

Maputo Protocol at 20: Progress on Abortion Rights in Africa

Twenty years ago, the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, known as the Maputo Protocol, made history as the first legally binding international human rights instrument to explicitly guarantee the right to legal abortion. Article 14(2)(c) of the Protocol obligates State Parties to allow abortion:

- In cases of sexual assault, rape, and incest
- Where the pregnancy poses a risk to the pregnant person's life or physical or mental health
- In cases of certain fetal diagnoses

Through a General Comment, the African Commission on Human and Peoples' Rights has made clear that State Parties must guarantee that abortion services are available, accessible, acceptable, and of good quality by taking a host of measures such as integrating abortion services into the provision of reproductive health care, removing unnecessary restrictions on abortion, and enabling a broad range of providers to administer abortion care.¹

Countries' Compliance with Article 14(2)(c) of the Maputo Protocol

Out of the 55 African states:

- **44 states** have ratified the Maputo Protocol
- **8 states** have signed but not ratified the Maputo Protocol
- **3 states** have neither signed nor ratified the Maputo Protocol

After ratification, states are legally bound to a treaty and therefore obligated to respect, protect, and fulfill the treaty's provisions. Signing a treaty indicates that the state intends to ratify it at a later date.

Of the 44 states that have ratified the Maputo Protocol:

- **12 states** permit abortion above and beyond the cases listed in the Maputo Protocol's abortion provisions (Beyond compliance)
- **11 states** permit abortion in all cases listed in the Maputo Protocol's abortion provisions (Full compliance)
- **16 states** permit abortion in some but not all of the cases listed in the Maputo Protocol's abortion provisions (Partial compliance)
- **4 states** directly contravene the Maputo Protocol by prohibiting abortion under all circumstances (Non-compliance)²

1. The African Commission on Human and Peoples' Rights (African Commission), General Comment No. 2 on Article 14 (1) (a), (b), (c) and (f) and Article 14 (2) (a) and (c) of the Maputo Protocol, paras. 55-59.

2. Of the 44 ratifications of the Maputo Protocol, the Sahrawi Arab Democratic Republic's abortion laws were not accessible at the time of publication and therefore it is not included in this breakdown of countries.

Abortion Legislation of States Across the African Continent

The following chart details each state's compliance with the Maputo Protocol's provisions on abortion.

KEY

	Beyond Compliance
	Full Compliance
	Partial Compliance
	Non-Compliance

Ratified the Maputo Protocol

Country	On request	Socio-economic grounds	Threat to life	Threat to health	Threat to mental health	Rape	Incest	Fetal diagnoses	Prohibited altogether
Benin	✓								
Cape Verde	✓								
Equatorial Guinea	✓								
Ethiopia		✓	✓	✓	✓	✓	✓	✓	
Guinea-Bissau	✓								
Mozambique	✓								
Rwanda		✓	✓	✓	✓	✓	✓	✓	
São Tomé + Príncipe	✓								
Seychelles		✓	✓	✓	✓	✓	✓	✓	
South Africa	✓								
Tunisia	✓								
Zambia		✓						✓	
Angola			✓	✓	✓	✓	✓	✓	
Burkina Faso			✓	✓		✓	✓	✓	
Democratic Republic of Congo			✓	✓	✓	✓	✓	✓	
Eswatini			✓	✓	✓	✓	✓	✓	
Ghana			✓	✓	✓	✓	✓	✓	
Guinea			✓	✓		✓	✓	✓	
Lesotho			✓	✓		✓	✓	✓	
Liberia			✓	✓	✓	✓	✓	✓	
Mauritius			✓	✓	✓	✓	✓	✓	
Namibia			✓	✓	✓	✓	✓	✓	
Togo			✓	✓		✓	✓	✓	

Accelerating Progress Towards the Liberalization of Abortion Laws

The African region is a leader in the global progress towards the liberalization of abortion laws as the region with the greatest number of countries that have expanded the grounds on which abortion is legal in the past two decades. Since the Maputo Protocol was enacted, 21 countries in Africa have adopted more expansive legal grounds for abortion. This includes eleven countries that have overturned absolute bans on abortion and four countries that now permit abortion on request.

Despite considerable progress in abortion law reform, access to safe and legal abortion services remains extremely limited in many places and the majority of abortions accessed within the African continent are still considered unsafe.³ In addition, unsafe abortion still accounts for a significant portion of preventable maternal deaths occurring in countries in the region.⁴ To reduce the number of unsafe abortions, countries must continue to expand and advance access to safe and legal abortion services.

Guaranteeing Abortion Access: A Human Rights and Public Health Imperative

As states continue to reform their abortion laws to comply with the Maputo Protocol, it is important to recognize the emerging human rights and public health consensus that states must not only permit abortion under specific circumstances, but also take positive measures to guarantee access to safe abortion services.

To reduce unsafe abortion and advance human rights, African States should:

- **Ratify the Maputo Protocol** and lift all reservations related to abortion;
- **Comply with the World Health Organization's abortion guidelines**, including by removing procedural barriers to abortion care, decriminalizing abortion, and ensuring a wide range of health workers can administer abortion care; and
- **Adopt and implement policies ensuring abortion services are available, accessible, acceptable, and of good quality**, including for those who face the greatest barriers accessing abortion care such as pregnant people living in rural areas, adolescents, and people living in poverty.

3. Akinrinola Bankole et al., *From Unsafe to Safe Abortion in Sub-Saharan Africa: Slow but Steady Progress*, Guttmacher Institute (2020), <https://www.guttmacher.org/report/from-unsafe-to-safe-abortion-in-subsaharan-africa>

4. *Id.*