

Relevant regional and international instruments on freedom of expression and the media

Compiled for AMB

by
fesmedia Africa

Table of Content

| | |
|---|----|
| 1. AFRICAN (Banjul) CHARTER ON HUMAN AND PEOPLE’S RIGHT (1981)..... | 3 |
| Article 9..... | 4 |
| 2. DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION IN AFRICA (2002), | 5 |
| 3. AFRICAN CHARTER ON DEMOCRACY, ELECTIONS AND GOVERNANCE (2007)..... | 11 |
| Article 2..... | 13 |
| 10..... | 13 |
| Article 17..... | 14 |
| 3..... | 14 |
| 4. SADC PROTOCOL ON CULTURE, INFORMATION AND SPORT (2000)..... | 15 |
| 5. DECLARATION ON INFORMATION AND COMMUNICATIONS TECHNOLOGY (ICT) (2001) .. | 24 |
| 6. TREATY OF ECOWAS (1975) | 28 |
| Article 65..... | 29 |
| Article 66..... | 30 |

1. **AFRICAN (Banjul) CHARTER ON HUMAN AND PEOPLE'S RIGHT (1981)**¹, article 9, adopted 27 June 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force 21 October 1986



Preamble

The African States members of the Organization of African Unity, parties to the present convention entitled "African Charter on Human and Peoples' Rights",

Recalling Decision 115 (XVI) of the Assembly of Heads of State and Government at its Sixteenth Ordinary Session held in Monrovia, Liberia, from 17 to 20 July 1979 on the preparation of a "preliminary draft on an African Charter on Human and Peoples' Rights providing inter alia for the establishment of bodies to promote and protect human and peoples' rights";

Considering the Charter of the Organization of African Unity, which stipulates that "freedom, equality, justice and dignity are essential objectives for the achievement of the legitimate aspirations of the African peoples";

Reaffirming the pledge they solemnly made in Article 2 of the said Charter to eradicate all forms of colonialism from Africa, to coordinate and intensify their cooperation and efforts to achieve a better life for the peoples of Africa and to promote international cooperation having due regard to the Charter of the United Nations. and the Universal Declaration of Human Rights;

Taking into consideration the virtues of their historical tradition and the values of African civilization which should inspire and characterize their reflection on the concept of human and peoples' rights;

¹ Find the entire document on <http://www.africa-union.org/root/AU/Documents/Treaties/text/Charter%20on%20Democracy.pdf>

Recognizing on the one hand, that fundamental human rights stem from the attributes of human beings which justifies their national and international protection and on the other hand that the reality and respect of peoples rights should necessarily guarantee human rights;

Considering that the enjoyment of rights and freedoms also implies the performance of duties on the part of everyone; Convinced that it is henceforth essential to pay a particular attention to the right to development and that civil and political rights cannot be dissociated from economic, social and cultural rights in their conception as well as universality and that the satisfaction of economic, social and cultural rights ia a guarantee for the enjoyment of civil and political rights;

Conscious of their duty to achieve the total liberation of Africa, the peoples of which are still struggling for their dignity and genuine independence, and undertaking to eliminate colonialism, neo-colonialism, apartheid, zionism and to dismantle aggressive foreign military bases and all forms of discrimination, particularly those based on race, ethnic group, color, sex. language, religion or political opinions;

Reaffirming their adherence to the principles of human and peoples' rights and freedoms contained in the declarations, conventions and other instrument adopted by the Organization of African Unity, the Movement of Non-Aligned Countries and the United Nations;

Firmly convinced of their duty to promote and protect human and people' rights and freedoms taking into account the importance traditionally attached to these rights and freedoms in Africa;

Have agreed as follows:

Article 9

- 1. Every individual shall have the right to receive information.**
- 2. Every individual shall have the right to express and disseminate his opinions within the law.**

2. DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION IN AFRICA (2002),

adopted by the African Commission on Human and Peoples' Rights, at its 32nd Ordinary
Session, 17 - 23 October, 2002: Banjul, The Gambia.

AFRICAN UNION

UNION AFRICAINE

UNIÃO AFRICANA



***African Commission on
Human & Peoples' Rights***

***Commission Africaine des Droits de
'Homme & des Peuples***

Preamble

Reaffirming the fundamental importance of freedom of expression as an individual human right, as a cornerstone of democracy and as a means of ensuring respect for all human rights and freedoms;

Reaffirming Article 9 of the *African Charter on Human and Peoples' Rights*;

Desiring to promote the free flow of information and ideas and greater respect for freedom of expression;

Convinced that respect for freedom of expression, as well as the right of access to information held by public bodies and companies, will lead to greater public transparency and accountability, as well as to good governance and the strengthening of democracy;

Convinced that laws and customs that repress freedom of expression are a disservice to society;

Recalling that freedom of expression is a fundamental human right guaranteed by the *African Charter on Human and Peoples' Rights*, the *Universal Declaration of Human Rights* and the *International Covenant on Civil and Political Rights*, as well as other international documents and national constitutions;

Considering the key role of the media and other means of communication in ensuring full respect for freedom of expression, in promoting the free flow of information and ideas, in assisting people to make informed decisions and in facilitating and strengthening democracy;

Aware of the particular importance of the broadcast media in Africa, given its capacity to reach a wide audience due to the comparatively low cost of receiving transmissions and its ability to overcome barriers of illiteracy;

Noting that oral traditions, which are rooted in African cultures, lend themselves particularly well to radio broadcasting;

Noting the important contribution that can be made to the realisation of the right to freedom of expression by new information and communication technologies;

Mindful of the evolving human rights and human development environment in Africa, especially in light of the adoption of the *Protocol to the African Charter on Human and Peoples' Rights on the establishment of an African Court on Human and Peoples' Rights*, the principles of the *Constitutive Act of the African Union, 2000*, as well as the significance of the human rights and good governance provisions in the New Partnership for Africa's Development (NEPAD); and

Recognising the need to ensure the right to freedom of expression in Africa, the African

Commission on Human and Peoples' Rights declares that:

I

The Guarantee of Freedom of Expression

1. Freedom of expression and information, including the right to seek, receive and impart information and ideas, either orally, in writing or in print, in the form of art, or through any other form of communication, including across frontiers, is a fundamental and inalienable human right and an indispensable component of democracy.
2. Everyone shall have an equal opportunity to exercise the right to freedom of expression and to access information without discrimination.

