

# Staying with the Culture Struggle: The African Union and Eliminating Violence Against Women

Karmen Tornius 

**Abstract:** An analysis of the African Union approach to eliminating violence against women shows that while the Protocol on the Rights of Women in Africa (the Maputo Protocol) refined the culture/violence nexus, the subsequent regional frameworks reverted to culture-centered explanations. Tornius's critical analysis reveals how the relationship between culture and gender discourses has changed over time, entangled with processes of colonialism, decolonization, emergence of African socialisms, the end of the Cold War, and the advent of African feminisms. Articulating gendered violence through undefined ahistorical and apolitical notions of "culture" has real life adverse effects for women through ineffective policy and development interventions.

**Résumé :** Une analyse de l'approche entreprise par l'Union africaine pour éliminer la violence à l'égard des femmes indique que même si le Protocole relatif aux droits de la femme en Afrique (le Protocole de Maputo) a affiné le lien entre la culture et la violence, les cadres régionaux ultérieurs se sont retournés vers des explications centrées sur la culture. L'analyse critique de Tornius révèle comment la relation entre les discours sur la culture et les discours sur le genre a évolué au fil du temps, enchevêtrée avec les processus de colonialisme, de décolonisation, l'émergence des socialismes africains, la fin de la guerre froide, et l'avènement des féminismes africains. L'articulation de la violence sexiste à travers des notions non définies, anhistoriques et apolitiques de la « culture » a des effets réellement néfastes sur les femmes à travers des interventions politiques et de développement inefficaces.

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**Resumo** : Se analisarmos a abordagem adotada pela União Africana para eliminar a violência contra as mulheres, perceberemos que, enquanto o Protocolo sobre os Direitos das Mulheres em África (o Protocolo de Maputo) corrigiu a relação entre cultura e violência, as posteriores estruturas regionais retomaram as explicações centradas na cultura. A análise crítica de Tornius põe em evidência o modo como a relação entre a cultura e os discursos de gênero tem sofrido alterações ao longo do tempo, interligando-se com os processos do colonialismo, da descolonização, com a emergência dos socialismos africanos, o fim da Guerra Fria e o fenômeno dos feminismos africanos. Explicar a violência de gênero através de interpretações a-históricas e apolíticas da “cultura” tem efeitos adversos na vida real das mulheres, porque se traduz em políticas e intervenções desenvolvimentistas ineficazes.

**Keywords:** African Union; gender politics; violence against women; harmful traditional practices; women’s rights

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## Introduction

Within the Pan-African discourse, the historic role of women in anti-imperial struggles and post-colonial Africa rivals widespread misinterpretations of culture, tradition, and religion as a license to harm women (Abbas & Mama 2015; Gender Is My Agenda 2021). This context informs the African Union’s (AU) efforts to generate “African solutions to African problems” when it comes to gender equality and violence against women. This article analyzes the ways in which the AU articulates the problem of gendered violence through its policy formulations. By interrogating how the AU’s frameworks represent the problem of violence against women, the article showcases the relevance of the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (henceforth the Maputo Protocol) as providing a regionally contextualized yet globally aligned approach to the problem. Through subtle and nuanced language, the Protocol challenges culturalist tropes and situates “harm” at the center of the violence against women discourse. The post-Maputo frameworks, however, fail to build on that precedent, reproducing a discourse of an ahistorical and apolitical relationship between undefined culture and violence against women.

Ethnographers insist that, in order to move away from the culture-vs.-rights impasse, we need to look at the empirical evidence for how “cultures” are lived (Merry 1998, 2001, 2003b, 2006; Cowan, Dembour, & Wilson 2001; see also Bunting et al. 2016; Enloe 2014, 2017). These scholars see cultures as historically situated, political, contested, and dynamic. The culture discourse has changed its emphasis in the decades since decolonization, with shifting implications for women. The politics of culture were mobilized equally for purposes of domination and exploitation during and after the colonial era. It is therefore necessary to consider the reasons and implications for the AU’s framing of

violence against women as a predominantly socio-cultural problem and to remind activists and policymakers of the possible alternatives.

