



**African Population and
Health Research Center**

Domestication of the Maputo Protocol in Democratic Republic of Congo (DRC): Lessons to advance access to safe abortion on the African continent

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I. Introduction

The online meeting facilitated by Khalifa Loum - Communication and Advocacy Manager at the West African Regional Office of APHRC (WARO) - began by sharing the housekeeping rules of the meeting. Then, the presentation plan was detailed by the facilitator. To save time, the facilitator asked each participant to write down in the chat section their name and the organization they are affiliated with.

II. Presentations

1. Safe engage project and the tools that support the civil society actors and movements to shift the policy change for an abortion without risks – Aïssata Fall

Since 2018, the **SAFE ENGAGE** project has worked to build capacity for policy dialogue to advance access to safe abortion in Africa. The project is based on Three strong principles:

- Make the data talk: have a database that is digestible and easy to understand and use, and deal with abortion myths and stigma with evidence
- Strengthen strategic communication to have effective advocacy at the right time and to the right target audience people
- Targeted support by responding to immediate needs with the rapid response mechanism

SAFE ENGAGE is a coalition working with a multisectoral task force. The SAFE ENGAGE presentations use the tools and approaches to be able to describe the consequences of the numbers and data observed in the country and expand recommendations to position advocates for positive change. Mrs. Fall explained that to offer innovative actions to policy makers, SAFE ENGAGE has produced modules, guides, and information sheets. These specific communication support is adapted to the strategy or to the needs of the moment.

The **SAFE ENGAGE** Communication Strategy is made up of seven sections with specific information on abortion, the method of communication and practical exercises.

Mrs. Fall briefly explained the case study on the domestication of the Maputo Protocol in the DRC. She pointed out that the DRC is the first country in French-speaking Africa to have extended access to abortion on a large scale to its population. It can serve as a guide (replication) for other Francophone African countries that have similar contexts because it is a very recent policy change, a model to illustrate good practices, and particularly in view of the limited documentation available in the field of abortion, sexual and reproductive health in the French language.

2. The methodology of the case study - Françoise Mukuku

Following Mrs. Fall, Mrs. Mukuku presented the context of the DRC before the methodology of the case study.

On the historical context, before signing the Maputo Protocol, the DRC had just experienced 20 years of conflict. Thus it was necessary to reform the law to restore its political image at the international level, to take strong acts to show the new stability of the country to attract international partners.

For this case study, a literature search methodology was carried out. This documentary research reveals a very high maternal mortality rate, among the highest in the world with clandestine abortions contributing to this high rate. The country is therefore committed to several international treaties such as the SDGs, and FP 2020. Internally, the country is reconstituting its legal framework with new constitutions to punish, among other things, sexual violence which has been used as a weapon of war during all these years. The Maputo Protocol is therefore a means of enhancing women's rights, access to contraception and family planning (FP) services. After the documentary research, the team carried out interviews with the actors involved in the process since the beginning.