II

Interference with Freedom of Expression

1. No one shall be subject to arbitrary interference with his or her freedom of expression.
2. Any restrictions on freedom of expression shall be provided by law, serve a legitimate interest and be necessary and in a democratic society.

III

Diversity

Freedom of expression imposes an obligation on the authorities to take positive measures to promote diversity, which include among other things:-

- availability and promotion of a range of information and ideas to the public;
- pluralistic access to the media and other means of communication, including by vulnerable or marginalised groups, such as women, children and refugees, as well as linguistic and cultural groups;
- the promotion and protection of African voices, including through media in local languages; and
- the promotion of the use of local languages in public affairs, including in the courts.

IV

Freedom of Information

1. Public bodies hold information not for themselves but as custodians of the public good and everyone has a right to access this information, subject only to clearly defined rules established by law.
2. The right to information shall be guaranteed by law in accordance with the following principles:
 - everyone has the right to access information held by public bodies;
 - everyone has the right to access information held by private bodies which is necessary for the exercise or protection of any right;
 - any refusal to disclose information shall be subject to appeal to an independent body and/or the courts;
 - public bodies shall be required, even in the absence of a request, actively to publish important information of significant public interest;
 - no one shall be subject to any sanction for releasing in good faith

information on wrongdoing, or that which would disclose a serious threat to health, safety or the environment save where the imposition of sanctions serves a legitimate interest and is necessary in a democratic society; and

- secrecy laws shall be amended as necessary to comply with freedom of information principles.
3. Everyone has the right to access and update or otherwise correct their personal information, whether it is held by public or by private bodies.

V

Private Broadcasting

1. States shall encourage a diverse, independent private broadcasting sector. A State monopoly over broadcasting is not compatible with the right to freedom of expression.
2. The broadcast regulatory system shall encourage private and community broadcasting in accordance with the following principles:
 - there shall be equitable allocation of frequencies between private broadcasting uses, both commercial and community;
 - an independent regulatory body shall be responsible for issuing broadcasting licences and for ensuring observance of licence conditions;
 - licensing processes shall be fair and transparent, and shall seek to promote diversity in broadcasting; and
 - community broadcasting shall be promoted given its potential to broaden access by poor and rural communities to the airwaves.

VI

Public Broadcasting

State and government controlled broadcasters should be transformed into public service broadcasters, accountable to the public through the legislature rather than the government, in accordance with the following principles:

- public broadcasters should be governed by a board which is protected against interference, particularly of a political or economic nature;
- the editorial independence of public service broadcasters should be guaranteed;
- public broadcasters should be adequately funded in a manner that protects them from arbitrary interference with their budgets;
- public broadcasters should strive to ensure that their transmission system covers the whole territory of the country; and
- the public service ambit of public broadcasters should be clearly defined and include an obligation to ensure that the public receive adequate, politically balanced information, particularly during election periods.

VII

Regulatory Bodies for Broadcast and Telecommunications

1. Any public authority that exercises powers in the areas of broadcast or telecommunications regulation should be independent and adequately protected against interference, particularly of a political or economic nature.
2. The appointments process for members of a regulatory body should be open and transparent, involve the participation of civil society, and shall not be controlled by any particular political party.
3. Any public authority that exercises powers in the areas of broadcast or telecommunications should be formally accountable to the public through a multi-party body.



VIII

Print Media

1. Any registration system for the print media shall not impose substantive restrictions on the right to freedom of expression.
2. Any print media published by a public authority should be protected adequately against undue political interference.
3. Efforts should be made to increase the scope of circulation of the print media, particularly to rural communities.
4. Media owners and media professionals shall be encouraged to reach agreements to guarantee editorial independence and to prevent commercial considerations from unduly influencing media content.

IX

Complaints

1. A public complaints system for print or broadcasting should be available in accordance with the following principles:
 - complaints shall be determined in accordance with established rules and codes of conduct agreed between all stakeholders; and
 - the complaints system shall be widely accessible.
2. Any regulatory body established to hear complaints about media content, including media councils, shall be protected against political, economic or any other undue interference. Its powers shall be administrative in nature and it shall not seek to usurp the role of the courts.
3. Effective self-regulation is the best system for promoting high standards in the media.

X

Promoting Professionalism

1. Media practitioners shall be free to organise themselves into unions and associations.
2. The right to express oneself through the media by practising journalism shall not be subject to undue legal restrictions.

XI

Attacks on Media Practitioners

1. Attacks such as the murder, kidnapping, intimidation of and threats to media

- practitioners and others exercising their right to freedom of expression, as well as the material destruction of communications facilities, undermines independent journalism, freedom of expression and the free flow of information to the public.
2. States are under an obligation to take effective measures to prevent such attacks and, when they do occur, to investigate them, to punish perpetrators and to ensure that victims have access to effective remedies.
 3. In times of conflict, States shall respect the status of media practitioners as non-combatants.

XII

Protecting Reputations

1. States should ensure that their laws relating to defamation conform to the following standards:
 - no one shall be found liable for true statements, opinions or statements regarding public figures which it was reasonable to make in the circumstances;
 - public figures shall be required to tolerate a greater degree of criticism; and
 - sanctions shall never be so severe as to inhibit the right to freedom of expression, including by others.
2. Privacy laws shall not inhibit the dissemination of information of public interest.

XIII

Criminal Measures

1. States shall review all criminal restrictions on content to ensure that they serve a legitimate interest in a democratic society.
2. Freedom of expression should not be restricted on public order or national security grounds unless there is a real risk of harm to a legitimate interest and there is a close causal link between the risk of harm and the expression.

XIV

Economic Measures

1. States shall promote a general economic environment in which the media can flourish.
2. States shall not use their power over the placement of public advertising as a means to interfere with media content.
3. States should adopt effective measures to avoid undue concentration of media ownership, although such measures shall not be so stringent that they inhibit the development of the media sector as a whole.