This interpretivist analysis of the AU frameworks on gender equality tackles how violence against women is constructed as a policy problem, rather than as a problem “out there” in the world, waiting to be solved (Bacchi 2009). Building on feminist body theory, it focuses on the impact of problem formulations as political interventions on living bodies (Bacchi & Eveline 2010:119). The researcher’s task is to seek out gaps and silences, and to interrogate alternative ways of thinking about violence against women. Informed by postcolonial and decolonial perspectives, this article speaks to debates in critical gender politics and development scholarship. Normatively, the article contributes to the efforts to move the gender agenda “to the middle” of the universalism and relativism debate, and toward acknowledging multiple paths to women’s emancipation (Dembour 2001).

The following paragraphs outline the theoretical underpinnings that help to unpack the relationship between gender and culture in pan-African policymaking. The methods section explains the choice of documents and the application of interpretive content analysis. The findings of the analysis are presented in three sections. First, contextualizing Africa’s gender discourse shows that the relationship between culture and gender equality changed considerably between the 1980s and 2000s. The entanglements of African socialism(s), feminist and decolonial movements, human rights, and neoliberalism(s) shaped how culture and violence against women were articulated in international forums. The subsequent empirical section describes the positions adopted in the Maputo Protocol and its carefully constructed language which decoupled culture from violence. Last, the article shows that post-Maputo frameworks represent violence against women as an overwhelmingly socio-cultural issue and reiterate the culture/rights dichotomy that was once rejected.

## Unsettling Culture and Rights

The project to eliminate gender-based violence is enshrined in global agreements such as the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW, 1979), the Vienna Conference on Human Rights (1993), the Declaration on Elimination of Violence Against Women (DEVAW, 1993), and the Beijing Platform for Action (Beijing PoA, 1995) (Zwingel 2016). The AU’s frameworks largely build on these agreements. While the significance of these frameworks for violence against queer and non-conforming groups can be questioned, these debates are outside the scope of this article. Conventionally, violence against women includes physical, sexual, verbal, emotional, and psychological abuse, threats, and coercion, as well as economic and educational deprivation. While domestic violence, rape, and sex trafficking are global problems, issues such as honor killings, dowry murders, female genital mutilation (FGM), polygamy, and child marriage are associated with local “cultures” and “traditions.”

An interpretive analysis of the AU's gender frameworks is necessary to make sense of how this pan-African organization has translated the problem of violence against women into regionally relevant policy agenda. According to Carol Bacchi and Joan Eveline (2010), governing is guided not only by policies but also by the problematizations these policies present. Policies do not simply represent real-life issues, they produce and constitute policy problems. Epistemologically, an interpretive approach asks us to question and disrupt the content of the policy problem and to consider alternatives by problematizing power, knowledge, categorization, and seemingly everyday relations as issues that are sidelined in solution-oriented policy processes (Archibald 2020:14). Therefore, this analysis is explicitly normative and seeks to reveal the disadvantages of a particular way of representing problems (Bacchi 2009:44). The interpretive researcher acknowledges that how problems are presented is a process that can shape lives, experiences, and opportunities.

The findings of the interpretive analysis revealed a tension between culture and rights in the AU's approach. The "culture vs. rights" debate reached its height in the 1980s and 1990s, when the above global frameworks were negotiated. The idea of universally applicable moral principles that can be translated into collectively agreed borderless norms continues to be contested on both political and cultural grounds (Mutua 2002, 2011). In CEDAW proceedings, diplomats and committee members reiterated a view of "culture" as a monolithic and consensual whole, while activists demonized "culture" as the cause of gender inequality (Merry 2003a). Today, governments continue to weaponize "culture" to resist and avoid accountability to internationally agreed commitments on gender issues, despite officially subscribing to a "rights-based approach" (Merry 2003a:947). On the one hand, debates on culturalism in African studies regard "culture" as an explanation for African particularities, while others criticize it for "essentialization, determinism, homogenization, de-historicization and societization" (De Herdt & Olivier de Sardan 2015:10). Treating "culture, tradition, language, religion, ethnicity, locality, tribe or race" as static, bounded, stable entities that are vulnerable to outside disruption is a particular, culturalist view (Cowan, Dembour, & Wilson 2001:9–10). A more dynamic understanding of culture would see it as a "critical site of social action and intervention, where power relations are both established and potentially unsettled" (Procter 2004:1).

