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TO: African Heads of State and Government

THRU: The Executive Council – AU

THRU: The Permanent Representative Council- AU

THRU: The President African Bar Association

Your Excellencies,

Policy Brief on

Serious Issues with the Proposed AU Anti-Violence Convention

The updated December 2024 draft of the African Union Convention on Ending Violence Against Women and Girls (AU-CEVAWG or draft Convention), scheduled to be adopted during the current AU Summit, contains many of the same serious problems as the previous draft (dated November 2024). The revised text also raises several new concerning provisions that will undermine national sovereignty, the integrity of the African family, and the religious and cultural values of African States. Due to the draft Convention's pre-existing and newly added problematic provisions, it is strongly recommended that the adoption of this convention be postponed until the next session to give all AU Member States sufficient time to carefully review and suggest amendments to the text. Key issues that remain or are new and problematic include:

1. **Does Not Protect National Sovereignty:** Prior paragraphs undermining national sovereignty were removed, but three new paragraphs were added to the revised text that threaten national sovereignty as follows:
 - Article 15(1) states: *“No provision in this Convention shall be interpreted as derogating from the principles and values contained in other relevant instruments for the realization of ending violence against women and girls.”* This subjugates all the draft Convention provisions to the “principles and values” of “other relevant instruments” without identifying or defining any of them. See issue #2 below for a potential “instrument” this could be referring to that advances abortion and the LGBT agenda. Most countries subject their national laws to treaty obligations, so under Article 15(1) other regional and international “instruments” besides the Convention would also override relevant national laws and regulations.

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- Article 15(2) states: *“In the event of a contradiction between two or more provisions of this Convention, the interpretation that favours the realization of ending violence against women and girls shall prevail.”* First, this is a unique provision as no binding treaty should have contradictions between, or conflicts among, its provisions. Second, Article 15(2) would have the odd result of undermining national sovereignty if national law were consistent with one provision in the Convention but another one were deemed to be stronger.
- The biggest threat to national sovereignty is Article 14(3), which vests the African Commission on Human and Peoples' Rights (ACHPR) with authority to interpret the provisions of the Convention for African States. Given that ACHPR has been compromised by relying on non-binding international documents that promote sexual orientation,¹ gender identity, and abortion in the African context, African States risk being held accountable under misinterpretations of this Convention that contradict their national laws and obligations. If conflicts on the meaning of the Convention arise, the African Court on Human and People’s Rights should be charged with interpreting the Convention to prevent the Commission from elaborating and expanding on treaty provisions in harmful ways.

REMEDY: (i) List in a footnote all “relevant instruments” that will take precedence over this Convention’s provisions if they are considered stronger; (ii) Delete Article 15(2) because no one can predict which provision would be considered strong enough to cancel out others in the Convention or in national law; and (iii) Remove the mandate for the Commission to interpret the Convention’s provisions and give that mandate to the African Court instead.

¹**Endnotes:**

Evidence that the ACPHR has already been compromised for all to clearly see is their General Comment No. 1, which interprets Article 14(1)(d) and (e) of the Protocol to the African Charter on Human and Peoples’ Right. This General Comment contains the clear fingerprints of the EU, the OHCHR, and UN agencies as it uses the same double-meaning, deceptive terms to advance in multiple ways the EU/UN’s SRHR Agenda (CSE, abortion and LGBT rights). In fact, the ACPHR Comment refers to “sexual and reproductive health” 40 times and SRHR multiple times, even though African countries strongly oppose these terms when proposed in UN negotiations because of their evolving controversial definitions (see <https://achpr.au.int/en/node/855>).

