FEATURE
Reimagining Regionalism in SRHR: The Case of the EAC and SADC

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Introduction

It is generally recognised that Africa's integration initiatives have not produced the desired outcomes. In contrast to other regions that have effectively leveraged their integration strategies to enhance economic well-being, Africa continues to struggle with issues related to GDP growth, per capita income, capital inflows, and overall living standards. This challenge is prevalent throughout much of the continent despite the presence of numerous policy frameworks and ambitious plans.

This article addresses the role of regionalism—including regional institutions, actors, and stakeholders—in promoting sexual and reproductive health rights (SRHR) in Africa. It is desirable to employ regionalism for the human development of citizens across the region. The duty of African governments to provide healthcare can be strengthened when they pool resources and commit to progressively realising social and economic rights at a regional level. This article interrogates the significance of regionalism for SRHR on the continent. Each regional institution, including the East African Community (EAC) and the Southern African Development Community (SADC), works collectively with state and non-state actors to ensure that access to healthcare is progressively realised. The success of regional integration in health initiatives can be observed in the EAC and SADC initiatives regarding reproductive healthcare.

A Brief Historical Overview

Since the beginning of decolonisation in the 1960s, a variety of sub-regional economic communities have been established in Africa. These include the East African Community (EAC), Southern African Development Community (SADC), Economic Community of West African States (ECOWAS), Central African Economic and Monetary Community (CEMAC), Arab Maghreb Union (UMA), Common Market for Eastern and Southern Africa (COMESA), Community of Sahel–Saharan States (CEN–SAD), Economic Community of Central African States (ECCAS), and Intergovernmental Authority on Development (IGAD).

Regionalism was spearheaded in large measure by the Organisation of African Unity (OAU) and Economic Commission on Africa (ECA), partly as a response to the last vestiges of colonialism, partly to spur political and economic progress on the continent, and partly as a political instrument to deal with power imbalances in the international system. The core mandate of the OAU was to safeguard the newly acquired independence of African states and the territorial integrity of member states.

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The Role of Regional Institutions

As regards sexual and reproductive health rights (SRHR), regionalism is evolving to address the gaps in regional instruments and health policies. Historically, regionalism in Africa focused on political considerations and economic integration, often neglecting health concerns and social policy. In 1981, following a General Assembly resolution urging states to establish regional bodies, the Banjul Charter was enacted as an international human rights instrument aimed at promoting and protecting human rights and fundamental freedoms across the continent. This was a significant step towards integrating human rights principles in regional frameworks.

Currently, regionalism and regional integration in SRHR are reflected in the increasing enactment of regional laws and policies. Instruments such as the African Charter on Human and Peoples' Rights (ACHPR), Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa ('Maputo Protocol'), and the African Charter on the Rights and Welfare of the Child collectively provide a foundation for the recognition and protection of SRHR.

These regional instruments, alongside national legal frameworks and consensus documents, underscore Africa's commitment to advancing SRHR, emphasising the need for cohesive policies that prioritise health and social well-being as integral components of regional integration. By aligning health policies with human rights standards, Africa can better address the SRHR needs of its population.

As matters stand, however, integration initiatives have emphasised political and economic integration at the expense of public goods in health care, even though the continent has the highest proportions of young people, early sexual debut, child marriage, adolescent pregnancy, unmet needs for family planning, unsafe abortions, female genital mutilation, and HIV burden in the world.

Be that as it may, there are indeed efforts to collectively address the social issues of SRHR at the regional level, as illustrated by the African Union's policy framework on SRHR. The AU Agenda 2063 recognises the need to expand access to quality SRHR services to achieve its goal of eradicating poverty. Moreover, the Maputo Protocol define the rights of women that need to be promoted, realised and protected in order to enable them to fully enjoy all their human rights. Member states are obliged to report every two years on legislative and other measures undertaken towards the full realisation of the rights enshrined in the Maputo Protocol. An example of the sub-regional adoption of these regional instruments is the SADC Sexual and Reproductive Health Business Plan for the SADC Region 2011–2015.

Regionalism is the proneness of the governments and peoples of two or more states to establish voluntary associations and pool resources (material and non-material) in order to create common functional and institutional arrangements. According to El-Agraa (1999), there are various forms of regionalism:

- Legal integration, which is the unification of national (or municipal) legal systems on the basis of common legal principles and standards (that is, inter-state legal integration), is regarded as a synonym for the concept of integration of national legal systems.

- Economic integration, which encompasses measures to abolish discrimination between economic units belonging to different national states, involves the amalgamation of separate economies into larger free-trading regions.