To address this tension, the analysis in this paper draws on postcolonial and decolonial perspectives on gender and governance. The scholarship on the colonial governance of gender, the colonization of subjectivity, and social constructions of the customary are useful in questioning the prominent role the undefined "culture" is afforded in understanding gender relations in Africa. Controlling sex and sexuality was a central aspect of colonial authority and imagination, intersecting with race and class (McClintock 1995). Violence against women by European men, including sexual violence, was particularly rampant and mirrored attitudes toward lower-class women in

Europe (Mama 1997). The creation of biological “genders” became the justification for dichotomous male and female gender roles (see Amadiume 1997; Amadiume & Caplan 1987; Lugones 2007; Oyewumi 1997; Phillips 2005; Musisi 1999). Gendered identities were also tied to ideas of religious piety and purity, which were disseminated through missionary work (Pereira 2005). The colonizers’ moral gaze was informed by a commitment to their version of Christianity and the accompanying social norms. This led to the domestication of women’s social and political roles and the policing of gendered rituals, forms of non-monogamous partnerships, and the appropriateness of dress and behavior, among other “civilizing” body-focused policies.

The colonial image of gender and sexuality went hand in hand with its proactive construction of the categories of the colonial “other” (Said 1995). Mahmood Mamdani’s seminal work shows how the “despotic, traditional and authentic” characteristics of “customary law” were tied in with the “native” political identity (Mamdani 2001:655). Categories such as “customary” or “traditional” are socially negotiated and strategically used in struggles for power. While colonial administrations played a crucial role in reifying traditions, the legacies of these processes are equally inscribed by resistance, contestation, and cooperation (Spear 2003:5; Ranger 2012). Ann Towns points out that, under colonial rule, communities with relative gender equality were considered uncivilized. For instance, matrilineal kinship structures, along with female political authority, were obliterated in the name of progress (Towns 2009; see also Berger 2014). The colonizers’ attention to male chiefs disregarded highly influential women such as healers and spiritual leaders. Colonial administrations prioritized institutionalized political authority, while “feminine forms of public authority were marginalized as they largely operated outside the normative ‘monarchical, authoritarian and patriarchal’ order of the colonial apparatus” (Verweijen & Van Bockhaven 2020:10).

Non-Western and postcolonial feminist scholars have pointed out the ways in which colonial knowledge production about gender and African societies has shaped the gender and development discourse. Western feminist and development discourses tend to reproduce an ahistorical and unchanging notion of “culture,” of which non-Western and non-Christian Others are victims (Mohanty 1988; Abu-Lughod 2013). This discourse has given birth to an image of powerless “third world women” living in pathological “cultures of violence” (Abu-Lughod 2013; Karimakwenda 2020; Sangari 2005). There is a hyper-focus on culture and social norms in women’s rights interventions, to the point that harmful traditional practices and violence against women become inseparable in policy language. Female genital mutilation (FGM) is perhaps the most outstanding example of this. Scholars have convincingly traced and exposed the lingering colonial discourses in FGM advocacy and policy (see contributions to Nnaemeka 2005). They explore the mechanisms of knowledge production and ask whose voices are platformed, concluding that the non-African modus operandi has provoked resistance to

FGM-focused interventions. Furthermore, harmful traditional practices are represented as a non-Western phenomenon, their possible existence in Western societies being left unaddressed (Winter, Thompson, & Jeffreys 2002; Longman & Bradley 2015). The “traditional” and “modern” are presented as opposites on the development spectrum. By graduating to modernity, African societies are expected to eliminate these harmful practices (Arce & Long 1999). An ambiguous idea of “culture” is routinely presented as the main obstacle preventing the continent from achieving its potential.