XV

Protection of Sources and other journalistic material

Media practitioners shall not be required to reveal confidential sources of information or to disclose other material held for journalistic purposes except in accordance with the following principles:

- the identity of the source is necessary for the investigation or prosecution of a serious crime, or the defence of a person accused of a criminal offence;
- the information or similar information leading to the same result cannot be obtained elsewhere;

- the public interest in disclosure outweighs the harm to freedom of expression; and disclosure has been ordered by a court, after a full hearing.

XVI

Implementation

States Parties to the African Charter on Human and Peoples' Rights should make every effort to give practical effect to these principles.

Adopted by The African Commission on Human and Peoples' Rights, meeting at its 32nd Ordinary Session, in Banjul, The Gambia, from 17th to 23rd October 2002

3. **AFRICAN CHARTER ON DEMOCRACY, ELECTIONS AND GOVERNANCE (2007)**, article 1, 2, 17 adopted by the Eighth Ordinary Session of the Assembly, held in Addis Ababa, Ethiopia, 30 January 2007



PREAMBLE

We, the Member States of the African Union (AU);

Inspired by the objectives and principles enshrined in the Constitutive Act of the African Union, particularly Articles 3 and 4, which emphasise the significance of good governance, popular participation, the rule of law and human rights;

Recognising the contributions of the African Union and Regional Economic Communities to the promotion, nurturing, strengthening and consolidation of democracy and governance;

Reaffirming our collective will to work relentlessly to deepen and consolidate the rule of law, peace, security and development in our countries;

Guided by our common mission to strengthen and consolidate institutions for good governance, continental unity and solidarity;

Committed to promote the universal values and principles of democracy, good governance, human rights and the right to development;

Cognizant of the historical and cultural conditions in Africa;

Seeking to entrench in the Continent a political culture of change of power based on the holding of regular, free, fair and transparent elections conducted by competent, independent and impartial national electoral bodies;

Concerned about the unconstitutional changes of governments that are one of the essential causes of insecurity, instability and violent conflict in Africa;

Determined to promote and strengthen good governance through the institutionalization of transparency, accountability and participatory democracy;

Convinced of the need to enhance the election observation missions in the role they play, particularly as they are an important contributory factor to ensuring the regularity, transparency and credibility of elections;

Desirous to enhance the relevant Declarations and Decisions of the OAU/AU (including the

1990 Declaration on the political and socio-economic situation in Africa and the fundamental changes taking place in the world, the 1995 Cairo Agenda for the Re-launch of Africa's Economic and Social Development, the 1999 Algiers Declaration on Unconstitutional Changes of Government, the 2000 Lomé Declaration for an OAU Response to Unconstitutional Changes of Government, the 2002 OAU/AU Declaration on Principles Governing Democratic Elections in Africa, the 2003 Protocol Relating to the Establishment of the Peace and Security Council of the African Union);

Committed to implementing Decision EX.CL/Dec.31(III) adopted in Maputo, Mozambique, in July 2003 and Decision EX.CL/124(V) adopted in Addis Ababa, Ethiopia, in May 2004 respectively, by the adoption of an African Charter on Democracy, Elections and Governance;

HAVE AGREED AS FOLLOWS²:

Chapter 1 DEFINITIONS

Article 1

In this Charter, unless otherwise stated, the following expressions shall have the following meaning:

“AU” means the African Union;

“African Human Rights Commission” means the African Commission on Human and Peoples' Rights;

“African Peer Review Mechanism” APRM means the African Peer Review Mechanism;

“Assembly” means the Assembly of Heads of State and Government of the African Union;

“Commission” means the Commission of the Union;

“Constitutive Act” means the Constitutive Act of the Union;

“Charter” means the African Charter on Democracy, Elections and Governance;

“Member States” means the Member States of the African Union;

“National Electoral Body” means a competent authority, established by the relevant legal instruments of a State Party, responsible for organizing and supervising elections;

“NEPAD” means the New Partnership for Africa's Development;

² Relevant articles are highlighted. The entire document can be found on <http://www.africa-union.org/root/AU/Documents/Treaties/text/Charter%20on%20Democracy.pdf>

“Peace and Security Council” means the Peace and Security Council of the African Union;

“Regional Economic Communities” means the regional integration blocs of the African Union;

“State Party” means any Member State of the African Union which has ratified or acceded to this Charter and deposited the instruments for ratification or accession with the Chairperson of the African Union Commission;

“Union” means the African Union.

Chapter 2: OBJECTIVES

Article 2

The objectives of this Charter are to:

1. Promote adherence, by each State Party, to the universal values and principles of democracy and respect for human rights;
2. Promote and enhance adherence to the principle of the rule of law premised upon the respect for, and the supremacy of, the Constitution and constitutional order in the political arrangements of the State Parties;
3. Promote the holding of regular free and fair elections to institutionalize legitimate authority of representative government as well as democratic change of governments;
4. Prohibit, reject and condemn unconstitutional change of government in any Member State as a serious threat to stability, peace, security and development;
5. Promote and protect the independence of the judiciary;
6. Nurture, support and consolidate good governance by promoting democratic culture and practice, building and strengthening governance institutions and inculcating political pluralism and tolerance;
7. Encourage effective coordination and harmonization of governance policies amongst State Parties with the aim of promoting regional and continental integration;
8. Promote State Parties’ sustainable development and human security;
9. Promote the fight against corruption in conformity with the provisions of the AU Convention on Preventing and Combating Corruption adopted in Maputo, Mozambique in July 2003;
- 10. Promote the establishment of the necessary conditions to foster citizen participation, transparency, access to information, freedom of the press and**

accountability in the management of public affairs;

11. Promote gender balance and equality in the governance and development processes;
12. Enhance cooperation between the Union, Regional Economic Communities and the International Community on democracy, elections and governance; and
13. Promote best practices in the management of elections for purposes of political stability and good governance.