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- Political integration – the collaboration of states in policy-making and governance – often leads to joint institutions or agreements that strengthen regional unity and address collective challenges.

Rethinking regionalism for Africa calls for a new approach to collective resource mobilisation and for the involvement of non-state actors. Regional institutions are political in many ways, and some regional instruments are merely political statements. Indeed, Qobo (2007) argues that the traditional model of regionalism, rooted in Pan-Africanism, is ill-suited to addressing the challenges posed by globalisation.

African leaders, Qobo maintains, have struggled to achieve meaningful integration and development, often seeking to replicate at the continental level what they have failed to accomplish domestically. This form of regionalism can be seen as an escape from pressing domestic issues and a means to solidify political alliances among member states. There is also limited participation by non-state actors, which stifles the progress of social policy in areas of health and education.

The result is that the ideology of 'African solutions to African problems' is a political statement often not directed at social justice issues. Ultimately, however, successful regional integration in Africa depends on effective policies and achievements at the domestic level, as these are prerequisites for continental progress.

Regional integration or regionalism is critical to socio-economic development, including access to health care. The EAC is illustrative in this regard. A regional intergovernmental organisation initially established in 1967, It became defunct in 1977 and was re-established in 1999 via the adoption of a new treaty, the Treaty for the Establishment of the East African Community (2000) ('the EAC Treaty'). The mission of the community is to deepen political, social, economic, and cultural integration to improve the lives of the citizens of East Africa. The EAC comprises eight member states: Burundi, the Democratic Republic of Congo, Kenya, Rwanda, South Sudan, Somalia, Tanzania, and Uganda.

The legal framework for SRHR in the EAC is established through various treaties, protocols, and policies. The EAC Treaty serves as the foundational document, emphasising the promotion of social welfare and health in the region. The treaty does not take a human rights-based approach but is concerned with governance. Its article 112 commits member states to cooperate on health issues, including sexual and reproductive health.

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The EAC Regional Strategy for Sexual and Reproductive Health (2005) outlines key areas for action, such as reducing maternal and child mortality, preventing sexually transmitted infections (STIs), and promoting family-planning services.

Additionally, the EAC Health Sector Policy (2017) aims to harmonise health systems across member states and stresses the importance of SRHR in broader health initiatives. This policy advocates for increased access to reproductive health services and calls for the integration of SRHR in national health policies.

Furthermore, the Protocol on the Establishment of the East African Community Common Market (2010) includes provisions related to health services, particularly promoting the free movement of health professionals and services across borders, which can enhance access to SRHR.

Turning to SADC, this is a regional economic community founded in Lusaka in 1980 following the Lusaka Declaration, which had the aim of liberating the southern African economy. Its mandate, according to the SADC Treaty (1992), is to realise economic development, peace, and security, and improve the standard and quality of life of the people of Southern Africa. SADC consists of 16 member states, including Angola, Botswana, Eswatini, Lesotho, Malawi, Mozambique, Namibia, South Africa, Tanzania, Zambia, and Zimbabwe.

While the treaty focuses on regional integration for the sake of economic development, it provides a strong basis for the inclusion of gender equality and the rights of girls and women in the development agenda. As with the EAC, SADC's legal framework for SRHR is structured through treaties and protocols. The SADC Treaty emphasises regional cooperation and integration in various sectors, including public health in general and SRHR in particular.

The SADC Protocol on Health (1999) focuses on improving health systems and promoting health-care access across member states, explicitly addressing reproductive health and advocating for the provision of comprehensive SRHR services. The SADC Strategic Plan (2020–2030) outlines the region's priorities, highlighting health and social development. It emphasises the importance of addressing SRHR issues as part of broader health initiatives. Additionally, the SADC Gender Protocol (2008) aims to promote gender equality and empower women, recognising SRHR as a critical component of women's rights and health.

The role of regionalism in advancing SRHR

Rethinking regional integration schemes in Africa and basing them on an outwardly oriented approach aimed at integration in the global economy is no longer an option for Africa. It is a necessity if economic progress is to be achieved and integration to be meaningful. This new regionalism must take into account the social well-being of Africans in the area of health.

Advancing SRHR Through Community Legislation

The EAC Sexual and Reproductive Health Bill of 2021 is testament to the workings of regional bodies and non-state actors. Introduced in 2017 by Odette Nyiramilimo, former representative of Rwanda at the Assembly, the bill is regional legislation premised on article 118 of the EAC Treaty. It recognises partner states' obligation under several international, continental, and community frameworks to respect, protect and fulfil the right to health by facilitating, providing and promoting the highest attainable standard of health and providing measures towards the full realisation of the right to health.

