team can be formed that consists of legal professionals, the justice ministry, and policy makers to draft laws to incorporate the new obligations into the national law. Broad-based support with civil society involvement is encouraged early on by meetings with non-governmental organisations, voluntary and non profit organisations, charitable institutions, social and political movements and community activists to discuss ways of best implementing the strategy. Formation of a multidisciplinary team with the technical expertise on implementation is also advised.

7.5 How is monitoring conducted?

The treaties are associated with treaty bodies, which have the task of monitoring the implementation of treaty obligations. State parties are required to submit state reports on the compliance of domestic standards and practices with treaty rights.^{xviii} These bodies meet at different times throughout the year to review the reports and come up with concluding observations that indicate how well the state has complied with the obligations.

The treaty bodies are shown below:

1. The Human Rights Committee
2. Committee on the Elimination of all forms of Racial Discrimination
3. Committee on the Economic, Social and Cultural Rights
4. Committee Against Torture
5. Committee on the Rights of the Child
6. Committee on Migrant Workers
7. Committee on the Elimination of Discrimination Against Women

Four human rights treaties shown below currently have operating individual complaints procedures associated with them.^{xix}

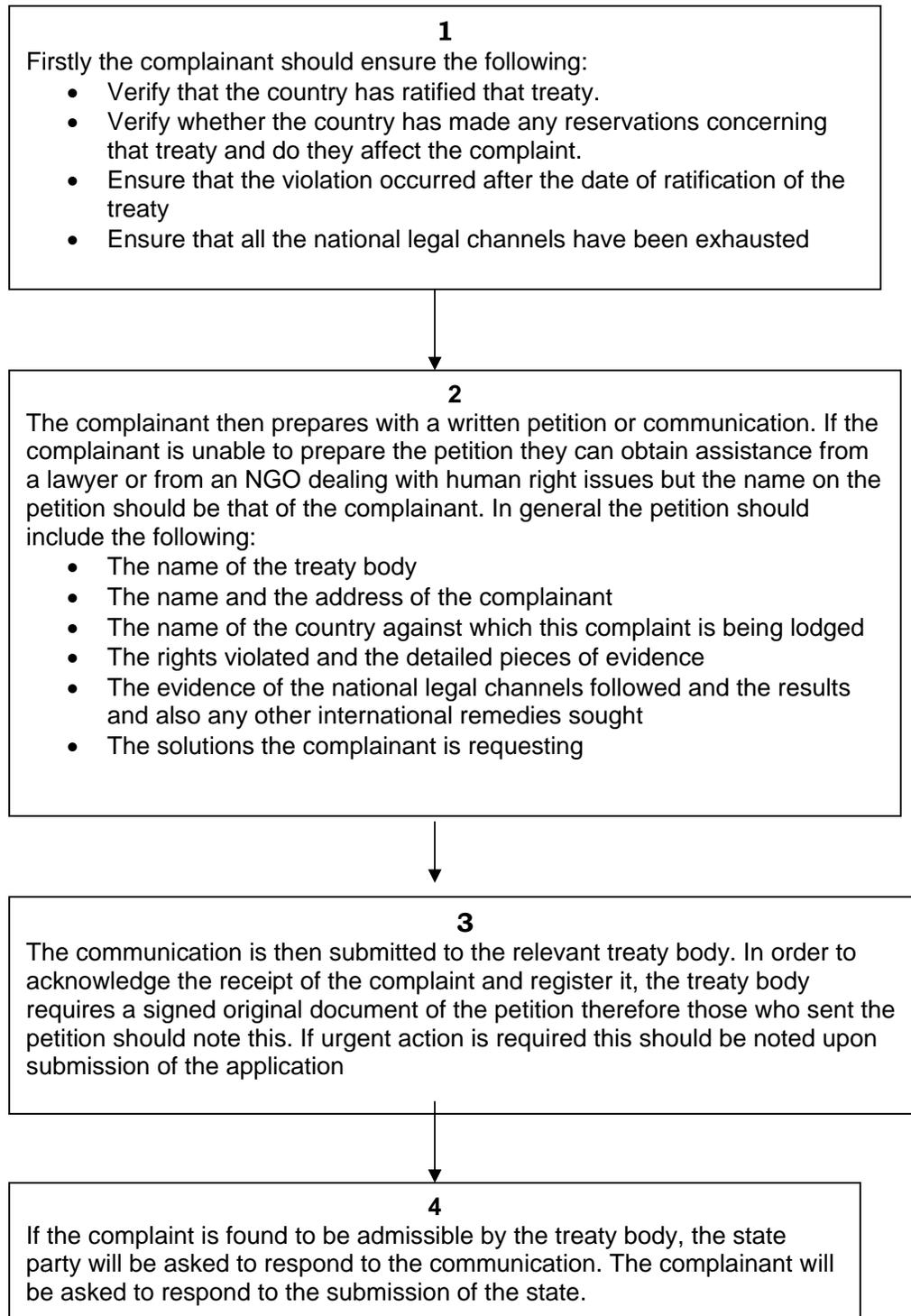
1. International Covenant on Civil and Political Rights (CCPR)
2. Convention on the Elimination of All Forms of Racial Discrimination (CERD)
3. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)
4. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT),