Chapter 7: DEMOCRATIC ELECTIONS**Article 17**

State Parties re-affirm their commitment to regularly holding transparent, free and fair elections in accordance with the Union's Declaration on the Principles Governing Democratic Elections in Africa. To this end, State Parties shall:

1. Establish and strengthen independent and impartial national electoral bodies responsible for the management of elections.
2. Establish and strengthen national mechanisms that redress election related disputes in a timely manner.
3. **Ensure fair and equitable access by contesting parties and candidates to state controlled media during elections.**
4. Ensure that there is a binding code of conduct governing legally recognized political stakeholders, government and other political actors prior, during and after elections. The code shall include a commitment by political stakeholders to accept the results of the election or challenge them in through exclusively legal channels.

Adopted by the Eighth Ordinary Session of the Assembly, held in Addis Ababa, Ethiopia, 30 January 2007.

4. SADC PROTOCOL ON CULTURE, INFORMATION AND SPORT

(2000), Chapter 1 Articles 1 and 2 & Chapter 2 Articles 3-9, 17-23, signed at Blantyre, August, 2000 in three (3) originals, in the English, French and Portuguese languages, all texts being equally authentic. ³

TABLE OF CONTENTS

PREAMBLE

CHAPTER ONE Definitions And General Principles

ARTICLE 1 DEFINITIONS

ARTICLE 2 PRINCIPLES

CHAPTER TWO

ARTICLE 3 GENERAL AREAS OF CO-OPERATION

ARTICLE 4 POLICY HARMONISATION

ARTICLE 5 TRAINING, CAPACITY-BUILDING AND RESEARCH

ARTICLE 6 RESOURCE MOBILISATION AND UTILISATION

ARTICLE 7 FLOW AND EXCHANGE OF INFORMATION

ARTICLE 8 REGIONAL INTERACTION AMONG STAKEHOLDERS

ARTICLE 9 GENDER

ARTICLE 10 PERSONS WITH DISABILITIES

CHAPTER THREE Specific Areas Of Cooperation

CULTURE

ARTICLE 11 OBJECTIVES

ARTICLE 12 LANGUAGE POLICY FORMULATION

ARTICLE 13 PRESERVATION OF CULTURAL HERITAGE

ARTICLE 14 CULTURAL INDUSTRIES

ARTICLE 15 ARTS AND CULTURE FESTIVALS

ARTICLE 16 COPYRIGHT AND NEIGHBOURING RIGHTS

INFORMATION

ARTICLE 17 OBJECTIVES

ARTICLE 18 INFORMATION POLICIES

ARTICLE 19 INFORMATION AVAILABILITY

ARTICLE 20 FREEDOM OF THE MEDIA

ARTICLE 21 CODE OF ETHICS

ARTICLE 22 SADC ACCREDITATION

ARTICLE 23 INFORMATION INFRASTRUCTURE

SPORT

ARTICLE 24 OBJECTIVES

ARTICLE 25 NATIONAL SPORTS AND RECREATION POLICIES

ARTICLE 26 REGIONAL TOURNAMENTS

ARTICLE 27 CENTRES OF TALENT DEVELOPMENT

ARTICLE 28 CENTRES OF EXCELLENCE IN SPORT

³ Sections pertaining to media and information were extracted; this is not the entire document. Entire documents can be found on

<http://www.unctadxi.org/sections/DITC/SADC/docs/SADC%20Regional/SADCProtocolonCulture.pdf>

ARTICLE 29 SPORTS ACADEMY
ARTICLE 30 SPORTS EQUIPMENT
ARTICLE 31 HONOURS AND AWARDS

CHAPTER FOUR Institutional Arrangement And Financial Provisions

ARTICLE 32 INSTITUTIONAL MECHANISMS
ARTICLE 33 COMMITTEE OF MINISTERS
ARTICLE 34 COMMITTEE OF SENIOR OFFICIALS
ARTICLE 35 SUB-COMMITTEES
ARTICLE 36 SECTOR CO-ORDINATING UNIT
ARTICLE 37 IMPLEMENTING BODY IN SPORT
ARTICLE 38 SECTORAL CONTACT AND FOCAL POINTS
ARTICLE 39 FINANCIAL PROVISION

CHAPTER FIVE Final Provisions

ARTICLE 40 SETTLEMENT OF DISPUTES
ARTICLE 41 ANNEXES
ARTICLE 42 SIGNATURE
ARTICLE 43 RATIFICATION
ARTICLE 44 ENTRY INTO FORCE
ARTICLE 45 ACCESSION
ARTICLE 46 WITHDRAWAL
ARTICLE 47 DEPOSITARY

PREAMBLE

WE, the Heads of State or Government of:

The Republic of Angola
The Republic of Botswana
The Democratic Republic of Congo
The Kingdom of Lesotho
The Republic of Malawi
The Republic of Mauritius
The Republic of Mozambique
The Republic of Namibia
The Republic of Seychelles
The Republic of South Africa
The Kingdom of Swaziland
The United Republic of Tanzania
The Republic of Zambia
The Republic of Zimbabwe

HAVING regard to Article 21 and 22 of the SADC Treaty which provide for the conclusion of such Protocols as may be necessary in each area of cooperation and which shall spell out the objectives and scope of, and the institutional mechanisms for, cooperation and integration; CONVINCED that culture, information and sport play a vital and central role in the process of, and are therefore a sine qua non for, the integration and cooperation of the Member States constituting SADC;

GUIDED by the principle of involving the peoples of the Region as well as non-governmental organisations in the process of regional integration in the areas of cooperation in order to foster close relationships among communities, associations and people of the Region as provided by Article 23 of the Treaty;

FURTHER GUIDED by the policies, priorities and strategies of the Sector for Culture, Information and Sport of SADC;

FURTHER GUIDED by the Organisation of African Unity (OAU) Cultural Charter for Africa; the Cultural Manifesto of Algiers (1969); the OAU Lagos Plan of Action for the Economic Development of Africa and the Final Act of Lagos (1980); Our Creative Diversity (1997); the UNESCO Stockholm Action Plan on Cultural Policies for Development and the OAU Dakar Plan of Action on Cultural Industries;

MINDFUL of the objective to strengthen and consolidate the historical, social and cultural affinities and links among the peoples of the Region as stipulated in Article 5(1)(h) of the Treaty;