Critics argue that interpersonal elements have sidelined “how individual factors interface with historical, structural and systemic factors to reproduce [gender-based] violence” (Amisi et al. 2021:7). In this approach, non-normative factors like institutions, (global) political economy, and politics are hardly discussed as factors that perpetuate violence against women (True 2012:10; Heise & Cislighi 2016:9; Piedalue et al. 2020:91). Others argue that demonizing African cultures is backfiring on the normative agenda itself, as the dominant rights-based approach fails to harness the creative and emancipatory potential of cultures in Africa (Tamale 2008<sup>1</sup>; Mutua 2002). According to Sylvia Tamale and Makau Mutua, the continent’s egalitarian and uplifting traditions have failed to make it into the women’s rights toolbox, which is a major limitation of the gender equality agenda in Africa.

## Methods

This article uses the “What’s The Problem Represented to Be?” (WPR) approach to policy analysis to guide its interpretive method (Bacchi 2009). The policy problem was analyzed across several legal and policy documents, covering a variety of gender-equality issues. To address this diversity, the author applied a coding strategy to carve out the issue of eliminating violence against women as a stand-alone issue for analysis.

The literature on women’s movements and gender politics in Africa provides interesting details regarding the drafting process of the Maputo Protocol (Barton 2005; Banda 2006; Tripp 2017; Adams 2020), but it omits any mention of its disagreements. Textual analysis may be limited in its ability to account for the intentions and concessions of the actors involved (Prior 2003:17), nevertheless it helps to probe the text beyond the content and its conclusions, and to interrogate the logics, purposes, and intentions interwoven in the textual materials (Krippendorff 2013). To contextualize and triangulate the document analysis, the author conducted twenty-two semi-structured interviews (six of which focused on the Maputo Protocol negotiations), studied relevant memoirs (Yetunde Teriba, FEMNET, and SOAWR) and internal documents obtained from the research participants. The observations of AU events in 2020 provided further context.

This article analyses those legal and policy frameworks adopted by the AU that directly address gender-based violence (see Table 1). The Maputo Protocol is given special attention because its contents stand out in relation to other frameworks. The analysis of the subsequent eight frameworks is

**Table 1. Analyzed Documents**

Framework	Abbreviation	Year
Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa	The Maputo Protocol	2003
Solemn Declaration of Gender Equality in Africa	SDGEA	2004
Continental Policy Framework on Sexual and Reproductive Health Rights	SRHR Policy	2006
Maputo Plan of Action	MPoA	2007
Gender Policy	Gender Policy	2009
General Comments No. 1	Gen Com 1	2012
General Comments No. 2	Gen Com 2	2014
Revised Maputo Plan of Action	MPoA II	2016
Gender Equality and Women's Empowerment Strategy <sup>2</sup>	GEWE Strategy	2018

presented in one empirical section. Because the documents are different in format, scope, and function, the references to gendered violence in them are relatively few. For instance, while the SDGEA is a four-page declaration, the AU Gender Policy is a technical document of thirty pages, complete with “vision,” “rationale,” and “key concepts.” Therefore, the analysis of the documents requires deciphering symbolic data and an awareness of the meanings and contexts that are embodied in particular documents (Drisko & Maschi 2015).

Furthermore, the analysis is informed by three outcome documents of African regional conferences on women in preparation for the UN World Conferences on Women: the Arusha Strategies (1985), the Abuja Declaration (1989), and the African Platform of Action (PoA) in Dakar (1994).<sup>3</sup> The numerous global agreements on gender equality provided a backdrop for understanding the AU frameworks, in particular: CEDAW (1979), DEVAW (1993), the Vienna Declaration (1993), the Beijing Platform for Action (1995), and UN SC 1325 (2000).

NVivo software was used to carry out a three-level coding strategy. The first level involved attaching descriptive codes to paragraphs of the text. This allows patterns to emerge without imposing an analytical lens (Creswell 2015; Elliott 2018). In the second level of coding, the researcher identified themes (Gioia, Corley, & Hamilton 2013). The themes emerge from the descriptive codes and are guided by the research question (see Table 2). The third level of coding involved re-coding parts of the text for clarity and detail. The documents were coded paragraph by paragraph. For example, if “violence against women” as a concept occurred three times in a subsection, it was coded only once. As a result, the number of codes indicates how often an idea occurs in a document.