Point 5 of this same ACPHR General Comment advances the LGBTQI agenda, and is a paragraph also relevant to the draft AU-CEVAWG in that it illustrates how the “intersectional approach” to discrimination is used to advance LGBTQI rights. Moreover the Commission adopted a resolution on the “Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity - ACHPR/Res.275(LV)2014 with the following provisions:

Recalling that Article 2 of the African Charter on Human and Peoples’ Rights (the African Charter) prohibits discrimination of the individual on the basis of distinctions of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or any status;

3. **Calls on** State Parties to ensure that human rights defenders work in an enabling environment that is free of stigma, reprisals or criminal prosecution as a result of their human rights protection activities, including the rights of sexual minorities; and
4. **Strongly urges** States to enact and effectively apply “laws prohibiting and punishing all forms of violence including those targeting persons on the basis of their imputed or real sexual orientation or gender identities.

2. Reservations on “Human Rights” Not Valid: Article 19(2) states “A reservation shall not be incompatible with the object and purpose of this Convention.” Since the purposes and objectives encompass protecting LGBTQI rights (per below), reservations can easily be struck.

REMEDY: Delete Article 19(2) as it is unworkable and restricts national sovereignty.

3. Affirms a Non-negotiated Document – This extensive document, called the AU Strategy for Gender Equality and Women's Empowerment (2018-2028) (GEWE), was never negotiated by UN Member States but could become binding on states by being affirmed in this binding Convention. The GEWE could also qualify as a “relevant instrument” per Article 15(1) as mentioned above and thus supersede weaker provisions in this Convention.

REMEDY: “Take note of” instead of “Affirm” the GEWE in the preamble.

4. Pornography and Prostitution: The draft Convention fails to address pornography and prostitution as two major drivers of violence against women and girls, evidenced by extensive research, which puts in question the true purpose of the Convention (see next issue) and intentions of the Western donor countries and UN agencies driving its development.

REMEDY: Develop joint actions that African States can take together to significantly reduce the use of pornography and prostitution in Africa.

5. Redefines the “family”: Article 1(d) defines “family” as a “natural and fundamental group” or any “unit of society that constitutes a family as defined or provided for, by a State Party.” This distorts (i) the consensus language of multiple binding UN treaties that call for the protection of “the family” as the “natural and fundamental group unit of society”; and (ii), Article 18.1 of the “African Charter on the Rights and Welfare of the Child” wherein it states “The family shall be the natural unit and basis of society. It shall enjoy the protection and support of the State for its establishment and development.”

REMEDY: “The family” should be defined in line with both UN treaties and the African Charter as “the natural and fundamental group unit of society” and not just any unit.

6. Definitions for “Gender” and “Gender-Responsive”: These gender definitions in Article 1(g) and (h) open the door to gender ideology and the transgender agenda as follows:

- “‘gender’ means the roles, duties and responsibilities which are culturally or socially ascribed to a particular gender.” This is circuitous, nonsensical, and similar to gender definitions used by Western donor countries and the UN to advance gender ideology. The issue is important because the Convention mandates multiple forms of “gender equality,” including changing norms and harmful practices to achieve it (Article 4(b)).
- “‘gender responsive budgeting’ means planning, programming and budgeting that contributes to the advancement of gender equality and the fulfilment of women's rights, entailing the identification of, and reflecting needed interventions to address, gender gaps in a sector’s or subsector’s policies, plans and budgets.” This is way too vague and broad, and not specific to preventing violence.

REMEDY: “Gender” should be simply defined as male and female.

7. Definitions for Woman and Girl: As these definitions are not tied to biological sex they can encompass transgender “women” and “girls” (Article 1(f) and Article 1(m)).

REMEDY: Add “biological” to both definitions.

8. Over-Broad Definition of “Violence”: The definition includes not just actual harm, but any perceived or potential harm, whether verbal, emotional, psychological, economic or otherwise (Article 1(m)). Thus, “violence” could encompass actions like denying abortion or misgendering, which already have been deemed as such by UN treaty bodies.

REMEDY: Replace definition with the following: “‘Violence’ against women and girls includes behaviors generally known to be harmful towards them, and as such, does not encompass new or evolving and radical interpretations such as denying abortion or failing to recognize or use a preferred pronoun other than the one for a person’s biological sex.”