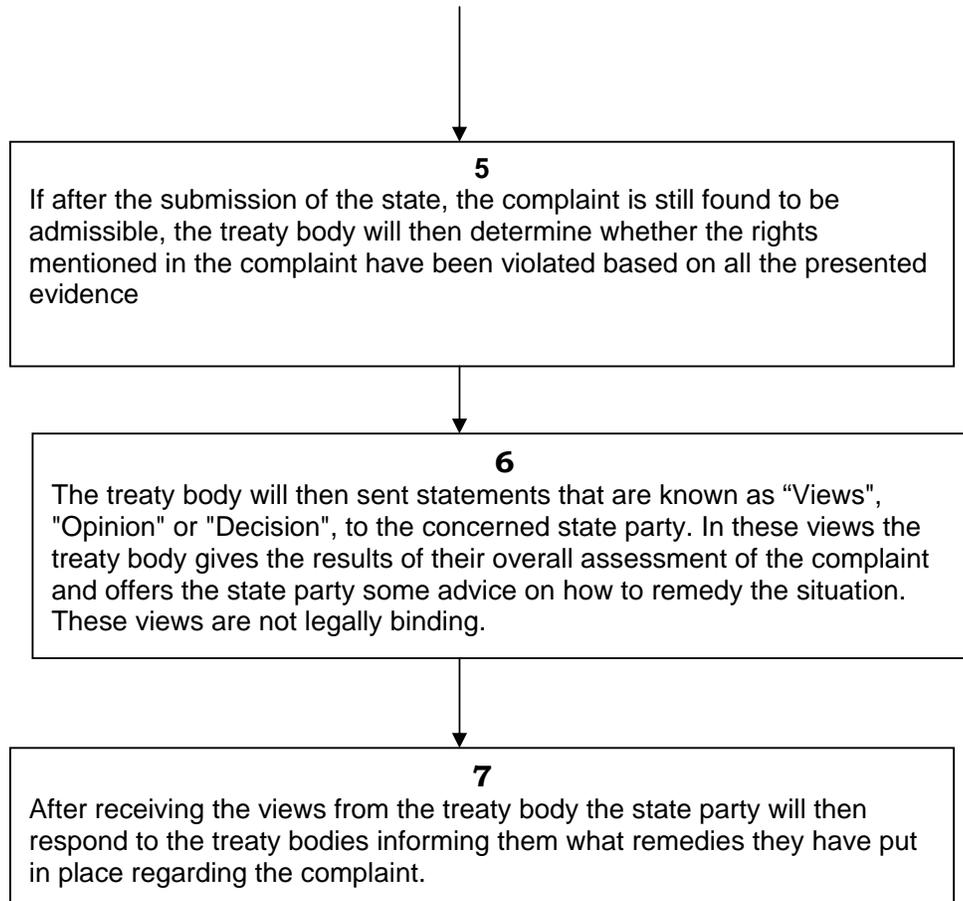
There are a number of international as well as national human rights watch groups and these mainly help with monitoring the state parties' progress as well highlighting any violations.