GUIDED by the Windhoek Declaration on the State of the Media in Southern Africa and the SADC Declaration on the Role of Information and Communication;

RECALLING that information is a prerequisite for political, economic, social and cultural development and therefore the need to cooperate in removing barriers for its dissemination;

DESIROUS of improving the availability of information to the peoples of the Region;

GUIDED by the Olympic Charter and the OAU and Supreme Council of Sport in Africa General Assembly Declaration on Sport;

AWARE that sport plays an important role in addressing social, economic and political problems and promotes a sense of pride and community integration;

FURTHER AWARE of the Region's proven potential in sport and that human-centred development brought about by participation in sport and recreation is one of the most essential means of achieving the objectives of the Treaty;

CONVINCED of the need to entrench sport in the regional integration agenda;

AWARE that SADC recognises the presence and role of the Supreme Council for Sport in Africa Zone VI (SCSA Zone VI) and that SADC has made the SCSA Zone VI the implementing arm of all SADC sports programmes;

CONVINCED FURTHER that the Region's community building efforts can be better achieved through well co-ordinated and harmonised approaches to sports development, participation and tournament programmes.

TAKING full cognisance of the imperative need to translate sectoral policies, priorities and strategies into practical effect;

HEREBY AGREE as follows:

CHAPTER ONE

Definitions And General Principles

ARTICLE 1

DEFINITIONS

1. In this Protocol terms and expressions defined in Article 1 of the SADC Treaty shall bear the same meaning unless the context otherwise requires.

2. In this Protocol, unless the context otherwise requires;

"Accreditation" means adoption by Member States of regionally and commonly accepted standards of registering or accrediting practitioners in the fields of culture, information and sport;

"Athlete" means a person engaged in a sport code as an amateur or professional;

"Broadcasting" means disseminating information through electronic media such as radio, television, film and any new information technologies;

"Centre of Excellence" means: (a) with respect to culture, a research institution within the Region designated as such by Member States under Article 4 of this Protocol, and (b) with respect to sport, an institution where outstanding athletes receive specialised coaching and use up-to-date facilities and equipment in preparation for top level competitions;

"Centre of Specialisation" means the institution within the Region designated as such by Member States for training and other related purposes under Article 4 of this Protocol;

"Centre of Talent Development" means the institution referred to in Article 26 of this Protocol;

"Committee of Ministers" means the Committee of Ministers of Member States responsible for culture, information and sport respectively, established by the Council in accordance with Article 11 (2) (g) of the Treaty;

"Communication" means the process of relaying or imparting information;

"Community Media" means non-profit and community-based media which serve geographically founded community or any group of people or sector of the public having an ascertainable common interest;

"Confederation" means a grouping, or a union, or an alliance of sports organisations or sports associations of Member States, which operate with a constitution, approved and registered by the SCSA;

"Cultural agents" means persons working in the field of culture, including creators, performers, administrators and professionals associated with such cultural activities as audio-visual arts, visual arts, crafts, the performing arts, publishing, the cultural heritage and cultural tourism;

"Cultural goods/products" means goods or products created or produced by cultural agents, including creators, performers or other people working in the field of culture or associated with such cultural activities as the audio-visual arts, the visual arts, crafts, the performing arts, publishing, cultural heritage and cultural tourism;

"Cultural industries" means the production, whether for sale, consumption or enjoyment, of cultural products which seek to convey ideas, messages, symbols, information or moral or aesthetic values of a given people or society;

"Culture" means, as the totality of a people's way of life, the whole complex of distinctive spiritual, material, intellectual and emotional features that characterise a society or social group, and includes not only arts and letters, but also modes of life, the fundamental rights of the human being, value systems, traditions and beliefs;

"Disability" means lack of utilisation of a part or parts of one's body;

"Executive Secretary" means the chief executive officer of SADC appointed under Article 10 (7) of the Treaty;

"Federation" means a grouping, or a union, or an alliance of sports clubs for a similar sports discipline registered with the sports council or its equivalent of Member States;

"Gender" means the socially and culturally constructed roles, privileges, responsibilities, power and influence, social relations, expectations and value of men and women, girls and boys;

"Harmonisation" means arrangements agreed upon, accepted and adopted by Member States for the purpose of policy formulation, training cultural agents, information workers, media practitioners and sports personnel;

"Honours and awards" means any recognition given to sports personnel or athletes for outstanding performance as provided in Article 30;

"Independent media" means media which are editorially independent of their owners, be they private, public or community based;

"Indigenous language" means a language indigenous or native to a Member State of the Region, which is not a language of a migrant or non-native social group;

"Information" means knowledge statistics, reports, dance and song recorded in various forms such as books, audio, video tapes and electronic digitisation;

"Information department" means any department of State and any other public office or institution exercising power or performing a function related to collecting and disseminating information;

"Information infrastructure" means facilities, including equipment, used in the process of information dissemination;

"Information Sub-Sector" means the media, media institutions and other institutions referred to in this Protocol;

"Information Workers" means people involved in collecting, collating and organising the

dissemination of information;

"IOC" means the International Olympic Committee;

"Journalist" means a person involved in the collection and dissemination of news and information;

"Media" means all forms of communications such as the print media, broadcast media, film, video and new information technologies;

"Media Freedom" means an environment in which the media operate without restraint and in accordance with the law;

"Media Independence" means editorial independence, whereby editorial policy and decisions are made by the media without interference;

"Media Policy" means a general framework and guidelines adopted by Member States, which set out the basis for media diversity and development;

"Media Practitioners" means people involved in all forms of communications, such as the print media, broadcast media, film, video, and new information technologies;

"Mother tongue" means one's first or primary language;

"NGO" means non-governmental organisation

"OAU" means the Organisation of African Unity established at Addis Ababa in 1963;

"Official Language" means a language selected, set aside and so prescribed in the national constitution or by administrative fiat for use in such public domains as education, proclamation and dispensation of laws and government business;

"Pluralistic media" means diversified media in terms of ownership, control and content;

"Print Media" means printed and published materials such as newspapers, periodicals and books;

"Protocol" means this Protocol and any amendment thereto;