**Table 2. Example of the Application of the Coding Framework**

Section	Codes applied	Theme
'While sexual and domestic violence is widespread in most African countries, the phenomenon is still poorly reported due to socio-cultural reasons and to the legal vacuum surrounding this issue.' (SRHR Policy, p. 16)	Sexual violence domestic violence gendered violence culture and harm legal provisions	Violence Against Women

### Contextualizing Violence against Women as a Policy Problem

Since decolonization, two relevant parallel shifts can be observed: first, how “culture” was understood to be part of the gender-equality discourse; and second, the effects of the volatile dynamics of the Cold War. The common African positions adopted ahead of the World Conferences on Women in 1985 and 1995 reflect the changing discourse around culture and gendered violence. While the language of harmful traditional practices had become part of African actors’ dialogue with the UN a whole decade before the Maputo Protocol, this language was mitigated in their regional women’s rights law.

Between 1985 and 1995, African delegates held three preparatory regional conferences ahead of the UN World Conferences on Women. Their outcome documents, the Arusha Strategies (1985), the Abuja Declaration (1989), and the African PoA in Dakar (1994), show how the culture/violence nexus emerged over those years. The Arusha Strategies take a dynamic view of culture as a system of knowledge, values, and beliefs through which society organizes itself. Culture is seen as a source of confidence and stability, and “women are [its] prime custodians” (Arusha Strategies, Article 14, p. 9). Aligned with the research of postcolonial gender scholars, the document argues that the colonial experience weakened African cultural systems in ways that enhanced gender-based discrimination. It speaks of rebuilding a culture based on “autonomy, self-reliance, and equality:”

Cultural practices should be developed to enrich the ways in which we work, relate, and live without perpetuating negative and inequitable social, economic, and political relationships. (Arusha Strategies, Article 16, p. 7)

Four years later, however, the Abuja Declaration presented “culture” as a means of “dominating” women through harmful practices and asked member states to eradicate degrading cultural practices. At the same time, it encouraged knowledge exchange on “positive aspects of African heritage”



and requested further research into how traditional practices impact women (Abuja Declaration, p. 23). This links to Tamale and Mutua's critique of human rights, as they argue that the empowering elements within cultures and traditions require further investigation in order to potentially transform the rights regime.

The African PoA in Dakar followed the UN Third World Conference on Women in Nairobi. The conference output was considered radical, but its implementation was overshadowed by the 1980s economic crises and Economic Structural Adjustment Programmes (ESAPs). The African PoA prioritized poverty in addressing women's concerns on the continent, and criticisms of the ESAPs were included in the Beijing PoA in 1995 (Made 1996:78). Indeed, the culture/violence discourse shift paralleled an increase on donor dependency throughout the 1980s.

In Dakar 1994, the Organization for African Unity (OAU), the United Nations Economic Commission for Africa (UNECA), and the Inter-African Commission (IAC) hosted a workshop on harmful traditional practices that violate the rights of women and girls. Dakar PoA reflected this by explicitly addressing violence against women and harmful traditional practices. International attention to harmful traditional practices in Africa goes back to the colonial period. Such practices were brought to the attention of the UN by colonial administrators in the 1950s, were revived at a WHO seminar in Khartoum in 1975, and were developed further in the 1980s (Winter, Thompson, & Jeffreys 2002; UN Office of the High Commissioner for Human Rights 1995). During this period, considerable research on the harmful effects of various culturally informed practices emerged, but the call from the Abuja Declaration in 1989 to study empowering elements within cultures in Africa remains unanswered.

Because of the sensitive nature of FGM, it was decided that a bundle of "harmful traditional practices" in which FGM was presented as a health issue would be more palatable to the communities that practiced it (IAC, online Interview, June 22, 2021). With this purpose in mind, the IAC was founded by African delegates who had taken part in a seminar of the NGO Working Group on Traditional Practices in Geneva. The work of the 1980s culminated in the adoption of DEVAW in 1993, the 1995 Plan of Action for the Elimination of Harmful Traditional Practices Affecting the Health of Women and Children, and the emphasis on harmful traditional practices in the Beijing PoA. In light of conflicting evidence regarding the potential health risks of different types of genital cutting, FGM is now primarily addressed as a human rights issue (Hernlund & Shell-Duncan 2007).

