

The Maputo Protocol

The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, popularly known as the Maputo Protocol was adopted in 2003 and came into force in 2005. 41 countries have ratified it as at early 2018. The African Commission on Human and Peoples' Rights oversees implementation of the Maputo Protocol.



A Snapshot of the Protocol

The Maputo Protocol is elaborate in its protection of women and includes all categories of rights drafted from a women's rights perspective.

A snapshot of the Maputo Protocol is provided here under key themes:

Equality & non-discrimination

- Elimination of discrimination (article 2)
- Access to justice, including legal aid and the training of law enforcement officials (article 8)
- Political participation and decision-making (article 9)
- Education (article 12)

Protection against violence

- Bodily integrity and dignity, including sexual violence, trafficking of women and medical and scientific experimentation (article 3 & 4)
- Practices harmful to women, including female genital mutilation (article 5).
- Gender stereotypes (article 4(2)(c) & (d))

- Sexual harassment (article 12 & 13)
- Domestic violence (article 4(2)(a))
- Support to victims of violence, including health services and psychological counselling (article 5(c))

Rights relating to marriage

- Marriage and its effect on property relations, nationality, name (article 6(e) to (j))
- Minimum age of marriage (article 6(b))
- Registration of marriages (article 6(d))
- Protection of women in polygamous marriages (article 6(c))
- Protection of women during separation, divorce or annulment of marriage (article 7)
- Protection of children in the family (article 6(i))

Health and reproductive rights

- Access to health services (article 14(2)(a))
- Reproductive health services, including the reduction of maternal mortality (article 14(1)(a) & (b))
- Provision for abortion (article 14(2)(c))
- HIV/AIDS (article 14(1)(d) & (e))
- Sex education (article 14(1)(g))

Economic, social and cultural rights

- Economic and welfare rights (article 13)
- Right to food security (article 15)
- Right to adequate housing (article 16)
- Right to positive cultural context (article 17)
- Right to a healthy and sustainable environment (article 18)
- Right to sustainable development, including the right to property; access to land and credit (article 19)



Rights relating to peace

- Women's participation in peace and conflict prevention and management (article 10(1)) and in all aspects of post-conflict reconstruction and rehabilitation (article 10(2)(e))
- Reduction of military expenditures in favour of social spending (article 10(3))

Protection of women in armed conflicts

- Protection for asylum seekers, refugees, internally displaced women and the punishment of all violators of such protection (article 11(1) – (3)).
- Protection of children especially girls from participating directly in hostilities and prevents children from being recruited as soldiers (article 11(4))

Rights of specially protected women's groups

- Widows, including inheritance rights (articles 20 & 21)
- Elderly women (article 22)
- Women with disabilities (article 23)
- Women in distress (article 24)



Innovations

The Maputo Protocol is celebrated for its innovation in women's rights protection. The Maputo Protocol is the first global legally binding treaty to address the following issues:

- The right to medical abortion.
- Women's rights protections in the context of HIV & AIDS.
- Prohibition of harmful practices and female genital mutilation (FGM), in particular.

- The long-standing controversy between monogamy and polygamy is resolved in the Maputo Protocol and it is for the first time explicitly stated that "monogamy is encouraged as the preferred form of marriage" whereas the rights of women in polygamous marriages are also protected.
- The need to adopt a gender perspective in national development procedures including prioritisation of gender budgeting.
- The requirement that the negative effects of globalisation, trade and economic programs be reduced for women.

State Obligations

Domestication & Implementation

States accrue certain key obligations on ratification of the Protocol. While ratification is an imperative first step, domestication is absolutely essential in order to ensure that the promises of the Protocol are realised for women and girls in Africa. The Protocol requires state parties to take legislative, institutional and other measures in implementing its provisions. In doing so, states are called to be cognisant of their obligations to protect, promote and fulfill women's rights.

State Reporting

Related to implementation is the obligation of state reporting under the Maputo Protocol. States are required to submit periodic state reports (every 2 years), indicating their progress, good practices and challenges in the implementation of the Maputo Protocol. The African Commission has the mandate to examine these reports and to issue states with concluding observations.

These concluding observations are a manifestation of the dialogue between the Commission and member states. They include commendations, criticisms and recommendations all with the objective of improving a state's ability to implement the Protocol.

States that are party to both the African Charter and the Maputo Protocol are expected to submit one report with Part A of the report dealing with the Charter while Part B is dedicated to the Protocol. The African Commission has developed Maputo Protocol State Reporting Guidelines. States should adhere to these guidelines in their reports.