The objectives of this Bill are to facilitate the attainment of the life-course SRHR all persons in the community; to achieve the progressive realisation of integrated sexual and reproductive health information and services as part of the universal health coverage of each partner state; to prohibit harmful practices in the community; and to provide for related matters. Community legislation on SRHR is critical to ensure compliance and accountability across the states. The EAC SRHR bill, if passed into community law, would have a stronger influence on the health governance of member states in the region.

The EAC and SADC can leverage regionalism to advance SRHR by adopting community legislation relating to it. By integrating regional laws and policies within the communities, legal access to SRHR can be facilitated. Regional and sub-regional judicial mechanisms can be utilised to advance SRHR through the interpretation of community laws. For instance, the East African Court of Justice has been called on to interpret the legal texts of the community, engage in dispute settlement, enforce community obligations, and adjudicate on human rights violations. As such, regional and sub-regional courts can facilitate access to justice for SRHR violations.

Collaborative Policy Design and Development

To ensure regional collaboration in policy design and development with civil society and non-state actors, the African Union initiated campaigns for the reduction of maternal mortality to complement the Maputo Plan of Action – the Accelerated Reduction on Maternal Mortality in Africa (CARMMA) – which was launched in 2009. It is an ongoing campaign to reduce maternal mortality in Africa and meet the SDG target of 70 maternal deaths per 100,000 live births.

Non-State Actors in regional SRHR work

The East African Community has a framework on engaging nonstate actors in regional work, the EAC facilitates them by granting them observer status; observer status is, however, excluded in respect of the Summit of Heads of State and Government. The strategy recognises the need to mobilise civil society for more

effective participation. SADC is characterised by a state-centric approach despite Treaty provisions for people's participation. To enhance citizens' participation, the SADC Council of Non-Governmental Organisations (SADC-CNGO) was formed in 1998 by CSOs and the SADC Secretariat to facilitate meaningful engagement of the people of the region with the SADC Secretariat at the regional level, and with member states at the national level through national NGO umbrella bodies.

Notably, there are opportunities for solving technical cooperation gaps via regional advocacy networks hosted by regional institutions through strategic partnerships. The SADC Treaty recognises that non-state actors are important stakeholders in the implementation of the SADC agenda (articles 5(2b), 16A and 23). These regional spaces can be leveraged for streamlining relations between civil society and the SADC Secretariat, as the latter is working on a framework agreement for interaction with non-state actors.

In this regard, a key regional advocacy network is the SADC Gender Protocol Alliance, a regional 'network of networks' that champions adoption of the SADC Protocol on Gender and Development. The Alliance was formally founded in 2005 and is made up of 15 national gender networks and 10 regional NGOs. Coordination of the network and the campaign rests with Gender Links. The national and regional members are national focal point organisations and/or lead the various themes of the SADC Gender Protocol.

The Alliance was the driving force behind the adoption as well as implementation and review of the SADC Gender Protocol. It also publishes the Barometer on an annual basis to advocate for women and girls' rights and gender equality in the region, using the SADC Gender Protocol as its reference point.

Engaging Regional Human rights mechanisms

Regionalism can be utilised to pursue greater rights by engaging with African regional human rights mechanisms such as the African Commission on Human and Peoples' Rights (ACPHR), the African Court of Justice and Human Rights (ACJHR), and the East African Court of Justice. Such mechanisms include cultural, religious and communal institutions that have historically enjoyed the respect of the African people.

The fact that some are legally recognised and others are not is of little consequence – what is fundamental is that the communities themselves legitimise their leadership.

Conclusion

By rethinking regionalism, African countries can leverage their collective efforts and resources to enhance the accessibility, quality, and sustainability of SRHR services, ultimately contributing to improved health outcomes and the realisation of sexual and reproductive rights for all Africans. Notably, there is opportunity for regionalism to advance SRHR with non-state actors.

Overall, there is potential for African institutions to inform the discourse on health, human rights, and SRHR, and, indeed, Africa has established institutions working towards advancing health, human rights and SRHR. Regional institutions such as the East African Community and SADC enable African countries to come together and develop harmonised regional laws, policies, and frameworks for SRHR. This can help establish common standards, guidelines, and approaches across the region. Regional institutions like the African Union play a key role in facilitating the development and adoption of such regional SRHR frameworks.

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