"Recreation" means leisure activities in which, through casual or organised ways, individuals or groups of people voluntarily participate;

"SACIS" means Southern African Cultural Information System;

"SCSA" means the Supreme Council for Sport in Africa;

"Sector Co-ordinating Unit" means the body established in terms of Article 35 of this Protocol;

"Sport" means those activities which are often physical and are organised and regulated by internationally accepted rules;

"Sports Academy" means an institution for training sports personnel;

"Sports Personnel" means people involved in sports administration and management including experts in equipment, facilities maintenance, sports scientists and sports medicine specialists;

"Stakeholder" means any institution organisation or individual with a particular interest in culture, information and sport activities;

"Standardisation" means agreed common standards of human resources development with respect to training and certification in the sub-sectors of culture, information and sport;

"State Party" means a Member of SADC that ratifies or accedes to this Protocol;

"Sub-Sector" means either of the three sub-sectors, namely Culture, Information and Sport;

ARTICLE 2

PRINCIPLES

State Parties shall, in the spirit of regional integration and co-operation, be guided by the following general principles:

(a) Striving for the development and implementation of policies and programmes in the areas of culture, information and sport consistent with the principles contained in Article 4 of the Treaty;

(b) Pooling of resources by State Parties, such as expertise and infrastructural facilities, and their utilisation in the interest of regional integration and cooperation;

- (c) Commitment to the enhancement of a regional identity in diversity in the areas of culture, information and sport;
- (d) Commitment to the right of access to information and participation in cultural and sporting activities by all citizens.

CHAPTER TWO

ARTICLE 3

General areas of co-operation

Member States undertake to collaborate in the following areas:

- (a) policy harmonisation;
- (b) training, capacity-building and research;
- (c) resource mobilisation and utilisation;
- (d) flow and exchange of information;
- (e) regional interaction among stakeholders;
- (f) gender equality and equity;
- (g) persons with disabilities;

ARTICLE 4

POLICY HARMONISATION

1. State Parties undertake to review and formulate policies, strategies and programmes in the areas of culture, information and sport so as to provide a framework for practical action in each Member State as well as a basis for regional cooperation.
2. State Parties shall seek to harmonise their policies, strategies and programmes in these fields in the interest of regional integration.

ARTICLE 5

TRAINING, CAPACITY-BUILDING AND RESEARCH

1. State Parties shall cooperate in the research and training of cultural agents, media practitioners and sports personnel.
2. State Parties agree to identify, designate and establish from already existing institutions within the Region, Centres of Excellence or Specialisation which shall be utilised jointly for research and training and related purposes.
3. State Parties agree to strengthen research and training capacities in their countries and support regional collaborative research by allocating adequate resources to the relevant research and training institutions in the areas of culture, information and sport.

ARTICLE 6

RESOURCE MOBILISATION AND UTILISATION

1. State Parties shall mobilise and allocate resources for the implementation of programmes in the areas of culture, information and sport.
2. State Parties agree, where necessary, to establish and contribute to appropriate Funds for the respective areas.
3. Member States shall encourage the participation of the private sector in the respective areas.

ARTICLE 7

FLOW AND EXCHANGE OF INFORMATION

1. Member States commit themselves to the development of a regional information infrastructure to facilitate information exchange in the areas of culture, information and sport.
2. The Sub-Sector on Information will take the lead in the development of the infrastructure in collaboration with other relevant SADC institutions.

ARTICLE 8

REGIONAL INTERACTION AMONG STAKEHOLDERS

Member States shall facilitate and promote greater interaction and exchanges among cultural agents, media practitioners, athletes and sports personnel of the Region.

ARTICLE 9

GENDER

Member States shall cooperate in ensuring gender equality and equity in the areas of culture, information and sport in light of the SADC Declaration on Gender and Development.

INFORMATION

ARTICLE 17

OBJECTIVES

In fulfillment of the principles of this Protocol, Member States agree to cooperate in the area of information in order to attain the following objectives:

- (a) Cooperation and collaboration in the promotion, establishment and growth of independent media, as well as free flow of information;
- (b) Strengthening Information Departments to be effective gatherers and disseminators of information and news;
- (c) Development and promotion of local culture by increasing local content in the media such as magazines, radio, television, video, film and new information technologies;
- (d) Taking positive measures to narrow the information gap between the rural and urban areas by increasing the coverage of the mass media, whether private, public or community-based ;
- (e) Encouragement of the use of indigenous languages in the mass media as vehicles of promoting local, national and regional inter-communication;
- (f) Ensuring the media are adequately sensitised on gender issues so as to promote gender equality and equity in information dissemination.

ARTICLE 18

INFORMATION POLICIES

1. Member States agree to formulate and harmonise information policies after thorough consultations involving appropriate stakeholders and civic society.
2. Member States agree to establish, publicise widely and implement information policies which are in line with the SADC Declaration on the Role of Information in Building the Community.
3. Member States agree to establish and strengthen the institutional framework for the implementation of information policies.
4. Member States agree to create political and economic environment conducive to the growth of pluralistic media.
5. Member States agree to promote specialised training of journalists in the areas of culture and sports to improve the coverage of these.

ARTICLE 19
INFORMATION AVAILABILITY

1. Member States agree to cooperate in improving the free flow of information within the Region.
2. Member States agree to cooperate in capacity building in the creation of data dissemination media and encourage information dissemination and sharing through networking of news agencies in the Region.
3. Member States agree to engage in an extensive publicity campaign of SADC objectives, programmes and projects, activities and achievements.
4. Member States agree to encourage news agencies in the Region to establish a SADC News Agency Pool which, with computerised interconnection, will ensure efficiency and effective exchange of news and information.
5. Member States agree to give more financial and editorial autonomy to the news pool to enhance the professional competence and credibility to media practitioners.

ARTICLE 20
FREEDOM OF THE MEDIA

State Parties shall take necessary measures to ensure the freedom and independence of the media.

ARTICLE 21
CODE OF ETHICS

State Parties shall encourage the establishment or strengthening of codes of ethics by various sectors of the media through the creation of an enabling environment for the formulation of such frameworks.

