



SADC LAWYERS ASSOCIATION PROJECT SUMMARY **2020-2024**

This is a summary of the projects undertaken by the SADC Lawyers Association in the period of 2020-2024.

1. ACCESS TO JUSTICE
2. POLICY DEVELOPMENT AND HARMONISATION OF LAWS
3. STRENGTHENING INSTITUTIONS AND CONSTITUTIONAL FRAMEWORKS
4. ALTERNATIVE DISPUTE RESOLUTION (ADR)
5. CLIMATE CHANGE AND ENVIRONMENTAL SUSTAINABILITY
6. ELECTIONS AND ELECTORAL REFORM
7. CAPACITY DEVELOPMENT AND CPD ACCREDITED TRAININGS



1. ACCESS TO JUSTICE

The biggest challenge faced in the African society is access to justice. Achieving and receiving justice is an expensive activity and because access to justice is a human right and is an imperative under international and regional human rights instrument, advocacy, and protection of access to justice instruments is essential. Additionally, it has been proven that there is a positive relationship between the ability of people to access justice and socio-economic development of societies. For example, statistics show;

- In Malawi there are about 645 lawyers in a country with a population of 21 million people, in a country facing climate change and human rights offences continue to erode the economy and the marginalized groups.
- In South Africa where there are 60000 registered lawyers in comparison to a population of 60 million people, where issues of GBV and corruption continue to amass in the recent years with limited access to justice for victims and marginalized groups of people.

Affordable legal representation is a necessity not a luxury for the poor and marginalized groups of people. People that have been affected by different circumstances such as; victims of GBV (gender based violence), (SRHR) Sexual Reproductive Health Rights, Decriminalization of Poverty and Economic Status, Insult and Arbitrary Removals and Reforms.

It is the duty of the SADC-LA through its functioning Pro-bono network and database to reform and institute mechanisms to promote access to justice by leveraging on technology and technological advancements to break down barriers and borders and



putting up necessary structures while promoting the rule of law without fear or favor.

This has been done through the SADC-LA Annual Regional Pro-bono Forum and the formalization of the SADC-LA Regional Pro-bono Institute as well as continuous advocacy on the need for the *Independence of the Judiciary and legal profession*. This has been possible as the attitude of lawyers has changed from not only making money to giving back which is a paradigm shift from the stereotype of lawyers.

Access to justice also includes the recognition of paralegals in the legal sphere bringing together lawyers, jurists and paralegals to co-exist and work together in promoting the legal profession and ensuring equal access to justice particularly in situations and events surmounting from;

- i. Climate change and environmental catastrophes,
- ii. Issues concerning victims of internal displacements,
- iii. Issues of victims of the justice system
- iv. Migrant prisoners in foreign jurisdictions/ countries,
- v. Children in conflict with the law i.e. Juveniles
- vi. Implementing laws across regional borders concerning human, child and sex trafficking,
- vii. Curing violations of rights between businesses and human rights i.e; neo-colonialism in the modern and practical sense, the effects of China and the human rights abuses in African communities dressed as business and investment in the different African economies.

The efforts of the international and regional community to realize access to justice for all cannot be realized unless legal empowerment is taken seriously. Through the Access to Justice branch, SADC Lawyers Association intends to advocate, promote and protect the rights of all and formulate strategic mechanisms in access to justice.



2. POLICY DEVELOPMENT AND HARMONISATION OF LAWS

Policy development and harmonization of laws play a crucial role in ensuring a cohesive and effective governance system. SADC Lawyers Association plays an integral role in this process by working with law societies and bar associations in the region to ensure;

- **Consistency and Fairness:** Harmonized laws provide a consistent legal framework across different jurisdictions. This ensures fairness, as everyone is subject to the same rules and regulations not only in their home country but within the region and network of the SADC.
- **Efficiency:** Harmonization helps to eliminate duplications and contradictions in laws, leading to increased efficiency in their implementation.
- **Ease of Doing Business:** The SADC region is open for business and investment. And for businesses operating in multiple jurisdictions, harmonized laws simplify compliance and reduce administrative burdens.
- **Policy Development:** This is essential for addressing societal and civic issues. Effective policies are based on evidence and are developed through a process of research, consultation, implementation, and review.