7.6 What is the complaints procedure?

This is a formal process by which an individual or a group of individuals follow when lodging a complaint to the treaty body associated with the treaty after incidents of violation of particular rights. Complaints of human rights violations are referred to as "communications" or "petitions".^{xx}

Steps to be followed when making a complaint: The schematic diagram below indicates a summary of the steps that are taken when making a complaint.^{xxi}





7.7 Contact information of treaty bodies

TREATY BODY	ADDRESS
CCPR	Human Rights Committee, c/o Office of the UN High Commissioner for Human Rights, Palais Wilson, 52 Rue des Pacquis, 1211 Geneva, Switzerland fax: (41 22) 917-9022 email: tb-petitions.hchr@unog.ch
CERD	Committee on the Elimination of Racial Discrimination, c/o Office of the UN High Commissioner for Human Rights, Palais Wilson, 52 Rue des Pacquis, 1211 Geneva, Switzerland fax: (41 22) 917-9022 email: email: tb-petitions.hchr@unog.ch

TREATY BODY	ADDRESS
CAT	Committee Against Torture, c/o Office of the UN High Commissioner for Human Rights, Palais Wilson, 52 Rue des Pacquis, 1211 Geneva, Switzerland fax: (41 22) 917-9022 email: tb-petitions.hchr@unog.ch
CEDAW	Committee on the Elimination of Discrimination against Women, c/o Division for the Advancement of Women, Department of Economic and Social Affairs, United Nations Secretariat, 2 United Nations Plaza, DC-2/12th Floor, New York, New York 10017 U.S.A. fax: (1) (212) 963-3463 [no email address yet]

7.8 Role of community activists and civil society

The main tasks of non government organisations (NGOs) and civil society are threefold.

a) Before the ratification of a treaty is lobbying the government for its ratification. For example, it is surprising to note that Seychelles is the only SADC country that has ratified the International Convention on the protection of the rights of all migrant workers and members of their families. This is a cause for concern because most countries in the SADC region are both countries of origin or destination of migrant workers and the trend is likely to increase in the coming years. Concern is raised at the potential abuse of migrant workers' fundamental human rights. At the Tripartite Forum on Labour Migration in Southern Africa held in Pretoria, South Africa on 26 - 29 November 2002, participants encouraged member states to ratify the international instruments that protect the rights of migrant workers^{xxii}. Another point to note is that although all the countries in the SADC have ratified the Convention on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, none of the SADC countries have ratified the Convention Concerning Forced Labour. Community activists and NGOs play a critical role of highlighting these gaps and petitioning the government to become party to these treaties.

b) Non-governmental organizations (NGOs) and community activists can use international human rights conventions to monitor the progress and commitment of their governments as well as encouraging the governments to comply with their international obligations. A crucial role that they also play is highlighting incidents of human rights violations.^{xxiii} The human rights treaty bodies evaluate how well a country is doing and develop concluding

observations. These concluding observations provide a general evaluation of positive developments that may have occurred during the period under review, factors and difficulties affecting the implementation of the Convention, and specific issues of concern relating to the application of the provisions of the Convention. They also include suggestions and recommendations to the State party concerned. NGOs and community activists can also use the findings of these concluding observations to lobby the government to move in the right direction.

c) In cases where the specific committees for the various treaties need shadow reports, NGOs can take up that role.

7.9 Using the audit to advance the right to health

This audit focused on the compilation of the human rights instruments relevant to health that have been ratified by SADC member states. This is important as it gives to NGOs and community activists several opportunities.

a) First, there is need to lobby countries to ratify poorly ratified treaties such as the Convention Concerning Forced Labour or the Convention Concerning Indigenous and Tribal Peoples on Independent Countries and the International Convention on the Protection of the rights of all Migrant Workers and Members of their Families (MWC). In almost all the SADC counties there are groups of minority tribes that form a unique vulnerable population and therefore in need of recognition and protection of their rights. Issues such as access to health care facilities, and access to the other determinants of health for this vulnerable population should be addressed. States should therefore show their commitment to respecting, protecting and fulfilling the rights of these indigenous and tribal people by ratifying the treaty.

b) The second opportunity presented to community activists and NGOs by this audit is that it gives rise to awareness raising initiatives. This audit information can be used in awareness raising campaigns directed at different community groups such as women, tribal and indigenous people, health care professionals and other professionals and the community in general. Once awareness has been raised about the people's entitlements and the state's obligations community members demand their rights giving a sense of urgency for the governments to put in place implementation measures.

c) The third opportunity for community activists arising from the audit is the role of monitoring how successful the different countries have been in implementing the treaties that they have ratified. This involves research on various indicators relevant to health. Examples include reduction of maternal and infant mortality rates, provision and distribution of health infrastructure, access to health care services (in terms of all the four dimensions of access described above namely: lack of discrimination, affordability, physical access and information accessibility), and provision of other determinants of health such as safe water and sanitation, and environmental and industrial safety measures, disease prevention, treatment and control measures. This

assessment needs to be done critically to give two answers, the first relating to whether there has been some improvement at all and the other being has the improvement been equitable.