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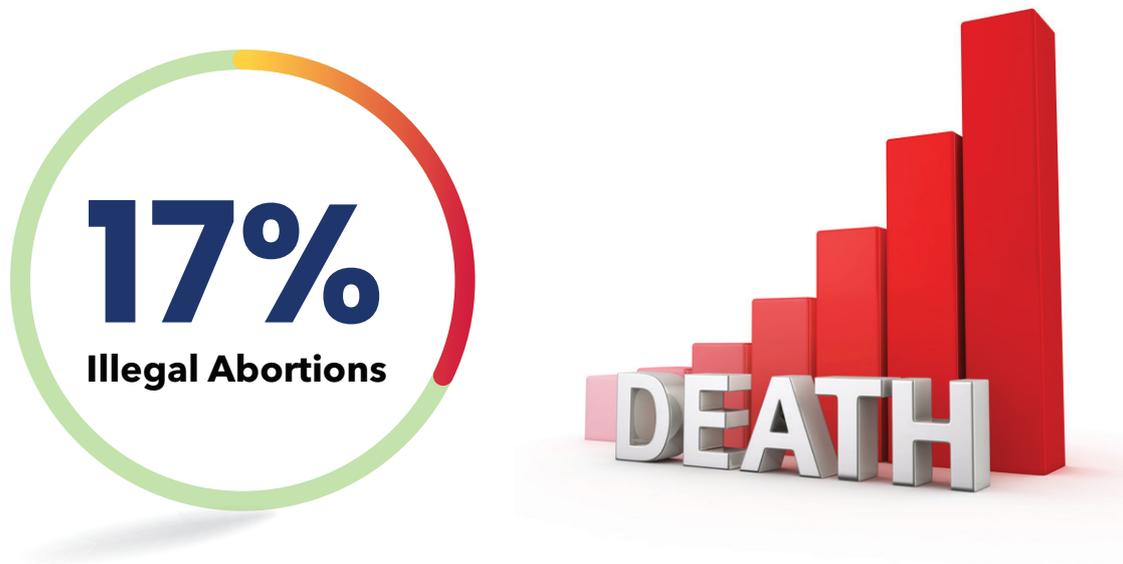
Their first step was to change national laws that prohibited abortion and an opportunity presented itself during the development of a reproductive health bill that encountered a public health bill. Unfortunately, this approach failed because no one wanted to tackle a subject as controversial as abortion and especially in a pre-electoral context. The second step was then to publish the Maputo protocol in the official journal after a long collaboration with magistrates, lawyers, senior officials at the national level, the Ministry of Gender and Health, civil society united in a coalition. Another opportunity was the fact that the DRC considers international and regional ratifications as the legal framework of the country and above their internal laws. After the interviews, meetings were held to verify and consolidate the information collected and received. In 2018, the country's constitutional court revealed that there is nothing preventing the court from publishing the protocol in the official journal, which is now enforceable as part of the country's legal framework. The next step now was to make the services available. For this step, the Ministry of Health involved civil society executives, guidance experts, midwives, obstetricians to produce the guidelines, how should safe abortion be done, inputs, health professionals who could make this service available.

Mrs. Mukuku recalled during her intervention that the process lasted 10 years, from the DRC's adhesion to the Maputo Protocol in 2008, to the publication of the protocol in the official journal in 2018. She also invited participants to read the political guide which helps to understand how to advocate along the lines of the Maputo Protocol and the DRC case study for more information and knowledge on the subject.

3. Why choose the process of domestication of the Maputo Protocol in the DRC as a success story for political change - Mike Mpoyi (Ipas)

At the start of his presentation, Dr. Mpoyi also laid out the context of the DRC before the adherence to the Maputo Protocol just like Ms. Mukuku, with a high maternal mortality caused by 17% of illegal abortions, a very changing political context with seven governments from 2003 where the protocol was signed in 2008 when the government acceded to the protocol. He wanted to applaud the hard work done by the civil societies and actors to maintain the progress achieved. Civil societies in the DRC played a very big role, according to Dr. Mpoyi, but there was also political commitment which made it possible despite the changes to get the level of advocacy that was needed.

High maternal mortality caused by 17% of illegal abortions before the adherence to the Maputo Protocol



When the president of the time, Mr. Kabila, signed the adherence, in 2010, at the community level there was several tumultuous, protest marches especially in the east of the country because the religious communities and traditions (led by one of the largest church groups in the country) were against the protocol calling on the country to withdraw. In 2017, Ipas started the program in the DRC. There was pressure from civil society so that the legal framework integrates the penal indications of Maputo. A study carried out by the Ministry of Health and funded by Ipas clarified the very alarming results and those results were presented to policymakers, to health-care providers. As the study showed that in all the structures investigated, 81% offered health service abortion but still used the cuvette, an obsolete material. These complications were brought to light and policy makers became aware, which prompted the call to action.

With the Maputo treaty above the country's internal laws, the president of the constitutional court instructed magistrates to apply the protocol in their ruling, even before the health ministry took up the guidelines. Dr. Mpoyi added that on top of that, the Constitutional Court had mandated the Ministry of Health to build standards for the provision of services.

The fear in DRC was that the opposition would gain more power and affect the efforts made by the actors and the civil society. He pointed out that advocacy in DRC was not an easy task because the discussions were fierce, especially on the issues of minors and married women. Some demanded that married women have the approval of their husbands and that a minor be accompanied by both parents before accessing any abortion service. According to him, the history of the DRC shows the power of advocacy but also that advocacy should not be short-lived. Indeed, the process of standards and guidelines began in 2018 in the DRC, but it was only in 2020 that the guidelines were presented to the Ministry of Health after following the normal procedure: validated by the service commission and the technical committee department. Despite this, Dr. Mpoyi recalls in his intervention that there is still a lot to do. The standards are there but must be disseminated, develop training tools, collect data from health facilities and identify indicators.