- **Societal Progress**: Policies guide the allocation of resources and set the direction for societal progress. This can help address social inequalities and promote economic development.

SADC Lawyers Association has a critical role in policy development and harmonization, evidenced in actions taken in countries such as Lesotho and Malawi's international and national laws as well as policies and protocols. Achieving the promotion and protection of human rights and the rule of law as well as facilitation of regional integration is essential, as plenty of nuances are overlooked despite several attempts of effective co-ordination of different legal provisions or systems is made.

I.e. There are more than 31 protocols and treaties applicable in the SADC Region but implementation of these laws continues to fail because of the lack of treaties agreed upon and signed by representatives of each SADC Country for example the disbandment of the SADC Tribunal. The burden of ensuring this lies on the legal profession to achieve, resulting towards ratification and domestication of regional legal protocols and alignment of laws.

GAPS analysis in the context of law harmonization, can help identify inconsistencies and contradictions between different jurisdictions. This can guide the process of harmonizing laws to ensure a consistent regional legal framework. Thus making way for

- i. Mutual legal agreements within the African Continental Free Trade Area
- ii. Working with the SADC Institutional Body to implement laws for the protection of judges, prosecutors and lawyers region wide.
- iii. Electoral Laws and Policies
- iv. Developing model Laws, Policies and Regulations e.g. SADC Model Law on elections



In conclusion, policy development and law harmonisation are fundamental for the functioning of a democratic society, ensuring justice, efficiency, and progress and for open SADC regional Integration.

3. STRENGTHENING INSTITUTIONS AND CONSTITUTIONAL FRAMEWORKS

Strengthening institutions and constitutional frameworks is crucial for several reasons, SADC Lawyers Association stands by the values of promoting the rule of law without fear or favor to further emphasize this as it is a key aspect of building a robust and effective governance system. The effects are as follows;

- **Rule of Law:** Robust institutions uphold the rule of law, ensuring that laws are applied fairly and consistently.
- **Democracy and Human Rights:** Strong institutions are essential for a functioning democracy and for the protection of human rights. They provide checks and balances, prevent abuses of power, and ensure that every citizen's rights are respected.
- **Economic Stability:** Institutions provide a stable environment for economic activity, creating the conditions necessary for economic growth and development.
- **Social Equity:** By enforcing laws and regulations, institutions can help to promote social equity and justice.
- **Conflict Resolution:** Institutions play a key role in conflict resolution, helping to mediate disputes and maintain social harmony.



The SADC Lawyers Association has embarked on programs that focus on strengthening institutions and constitutional frameworks within the SADC Region and protecting of the triad known as the 3 Pillars of governance, The Executive, The Parliament and the Judiciary which is essential to be completely independent and separate from the first two pillars.

- i. The Independence of the Judiciary and Legal Profession reports are available.
- ii. Advocacy and research towards reinstatement of accountability through restoration of the SADC Tribunal/ Alternatively establish a regional human rights court of justice
- iii. The implementation and analysis of Constitutional Frameworks in comparison to international Constitutions.
- iv. The use of Regional Technical Working groups in research and analysis of constitutional frameworks
- v. Strong and Independent Bar Associations to speak on behalf of the judiciary
- vi. Trainings for Magistrate Court attendees and associations.

In essence, strengthening institutions and constitutional frameworks is fundamental for the creation of a just, stable, and prosperous society. It ensures that power is exercised in a way that is fair and that respects the rights of all citizens. It also provides the stability needed for economic and social development.

4. ALTERNATIVE DISPUTE RESOLUTION

Building resilient communities, access to justice and sustainable conflict resolution. ADR techniques can strengthen dispute settlement systems and bridge the gap between formal legal systems and traditional modes of African justice. They may



have particular value in stabilization and economic development efforts when judicial institutions are weak and social tensions are high at community level.