Centre for Human Rights

The Centre for Human Rights, University of Pretoria, is an internationally recognised university-based institution combining academic excellence and effective activism to advance human rights, particularly in Africa. It aims to contribute to advancing human rights, through education, research and advocacy.

For more details on the Centre, visit www.chr.up.ac.za

Women's Rights Unit

The Women's Rights Unit aims to promote implementation and popularisation of the Maputo Protocol through research, training and advocacy. The Unit aims further to support the Special Rapporteur on the Rights of Women in Africa, to strengthen regional mechanisms with a commitment to the advancement of women's rights, to promote gender sensitive policies and practices, and strategise for the provision of equal opportunities for women in Africa.

The Unit provides technical support to states and civil society actors on a number of areas including state reporting, shadow reporting and engaging with concluding observations.

For more information please contact:

Patience Mpani

Project Manager: Women's Rights Unit

Centre for Human Rights, University of Pretoria

Email: Patience.Mpani@up.ac.za

Tel: +27 (0) 12 420 4526

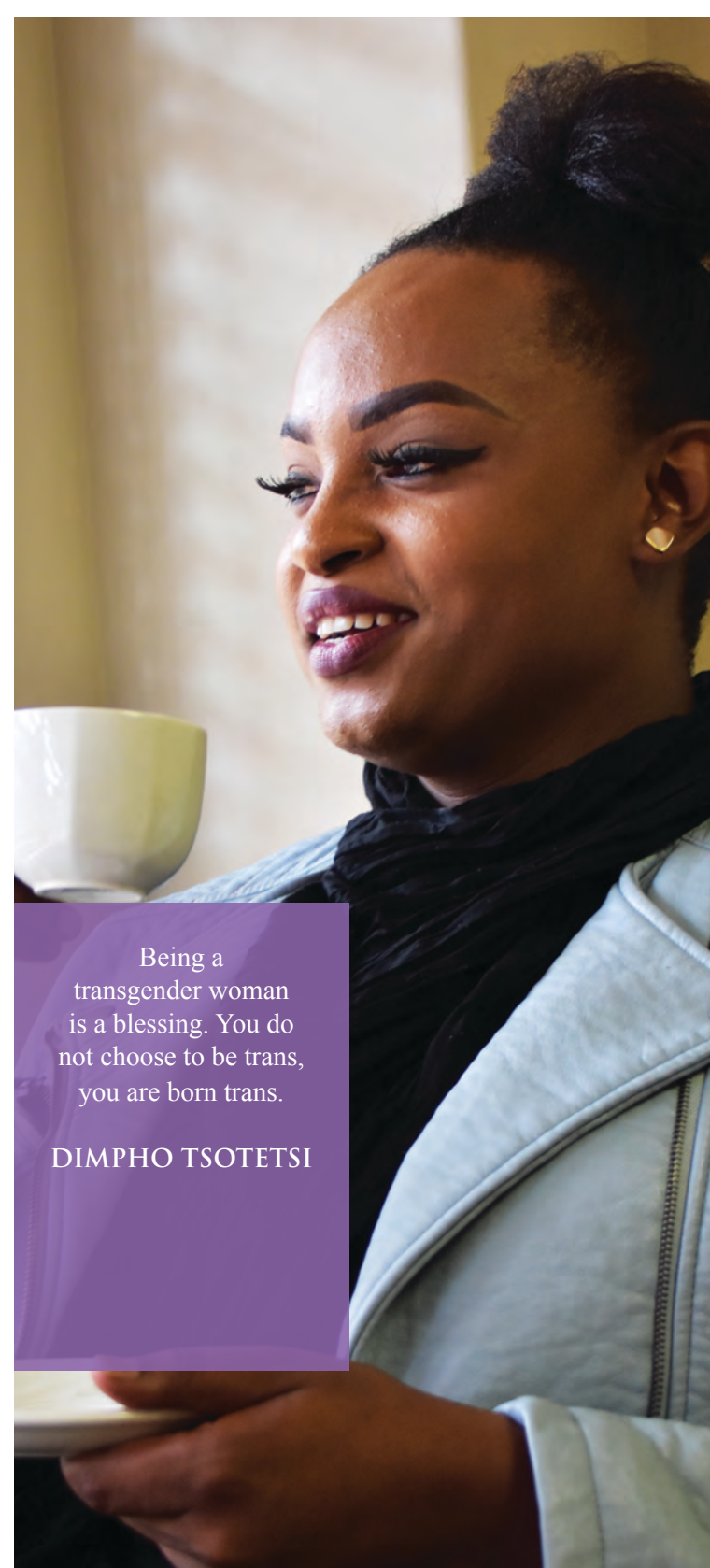




Take Action! Engage with the Maputo Protocol

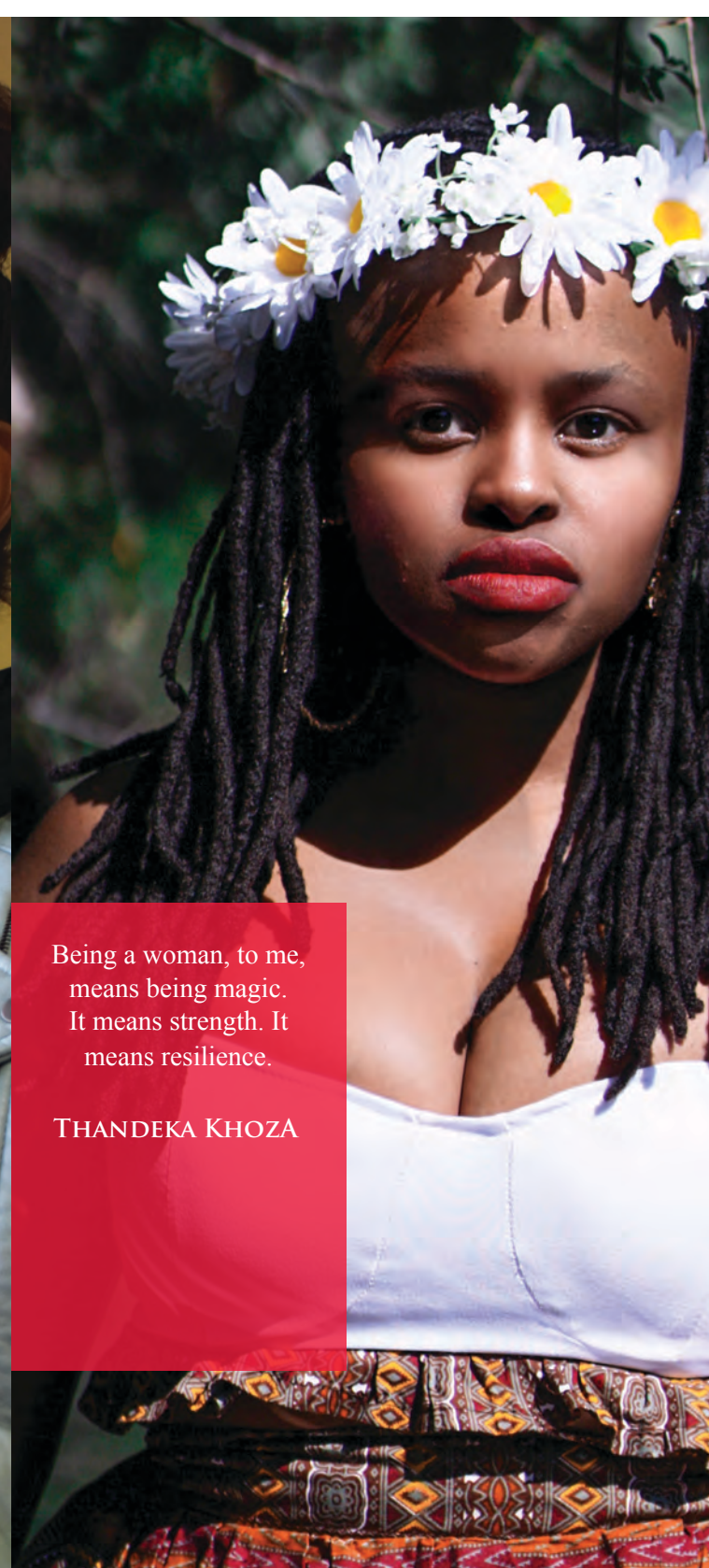
- **Find out your country's ratification status.**
If it has not yet been ratified, undertake advocacy.
- **Find out about your country's reporting status.**
Get involved in the development of the state report. Develop and submit a shadow report to the African Commission to assist in their dialogue with states. Include a list of helpful questions on key women's rights concerns.
- **The African Commission has established the mandate of a Special Rapporteur on the Rights of Women in Africa (SRRWA)**
Inform and engage with the SRRWA on high-level advocacy and in the event of serious or massive violations of women's rights.
- **Submit communications (cases) of women's rights violations.**
These can be submitted where local remedies have been exhausted or are unduly prolonged.