The development of "violence against women" as a policy problem can be understood in the context of a web of interconnected historical trajectories. Decolonization, nation-building, anti-racism movements, and competing Cold War ideologies may help to decipher some of the symbolic shifts in governance discourses in Africa. The rhetoric of independence views "culture" as a political issue and a question of identity, race, and class (Ajayi 1961; Okech 2019:11). Therefore, in the nationalist discourse, the

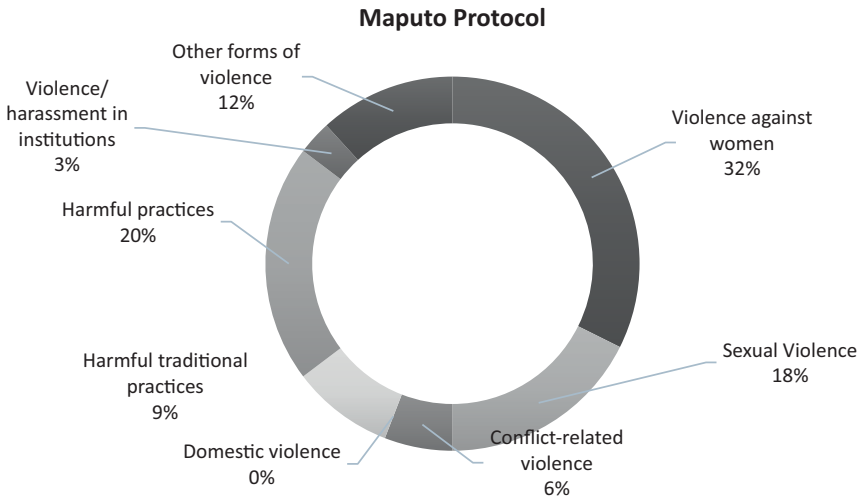
integrity of “African cultures” had to be protected from criticism. Simultaneously, the advent of (African) socialisms and alliances within the global left meant the prioritization of peace and development over individualistic “rights” (Zissner 2002). Consequently, the World Conferences on Women, the first forum to discuss violence against women internationally, brought into conversation the post-colonial, socialist, liberal, and other competing perspectives regarding the state of women. With the end of the Cold War, the gender-based violence discourse became more homogenous and geared toward liberal human rights. As Kristen Ghodsee writes: “The critique of capitalism has been almost entirely evicted from the global feminist movement as it is currently configured, with Western governments now proposing to ‘mainstream gender’ into the very institutions that the Soviet women and their allies were trying to tear down” (Ghodsee 2010:10). While African women’s activists are actively articulating African feminism, there is an ideological shift from pursuing social cohesion to prioritizing neoliberal ideas of individuality, responsibility, and rights.

### The Maputo Protocol and Nuancing Gendered Violence

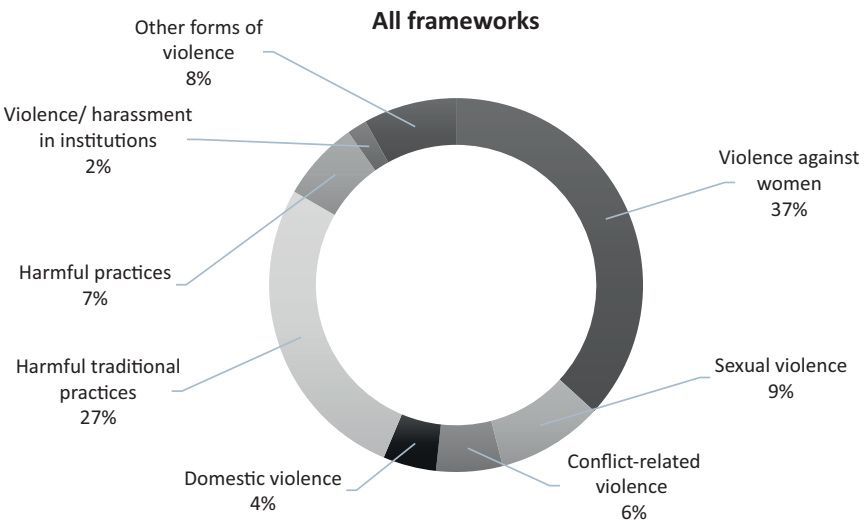
The development of the Maputo Protocol came shortly after the 1995 World Conference on Women in Beijing, and the document became one of the most progressive women’s rights frameworks in international law. Adopted in 2003, the Protocol came into effect in 2005 after ratification by fifteen member states. It has been praised for its bold content, particularly on regionally significant issues such as FGM, abortion, polygamy, and child marriage (Viljoen 2011). While displaying sensitivity and subtlety over the relationship between “culture” and “violence,” the Protocol generally aligns with global commitments and language. The representation of the problem of violence against women carefully delinks culture from violence, while still invoking socio-cultural factors. The Protocol’s definition of violence against women does not make any reference to culture or tradition, and significantly the document uses the phrase “harmful practices” rather than “harmful traditional practices” (see Figures 1 and 2).