ARTICLE 22
SADC ACCREDITATION

State Parties agree to establish a regionally and internationally-recognised SADC Accreditation system or procedure for media practitioners with specific guidelines in order to facilitate the work of such personnel in the rest of the world.

ARTICLE 23
INFORMATION INFRASTRUCTURE

1. State Parties agree to upgrade media infrastructure for communication in the urban and rural areas to ensure access to more stakeholders through the media.
2. State Parties agree to promote the role of archives, libraries, museums, cultural villages and similar services as information providers.

IN WITNESS WHEREOF, WE, the Heads of State or Government, or duly authorised representatives, of SADC Member States have signed this Protocol.

Done at Blantyre, this 14th day of August 2000 in three original texts in the English, French and Portuguese languages, all texts being equally authentic.

REPUBLIC OF ANGOLA
REPUBLIC OF BOTSWANA
DEMOCRATIC REPUBLIC OF CONGO

KINGDOM OF LESOTHO
REPUBLIC OF MALAWI
REPUBLIC OF MAURITIUS
REPUBLIC OF MOZAMBIQUE
REPUBLIC OF NAMIBIA
REPUBLIC OF SEYCHELLES
REPUBLIC OF SOUTH AFRICA
KINGDOM OF SWAZILAND
UNITED REPUBLIC OF TANZANIA
REPUBLIC OF ZAMBIA
REPUBLIC OF ZIMBABWE

5. DECLARATION ON INFORMATION AND COMMUNICATIONS TECHNOLOGY (ICT) (2001)

signed at Blantyre, on August, 2001 in three (3) originals, in the English, French and Portuguese languages, all texts being equally authentic.

PREAMBLE

We, the Heads of State or Government of:

The Republic of Angola
The Republic of Botswana
The Democratic Republic of Congo
The Kingdom of Lesotho
The Republic of Malawi
The Republic of Mauritius
The Republic of Mozambique
The Republic of Namibia
The Republic of Seychelles
The Republic of South Africa
The Kingdom of Swaziland
The United Republic of Tanzania
The Republic of Zambia
The Republic of Zimbabwe

RECOGNISING that the Southern African Development Community needs a coherent regional policy and strategy on Information and Communications Technology (hereinafter referred to as "ICT") that promotes sustainable economic development, technology and bridges the digital divide within the Region and the rest of the world;

CONVINCED that a pervasive, reliable and affordable information and communications infrastructure is the foundation upon which the Southern African Renaissance can be built and sustained;

RECALLING the priority accorded to the challenge of bridging the digital divide in the Millennium Declaration adopted by the Millennium Assembly and statements made in the G8 Summit in Okinawa and the Southern African Economic Summit, 2001;

NOTING the capacity limitations in the Region, in particular shortage of skilled ICT personnel, high cost of development of ICT infrastructure, slow progress towards the deregulation of the telecommunications sectors leading to monopolies, unaffordability of universal access due to high tariffs and internet charges, lack of economic commerce readiness, reluctance of acceptance for ICT culture and innovations;

CONCERNED about the lack of regional policy and strategy on ICT and the digital divide between and within countries and the Region, which have the potential to widen the socio-economic disparity that exists;

FURTHER NOTING that international experience has shown that ICT, if harnessed, can contribute significantly to the economic development of countries and facilitate the provision of a better life for citizens;

AWARE that the digital divide does not only manifest itself economically or technologically but also culturally, creating a world that is increasingly less representative and reflective of the languages, cultures, ideas and diversity of the peoples of the world;

RECALLING Decision 52/2000 of the SATCC Committee of Ministers which urged Member States to give ICT priority for national and regional socio-economic development and accord such recognition in their national programmes in the effort of turning the Region into an information - based economy;

RECOGNISING that ICT is a fast, reliable, efficient and easy way of communication and information exchange;

ACKNOWLEDGING that effective information communication is best achieved under an environment characterised by:

- policy guidelines;
- legislation;
- well defined strategy;
- telecommunications deregulation;
- reliable, efficient and scalable network infrastructure;
- human resources development in the area of ICT;
- knowledge management;
- affordable access to information;
- natural way for collaboration and conversation;
- seamless integration;
- ubiquitous access; and
- security;

AWARE that the challenge for SADC is to ensure improved living standards for all its people, by harnessing the human, capital, technology and material resources at its disposal in the most productive and sustainable manner,

therefore

1. **COMMIT** ourselves and our respective countries to meet these challenges through prioritizing areas of action for bridging the digital divide in the Southern African Development Community; and

2. **DECLARE** the following as priority areas of action:

(a) The Regulatory Environment for Information and Communications Technology

WE UNDERTAKE to continue to sustain efforts:

(i) in creating a favourable regulatory environment and accelerated liberalisation of the telecommunications sector, which aims at creating a three-tier separation of power, with the Government responsible for a conducive national policy framework, independent regulators responsible for licensing, and a multiplicity of providers in a competitive environment responsible for providing services;

(ii) in removing trade barriers and reducing ICT related taxes and tariffs: this will reduce the costs of ICT equipment through decreased taxation of imported equipment, in compliance with the ongoing SADC Trade Protocol and World Trade Organisation processes to enable e-commerce-readiness.

(iii) in removing restrictive license fees and other costly and time-consuming bureaucratic barriers: this will lower the cost of entry to the market, which means removing financial barriers, such as excessive license fees for service providers, and reducing the time taken in license issuance; and

(iv) in developing a regional policy on ICT to assist with the harmonisation of national policies and legislation: this will aim at encouraging the development of national policies and legislation that harnesses the dynamism of ICT to modernise the regional economy and establish consistency in rules across the Region;

(b) Infrastructure for ICT Development

WE SHALL ENDEAVOUR to develop a national information and communication infrastructure, which aims at facilitating efficient communication and information exchange within nations, between Member States, SADC Secretariat and the rest of the world: special consideration should be given to rural and remote areas, under privileged urban areas, institutions of learning, health, women's organisations, community media groups and other key stakeholders;

(c) Community Participation and Governance in ICT Development

WE UNDERTAKE to ensure that information and communication technology does not increase existing disparities between men and women, the rich and poor, rural and urban populations: to enable them to participate in the global information society as equal partners thus contributing to its diversity and making it more reflective of the peoples of the world;

(d) ICT in Business Development

WE SHALL UNDERTAKE to work together to remove barriers of electronic commerce in our SADC countries as a means to opening opportunities and benefits such as increased access to markets, opportunities to create economic value from cultural assets, reduced administrative costs, and improvement of public services. There is a need to adopt and adapt technologies that enable e-commerce capability to avoid increasing exclusion from the global economy; and

(e) Human Resource Capacity for ICT Development

WE UNDERTAKE to formulate a comprehensive human resource development plan in the area of ICT to enable the Region to meet its needs and participate as an equal partner in the new technologically informed global economy. The effective use of ICT presumes a literate population able to use the tools provided by the new technologies.