8. CONCLUSION

Ratification of the regional and international treaties should not be seen as an end in itself. Several questions arise that need to be addressed such as whether there has been an increase or decrease of particular rights violations in the country since the ratification of the treaties. Assessment needs to be made of how aware decision-makers and the general public are in the specific countries of the ratifications of the treaties. More specifically, one needs to look at the presence or absence of any laws or policies related to the ratified treaties. Are there any services or infrastructure that enables the optimum realisation of the goals of these treaties and the assessment of government commitment to this in terms of the budgetary allocations to the specific causes? And, lastly, is monitoring and evaluation being done and what are the results?

REFERENCES

- ⁱ Retrieved from: <http://www.eia.doe.gov/emeu/cabs/sadc.html>
- ⁱⁱ SADC Facts Retrieved from: <http://www.sadc-sqam.org/sadc/sadcfacts.html>
- ⁱⁱⁱ WHO (2002), 25 Questions and answers on Health and Human Rights, Health and Human Rights Publication Series, Issue No. 1. WHO: Geneva.
- ^{iv} Mann JM, Gostin L, Gruskin S, Brennan T, Lazzarini Z & Fineberg H, Health and Human Rights in JM Mann, S Gruskin MA Ggrodin, GJ Annas eds. Health and Human Rights: a reader (New York, Routledge, 1999): 46-53.
- ^v <http://www.equinet africa.org/>
- ^{vi} http://www.dfat.gov.au/hr/hr_manual_2004/chp3.html The International Legal Framework
- ^{vii} The International Legal Framework
http://www.dfat.gov.au/hr/hr_manual_2004/chp3.html
- ^{viii} WHO (2002), 25 Questions and answers on Health and Human Rights, Health and Human Rights Publication Series, Issue No. 1.
- ^{ix} <http://www.iwtc.org/ICCPR.html>
- ^x <http://www.iwtc.org/ICERD.html>
- ^{xi} <http://www.un.org/womenwatch/daw/cedaw/cedaw.htm>
- ^{xii} Retrieved from <http://www1.umn.edu/humanrts/instree/k2crc.htm>
- ^{xiii} <http://www.preventgenocide.org/law/convention/>
- ^{xiv} The date indicates the date of ratification or accession. The – indicates that the country has not yet ratified the human rights instrument. The * indicates states that are signatories only.
- ^{xv} <http://www.who.int/svri/issues/rights/en/index1.html>
- ^{xvi} [http://www.unhchr.ch/tbs/doc.nsf/\(symbol\)/E.C.12.2000.4.En?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(symbol)/E.C.12.2000.4.En?OpenDocument)
- ^{xvii} The International Legal Framework
http://www.dfat.gov.au/hr/hr_manual_2004/chp3.html
- ^{xviii} <http://www.bayefsky.com/introduction.php> Introduction to the UN Human Rights Treaty System
- ^{xix} <http://www.bayefsky.com/introduction.php>
- ^{xx} http://www.bayefsky.com/complain/9_procedures.php/pfriendly/diag1.pdf#search='contact%20details%20ccpr%20treaty%20body'
- ^{xxi} http://www.bayefsky.com/complain/9_procedures.php/pfriendly/diag1.pdf#search='contact%20details%20ccpr%20treaty%20body'
- ^{xxii} <http://www.ilo.org/public/english/dialogue/actrav/genact/socprot/migrant/291102cl.htm>
- ^{xxiii} <http://www.madre.org/articles/int/hrconv.html> Practical Implications of International Human Rights Law

ABBREVIATIONS

ACHPR	African Charter on Human and People's Rights
ACRWC	African Charter on the Rights and Welfare of the Child
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on the Elimination of all forms of Discrimination against Women
ICERD	International Convention on the Elimination of all forms of racial Discrimination
ICRC	International Convention on the Rights of the Child
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
SADC	Southern African Development Community
UDHR	Universal Declaration on Human Rights
UN	United Nations
WHO	World Health Organisation