In 1997, the ACHPR submitted a draft Protocol on women’s rights to the OAU. Since the IAC was already drafting a Convention on Harmful Traditional Practices, the OAU requested that the two drafts be merged into one document (Murray 2005; Wandia 2013; Adams 2020). In 2000, various women’s organizations successfully pushed for their inclusion in the drafting and consultation process and found that the document fell well below international standards (CSO participant in the Maputo Protocol negotiations, online interview, May 27, 2021). However, some of the original drafters were hesitant to resume negotiations because of controversial issues such as polygamy and reproductive health and rights, which could have resulted in backtracking on the progress made thus far (CSO participant in the Maputo Protocol negotiations, online interview, May 24, 2021). Furthermore, the women’s organizations pushed for inclusive language covering women in

**Figure 1. Breakdown of references to different types of violence and harm against women in the Maputo Protocol**



**Figure 2. Breakdown of references to different types of violence and harm against women in all analyzed documents**



**Note:** In figures 1 and 2 the phrase “violence against women” is a direct reference to this concept, inclusive of gender-based violence. “Harmful traditional practices” include references to this concept, FGM, child marriage, and polygamy, because these are categorized as such by the frameworks.

polygamous marriages, those married as children, and more generally all women in Africa. An additional challenge was mobilizing the delegations from the member states and ensuring their participation in the negotiations (CSO participant in the Maputo Protocol negotiations, online interview, May 24, 2021). Finally, the overlapping events of new and ambitious organizations entering the process, and the institutional transformation contributed to the tone of the Protocol:

And it was really the time where they are excited to do something, to change everything... And I think this transformation was [an] occasion to accelerate the adoption of the Protocol. (IAC, online interview, June 22, 2021)

The Maputo Protocol addresses violence against women in five of its Articles: Article 2 on the Elimination of Discrimination Against Women; Article 3 on the Right to Dignity; Article 4 on The Rights to Life, Integrity and Security of the Person; Article 5 on the Elimination of Harmful Practices, and Article 11 on the Protection of Women in Armed Conflicts. There are special articles to address violence against vulnerable women, like the elderly or women with disabilities. Before going into those provisions, the Maputo Protocol defines violence against women as:

all acts perpetrated against women which cause or could cause them physical, sexual, psychological, and economic harm, including the threat to take such acts; or to undertake the imposition of arbitrary restrictions on or deprivation of fundamental freedoms in private or public life in peacetime and during situations of armed conflicts or war. (Maputo Protocol, Article 1, j), p. 6.)

Harmful practices are defined as:

all behavior, attitudes, and/or practices which negatively affect the fundamental rights of women and girls, such as their right to life, health, dignity, education, and physical integrity. (Maputo Protocol, Article 1, g), p. 6.)