SADC Lawyers Association's impact on Regional Dispute Resolution and Regional Commercial Arbitration focuses and gives way for;

- Soft skills of negotiation through alternative dispute resolution
- Electoral alternative dispute resolution at community and rural levels, i.e; The Judiciary has been making decisions on electoral results and turnarounds.
- There is an impact of Women as women play a crucial role in peacebuilding efforts in the SADC region and Africa as whole. The advancement of women's participation and the promotion of gender equality through ADR, women can make positive impactful contributions to economic and community development as well as peacebuilding efforts.
- The SADC seat for International Commercial Arbitration making SADC Arbitration Friendly allows for the expertise, research, and harmonization of dispute resolution mechanisms to be applied and implemented.
- ADR works as a steppingstone for infrastructure of peace through the implementation of a dispute resolution manual for government and political parties.

Thus, ADR can be a profound tool with great impact on individual communities in the SADC Region by providing for a more accessible, cost-effective and empowering means of resolving disputes and opening up SADC as the main hub for African cases in International Commercial Arbitration.



5. CLIMATE CHANGE AND ENVIRONMENTAL SUSTAINABILITY

The legal profession plays a crucial role in addressing climate change and promoting environmental sustainability. This role is one that focuses on raising awareness and advocacy, assisting in legal advisory roles pertaining to the environment, climate litigation, environmental governance, green transition by accessing climate finance and influence on legislation and lobbying for policy reforms in promotion of climate justice.

The SADC Lawyers Association has embarked on the SADC Climate Change Initiative and has successfully roped in collaborations with

- i. The SADC Regional Body
- ii. Development Bank of Southern Africa (DBSA)

Promoting environmental sustainability is part of the work that is needed through Access to Justice and Pro-bono mechanisms and services, allowing for lawyers to be able to contribute effectively in the plight against climate erosion and environmental degradation through legal and legislative actions and missions.

the legal profession has a significant role to play in climate change mitigation and environmental sustainability. This being through providing legal advice, participating in climate litigation, enforcing environmental and climate efforts in governance and lobbying for legislations and policies that form as a means of advocating for climate change awareness.



6. ELECTIONS AND ELECTORAL REFORM

The SADC region has adopted the political culture of regular multiparty elections, however in many countries within the region the form, content and outcome are largely contested and are heavily dependent on the type of electoral system set in place in the country. It cannot go unsaid that the electoral system of a country plays a crucial role in any multiparty democratic state and influences whether the outcome of an election triggers instability, violent conflict, civil unrest and economic collapse.

The SADC Lawyers Association has embarked on missions to assist within the region to ensure free and fair elections as per country requests. This has had an impact on the SADC Regional activities in political participation resulting in;

- Election observation missions for example; South Africa (2019) and Angola (2022).
- Technical legal election monitoring, enforcing electoral decisions and laws to be applied.
- Working with government structures such as IEC in electoral laws and policies within the region as requested by the IEC in Lesotho.
- Focusing on Women's Political Participation and the role of the youth in elections both negatively affected and positively.
- The impact of youth being used as a resource in conflict as the youth is easily manipulated and women and children easily targeted as a consequence of electoral disputes
- Monitoring of elections and electoral justice



The SADC region has made significant strides in electoral reform and democratization. However, the journey towards fully consolidated democracies is ongoing.

7. CAPACITY DEVELOPMENT AND CPD ACCREDITED TRAININGS

SADC Lawyers Association continues to provide for and offer capacity development and CPD accredited trainings for legal professionals within the region. Working closely with the member Bar Associations and Law Societies, we are able to offer trainings and workshops focused on continuous learning and development of the legal profession and lawyers. In an evolving and technologically advanced economy, there is need for legal practitioners, judges and jurists, law students and paralegals to have access to modern practices and learned principles that are being used and applied within the African and International law curriculums.

SADC Lawyers Association currently offers trainings in the following areas and continues to expand. These trainings are country based and offered regionally to all legal professionals.

- i. Construction Law Training Module
- ii. Regional International Commercial Arbitration Trainings
- iii. International Commercial Law Training



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