For more details, he explained to the participants that the published Maputo Protocol included the circular of the constitutional court which asked the lawyers and magistrates to use this protocol in their say of law, the general observations which show how rape and minors cases were treated in the country, and all the provisions supporting the protocol.

Finally, he added that all this would not have been possible without the commitment of the community, the community-based organizations, without the political commitment and the change in political leadership, the interventions of some donors who have helped stakeholders, made funds available to move the work forward, to have the Maputo Protocol published. The gender ministry took the protocol head-on and made sure to disseminate it in each of the provinces and report back to the African Union. This reporting in this area is a means of accountability that civil society uses to keep the government on track, to show the gaps and how they can be addressed.



4. Steps to follow for a successful domestication of the Maputo Protocol: good practices for political change, regional view - Patterson Siema

In his presentation, Patterson from APHRC's Policy Engagement and Communication Division provided an overview of good practices from the DRC case study that could be a guide for other countries.

Patterson began his remarks by saying that good advocacy should be able to trigger policy change. For him, the DRC is a unique case because the country has been able to make this great political change with the opportunity given to them to improve access to sexual and reproductive health for women and girls.

On the question of how to adopt the case of the DRC, on the different steps that countries can follow, he proposes to:

- First, find leaders who listen to their people, use major political events to bring these political decision-makers closer together
- To have donors or international stakeholders who have a strong emphasis on human rights (which creates opportunities for change)
- It is also important to have at the country level, a coordinated advocacy action plan
- Define the problem according to the local context, frame the problem and make sure there is enough research you need
- Political change must converge on several factors. According to the theory of change, you need to look at strategies (have a flexible strategy that could be changed when needed)
- Disseminate information and data to educate the population
- Develop standards and guidelines that will guide the advocacy process
- Set up indicators that you can monitor
- Strengthen the capacity of stakeholders so that they can engage decision-makers, and allies at all levels of the advocacy
- Ensure that the legal framework is harmonized and ensure the availability of services. To this, he added that the country must be able to collect data and report it in a way that the population or the target audience can understand and relate to
- Educate the population on the stigma that plays a big role and prevents people from using abortion services
- Ensure that you have the proper financial and material support necessary to support the process and coordinate the commitment at all levels

It is also important to influence the political climate by building strong coalitions at the grassroots level.

5. The implementation after the ratification of the Maputo Protocol in the DRC and the lessons learned from the implementation - Franck Akamba

Like his predecessors Mrs. Fall and Dr. Mpoyi, panelist Akamba mentioned at the start of his presentation that the environment in the DRC after the ratification of the Maputo Protocol is very specific. As mentioned above, the legal context in DRC is very restrictive, even with issues related to contraception and FP. He recalls that when the Maputo Protocol was ratified, the constitution in the DRC restricted all practices aimed at limiting births or delaying births, and this was sanctioned by law. The only FP services offered were under the speech of former President Mobutu who launched the program called "desirable pregnancy" which is now the national reproductive health program. Being therefore very restrictive, the penal code sanctioned abortion in all its forms. Even medical abortion aimed at saving the mother's life was only found in medical ethics and not in the law.

After the ratification, some international organizations with some actors came together to bring the issue of abortion access to reproductive health platforms. Indeed, many platforms exist with various actors and even the Ministry of Health, to discuss how to improve health issues. It was then a question for these international organizations and these actors to first change the laws on safe family planning services. Article 14 paragraph 2C should apply because the Maputo Protocol has been ratified in its entirety. Thus, the key actors at the national level and the international organizations set up an advocacy group and a multisectoral FP technical committee (the CTMP) by a decree of the Prime Minister. In this committee, questions related to FP were discussed. The panelist mentioned that at that time, a dynamic was being put in place to review the constitution with the provisions which prohibited access to reproduction. This was therefore an opportunity for the actors, for the constitution to take into account the Maputo protocol, so that all women could access abortion services. Unfortunately, this advocacy did not meet with the expected success. The committee then decided to change their strategy, first questioning the FP issues, and setting aside abortion issue. This new strategy was successful, because although the law on reproductive health had not been adopted, it was incorporated into the legal framework on public health. After this step, the SAFE ENGAGE advocacy group was set up. The gender ministry and a specific unit that worked on sexual violence then became major allies for the coalition. The coalition has attended conferences to try to mobilize as many resources as possible and get other allies to advocate for access to abortion.