The full text of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) can be accessed on the website of the African Commission on Human and Peoples' Rights:
www.achpr.org/instruments/women-protocol



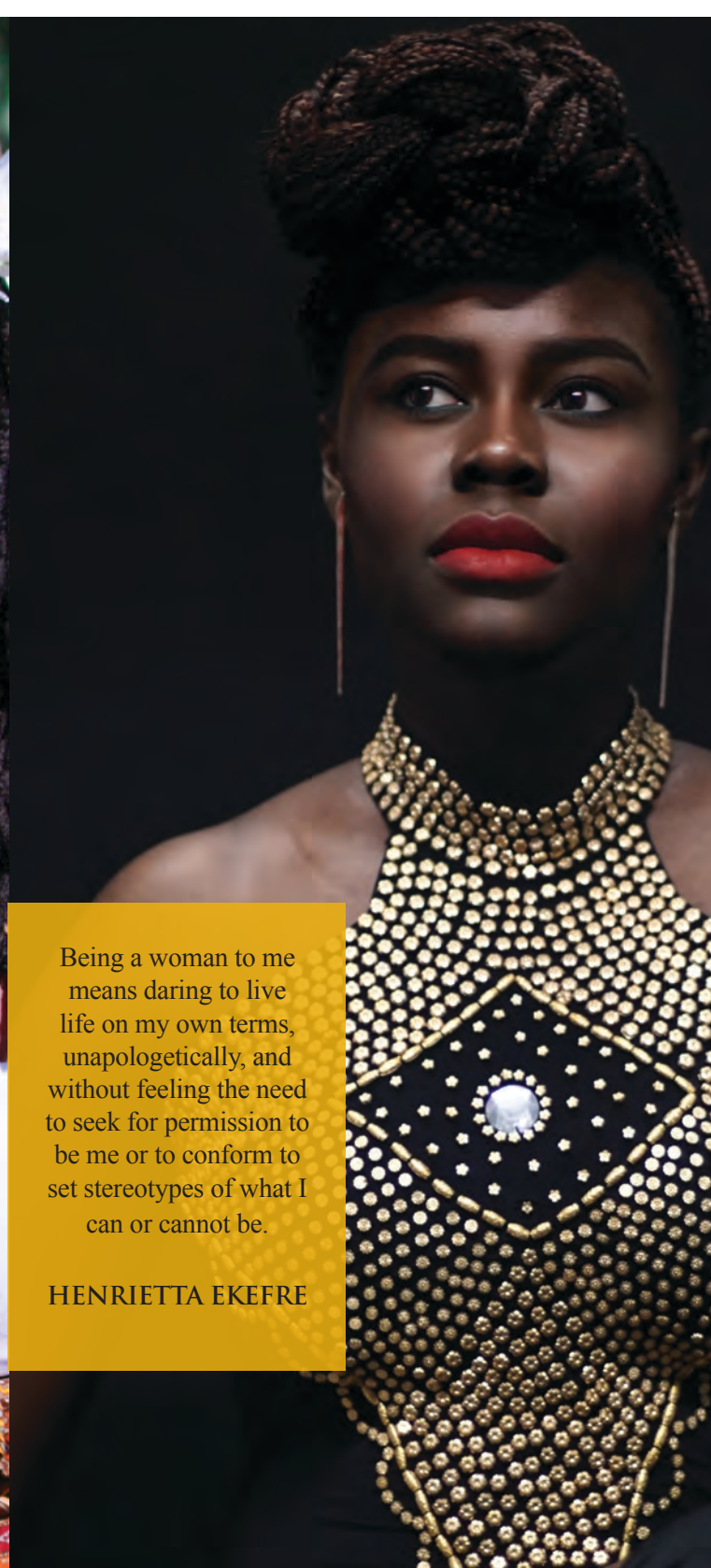
Being a transgender woman is a blessing. You do not choose to be trans, you are born trans.

DIMPHO TSOTETSI



Being a woman, to me, means being magic. It means strength. It means resilience.

THANDEKA KHOZA



Being a woman to me means daring to live life on my own terms, unapologetically, and without feeling the need to seek for permission to be me or to conform to set stereotypes of what I can or cannot be.

HENRIETTA EKEFRE



The Maputo Protocol AT A GLANCE