IN WITNESS WHEREOF, WE, the Heads of the State or Government, or our duly authorised representatives, have signed this Declaration.

DONE AT Blantyre, on this day of August, 2001 in three (3) originals, in the English, French

and Portuguese languages, all texts being equally authentic.

REPUBLIC OF ANGOLA
REPUBLIC OF BOTSWANA
DEMOCRATIC REPUBLIC OF CONGO
KINGDOM OF LESOTHO
REPUBLIC OF MALAWI
REPUBLIC OF MAURITIUS
REPUBLIC OF MOZAMBIQUE
REPUBLIC OF NAMIBIA
REPUBLIC OF SEYCHELLES
REPUBLIC OF SOUTH AFRICA
KINGDOM OF SWAZILAND
UNITED REPUBLIC OF TANZANIA
REPUBLIC OF ZAMBIA
REPUBLIC OF ZIMBABWE

6. TREATY OF ECOWAS (1975)⁴, articles 65 and 66 signed in Lagos on 28 May, 1975

PREAMBLE

We, the Heads of State and Government of the Member States of the Economic Community of West African States (ECOWAS):

The President of the Republic of BENIN
The President of BURKINA FASO
The Prime Minister of the Republic of CAPE VERDE
The President of the Republic of COTE D'IVOIRE
The President of the Republic of The GAMBIA
The President of the Republic of GHANA
The President of the Republic of GUINEA
The President of the Republic of GUINEA BISSAU
The President of the Interim Government of
National Unity of the Republic of LIBERIA
The President of the Republic of MALI
The President of the Islamic Republic of MAURITANIA
The President of the Republic of NIGER
The President of the Federal Republic of NIGERIA
The President of the Republic of SENEGAL
The Head of State and Chairman of the
National Provisional Ruling Council of the Republic of SIERRA LEONE
The President of the TOGOLESE Republic

REAFFIRMING the Treaty establishing the Economic Community of West African States signed in Lagos on 28 May, 1975 and considering its achievements:

CONSCIOUS of the over-riding need to encourage, foster and accelerate the economic and social development of our States in order to improve the living standards of our peoples;

CONVINCED that the promotion of harmonious economic development of our States calls for effective economic co-operation and integration largely through a determined and concerted policy of self-reliance;

BEARING IN MIND the African Charter on Human and People's Rights and the Declaration of Political Principles of the Economic Community of West African States adopted in Abuja by the Fourteenth Ordinary Session of the Authority of Heads of State and Government on 6 July, 1991;

CONVINCED that the integration of the Member States into a viable regional Community may demand the partial and gradual pooling of national sovereignties to the Community within the context of a collective political will;

⁴ Find entire document on <http://www.afrimap.org/english/images/treaty/ECOWAS%20Treaty.pdf>

ACCEPTING the need to establish Community Institutions vested with relevant and adequate powers;

NOTING that the present bilateral and multilateral forms of economic co-operation within the region open up perspectives for more extensive co-operation;

ACCEPTING the need to face together the political, economic and socio-cultural challenges of the present and the future, and to pool together the resources of our peoples while respecting our diversities for the most rapid and optimum expansion of the region's productive capacity;

BEARING IN MIND ALSO the Lagos Plan of Action and the Final Act of Lagos of April 1980 stipulating the establishment, by the year 2000, of an African Economic Community based on existing and future regional economic communities;

MINDFUL OF the Treaty establishing the African Economic Community signed in Abuja on 3 June, 1991;

AFFIRMING that our final goal is the accelerated and sustained economic development of Member States, culminating in the economic union of West Africa;

BEARING IN MIND our Decision A/DEC.1015190 of 30 May, 1990 relating to the establishment of a Committee of Eminent Persons to submit proposals for the review of the Treaty:

AWARE that the review of the treaty arises, inter alia, from the need for the Community to adapt to the changes on the international scene in order to derive greater benefits from those changes;

CONSIDERING ALSO the need to modify the Community's strategies in order to accelerate the economic integration process in the region;

ACCEPTING the need to share the benefits of economic co-operation and integration among Member States in a just and equitable manner;

HAVE DECIDED to revise the Treaty of 28 May, 1975 establishing the Economic Community of West African States (ECOWAS) and have accordingly agreed as follows:

Article 65 INFORMATION RADIO AND TELEVISION

Member States undertake to:

- a) co-ordinate their efforts and pool their resources in order to promote the exchange of radio and television programmes at bilateral and regional levels;**
- b) encourage the establishment of programme exchange centres at regional level and strengthen existing programme exchange centres;**

- c) use their broadcasting and television systems to promote the attainment of the objectives of the Community.

Article 66 THE PRESS

1. In order to involve more closely the citizens of the Community in the regional integration process, Member States agree to co-operate in the area of information.
2. To this end they undertake as follows:
 - a) to maintain within their borders, and between one another, freedom of access for professionals of the communication industry and for information sources;
 - b) to facilitate exchange of information between their press organs; to promote and foster effective dissemination of information within the Community;
 - c) to ensure respect for the rights of journalists;
 - d) to take measures to encourage investment capital, both public and private, in the communication industries in Member States;
 - e) to modernize the media by introducing training facilities for new information techniques; and
 - f) to promote and encourage dissemination of information in indigenous languages, strengthening co-operation between national press agencies and developing linkages between them.