In terms of difficulties encountered, the coalition has encountered enormous difficulties with the lack of evidence in abortion, so they use international statistics before deciding to advocate for evidence. This is how organizations such as Doctors without Borders and Pathfinder conducted SRH behavior studies in Kinshasa and contraceptive service studies with adolescents in Kinshasa, respectively.

Success:

- Publication of the Maputo Protocol in the country's official journal
- The development of standards and directives and technical documents by the technical units set up
- Marketing authorization for Mifepristone because before the protocol publication, only Misoprostol was authorized in the DRC, yet the protocol requires that we do a combination therapy and in the context of the country this was not authorized
- The involvement of lawyers / magistrates to start services related to abortion

The challenges and what remains to be done:

- Other regulatory texts remain restrictive although the Maputo Protocol takes precedence over these laws.
- The code of ethics has not been revised, the penal code, the public health framework have not yet made access to abortion legal in the DRC. We still need to harmonize all these different laws so that the Maputo Protocol is in it, a popularization strategy. As the country is large, there are places where some people cannot access this information.
- Have more champions to popularize the provisions as much as possible in this restrictive context.
- There is also the problem of effectively setting up activities in comprehensive abortion care services. Today in terms of FP, despite advocacy, 300 health zones out of the existing 516 have integrated FP services but these services leave much to be desired in terms of quality.
- Problems of financial resources, for a country like the DRC, it is necessary to mobilize external resources to support abortion access services in health structures.
- Challenges in terms of equipment, and health information management.
- In the standards and guidelines, we have training modules, but the health information collected does not provide any information on abortion. The evidence is therefore always a challenge.
- There is still the stigma issue. When someone performs an abortion, she is indexed, so we have to work on behavior change.

To conclude his intervention, Mr. Akamba encouraged all participants to contact him for more information on the context of abortion in the DRC.

III. Discussion

1. The funding challenge

As several panelists mentioned the funding aspect, one participant asked the question of how they can ensure that they have enough funding for advocacy. To this question, Patterson explained that indeed, the funding aspect is always one of the biggest challenges in advocacy. Indeed, the advocacy results are not automatically visible and more importantly, advocacy can either be a success or a failure. To overcome this element, there needs to be a coalition that will encourage the creation of projects, which will work with donors. These donors over time will be able to engage on a particular advocacy issue. Funding, according to Patterson, is really a challenge that affects most actors in Africa, but with the right strategy we can overcome it.

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2. The circular of the Maputo protocol in the official journal

The link of the Maputo Protocol circular in the official journal in the DRC was shared with participants. Dr. Mpoyi explained that disseminating and making this circular available was the reason that led the magistrates to get involved in the implementation of the protocol. However, their personal beliefs still continue strongly during the implementation, as some in their legal claim do not take into account the protocol on the pretext that they are not informed. In addition to having made this protocol public, there is a need for accountability mechanisms to enforce the established laws.

3. Reports to the African Union (AU)

Ms. Mukuku explained that since the Maputo Protocol is an AU document, each country submits a report on the implementation of this document. In DRC, the ministry in charge of gender is responsible for data collection as the Maputo protocol does not only target issues of safe abortion. But with regard to health, the collection of health data is done at the national level with the DHIS2 tool, and the national health information system (SNIS) at the local level.

IV. Next steps- Francoise Mukuku

- Harmonize certain laws because legal restrictions still exist since in the penal code it is still stated that abortion is strictly prohibited, as well as in medical ethics and the law on public health.
- Gather information.
- Since the DRC is a large and vast country, services must be rolled out as quickly as possible, train service professionals, equip health centers.
- Have Mifepristone and Misoprostol in the country knowing that illegal abortions are higher inside the country where it is still difficult to access FP, but the different coalitions have a plan on how to make it happen and provide information to all women and girls in the DRC and providers.