9. “Human Rights” Not Defined: Human rights are a fundamental part of the Convention. Article 6 states: “*the human rights and fundamental freedoms of women and girls shall be respected and upheld*” and this is a principle that “*shall guide State Parties when implementing, reporting on, interpreting and enforcing this Convention.*” The ACHPR has already interpreted “*human rights*” to encompass LGBTQI and abortion rights. For example, in their press release “Pathologization: being lesbian, gay, bisexual and/or trans is not an illness,” it states that “Pathologization of LGBT adults and children - branding them as ill based on their sexual orientation, gender identity or gender expression - has historically been, and continues to be, one of the root causes behind the human rights violations that they face. It is also an obstacle to overcoming negative attitudes, stereotypes, and the multiple barriers for the realization of LGBT people’s most fundamental human rights ... Legal and policy reforms are needed to remove discriminatory laws and protect LGBT persons from violence and discrimination.”²

REMEDY: Add an amendment clarifying that “nothing in the Convention creates obligations for African States with regard to sexual orientation, gender identity, abortion, or comprehensive sexuality education for children. ‘Human Rights’ shall be defined in line with national laws and shall not be construed to advance abortion or LGBTQ rights.”

10. Human Rights Defenders: Article 11(2) obligates all African State Parties “*to strengthen and engage with, and protect, women and girls’ rights defenders and other women’s organisations in the prevention and ending of all forms of violence against women and girls.*” In ACHPR’s “Resolution on Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity,” the Commission expresses its alarm “that acts of violence, discrimination and other human rights violations continue to be committed on individuals in many parts of Africa because of their actual or imputed sexual orientation or gender identity.” The Commission, which has the mandate to interpret the draft Convention (per Article 15(1)), then “Calls on State Parties to ensure that human rights defenders work in an enabling environment that is free of stigma, reprisals or criminal prosecution as a result of their human rights protection activities, including the rights of sexual minorities.” Also of relevance, the EU has been funding LGBTQI rights defenders in multiple African countries to advance the LGBT agenda.


² <https://achpr.au.int/en/news/press-releases/2016-05-12/pathologization-being-lesbian-gay-bisexual-and-or-trans-not-illness>.

REMEDY: Modify the definition in Article 1(o) to restrict “women and girls’ human rights defenders” to individuals and organizations that defend universally recognized human rights.

11. Harmful Practices Definition Too Broad. Article 1(i) defines "harmful practices" broadly as anything that could negatively affect the undefined "human rights" of women and girls. Article 4(b) calls for “changing negative norms and harmful practices to promote gender equality and women empowerment in all aspects of development.”

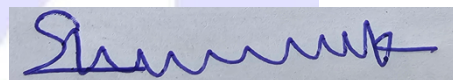
REMEDY: Delete the definition of “harmful practices”.

12. Imposes Intersectional Approach to Discrimination: This approach (see Article 7 Header and the preamble) is a covert way of importing the LGBTQI agenda. The intersectional approach holds that a person is discriminated based on multiple and interconnecting or intersecting factors such as being African lesbian, female, disabled and transgender etc. So, when the text refers to multiple and interconnecting forms of discrimination it is euphemistically referring to sexual orientation and gender identity among other characteristics for which a person might be discriminated against. The African Group at the UN, strongly opposes the term every time it is proposed because of its LGBT connotation.

REMEDY: 1. Remove references in the preamble to “*systemic multiple and interconnected forms of inequality and discrimination*” and “*evolving nature of violence against women and girls in Africa and its interconnection with multiple forms of inequality,*” leaving just the term “*discrimination.*” This way those paragraphs still call out discrimination against women and girls without bringing in the LGBT agenda. 2. Delete the header in Article 7 “*State Obligations Relating to Women and Girls at Risk of Multiple and Interconnected Factors Which Exacerbate Violence Against Women and Girls*” and replace it with “*Discrimination.*” 3. Delete “*multiple forms of vulnerabilities*” in Article 7.1. 



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