These definitions discursively produce a policy problem, giving it “shape and meaning” (Bacchi & Eveline 2010:111). They define what is included and what is excluded from gendered violence. In both definitions, harmful practices or violence are defined without reference to culture or tradition, focusing instead more on harm. This definition resonates with that of DEVAW, which, however, lists specific actions that are to be understood as violent, including “female genital mutilation and other traditional practices harmful to women” (DEVAW, Article 2, p. 2). DEVAW’s definition was later adopted word for word in the Beijing Platform of Action. The Maputo Protocol covers the same points but spreads them out across the document and links them only loosely to violence against women. Of the five articles that address violence, two include sections that discuss the socio-cultural factors

for eliminating it. For instance, Article 2.2 in the Maputo Protocol calls on State Parties to:

modify the social and cultural patterns of conduct of women and men through public education, information, education, and communication strategies. (Maputo Protocol, Article 2. 2, p. 7)

The aim of this is to eliminate “harmful cultural and traditional” and other practices that are based on stereotyped social roles for men as well as women. Mirroring CEDAW’s Article 5, the Maputo Protocol encourages states to “modify” socio-cultural patterns to address cultural and traditional practices that are harmful to women and that produce inequalities (Maputo Protocol, Article 2.1. b) and 2.2, p. 7.). While the Maputo Protocol addresses the “cultural” and “traditional” within violence against women, it refuses to describe it in these terms. Another example is Article 4, which addresses harmful practices and suggests that peace education and social communication should be promoted to:

eradicate elements in traditional and cultural beliefs, practices, and stereotypes that legitimize and exacerbate the persistence and tolerance of violence against women. (Maputo Protocol, Article 4.2. d), p. 8)

While cultural factors are mentioned as potential enablers of gendered violence, the Protocol is clear that no culture or tradition is inherently violent against women. Instead, “elements” in systems of meaning may be used to justify violent practices and behavior. Additionally, the Protocol addresses the extent to which cultural and traditional matters contribute to violence against women. Article 4.2. c) requires member states to identify the “causes and consequences” of gender-based violence, pointing to a need for a deeper understanding of the issue to be able to address it (Maputo Protocol, Article 4.2. c), p. 8).

The drafters drew up an article mentioning “harmful practices” instead of “harmful traditional practices.” The phrase “harmful traditional practices” was initially included in the draft; it had inspired one of the Protocol’s initiators (namely the Inter-African Committee on Harmful Traditional Practices) and had been used since the 1980s (IAC, online interview, June 22, 2021). The article on “harmful practices” called for the prohibition of all forms of FGM but did not identify other particular practices (Maputo Protocol, Article 5, b), p. 9.). Participants explained that the women’s organizations saw the concept of “harmful practices” as a way to include practices of unethical medical research, forced sterilization, online abuse, bullying, acid attacks, and other types of abusive behavior that cannot be linked to any tradition and may even be of “Western origin” (online interviews: UN participant in the Maputo Protocol negotiations, May 17, 2021; CSO participant in the Maputo Protocol negotiations, May 24, 2021; CSO participant in the Maputo Protocol negotiations, May 27, 2021). The trafficking of women and

unethical scientific experiments are addressed in Article 4. Another interviewee explained:

You couldn't defend FGM in 2002 [...] As our culture, as our right, as all this—that argument had already been won. [...] There wasn't a case to make, politically, about harmful traditional practices. But there was a case to be made to broaden it out [...] trying to take a sort of holistic view at what the harmful practices were, against gender. Not just limited to our cultures or our religion, but related to our economics, related to our politics. (Former Akina Mama wa Afrika staff member, online interview, August 18, 2021).

The Protocol directly addresses other practices that are defined elsewhere as “harmful traditional practices,” such as child marriage and polygamy. These are not mentioned within the harmful practices section. This is vaguely addressed through a commitment to eliminating practices “which negatively affect the human rights of women and which are contrary to recognized international standards” (Maputo Protocol, Article 5, p. 9). The strong language around practices such as FGM, child marriage, polygamy, and reproductive rights indicates that these issues were discussed and agreed upon, but carefully presented as harmful rather than as matters of culture. The critics argue that the preoccupation with and “zero tolerance” toward all forms of genital cutting and medicalization, which is adopted in the Maputo Protocol, raises debates around ideas of harm, freedom of choice, and agency (Hernlund & Shell-Duncan 2007:23–26). They point out the fallacy of ignoring the central role of women in the practice and the maternalistic attitudes which suppose that the practitioners do not have a proper awareness of what they are doing. Indeed, the Office of the Legal Counsel of the AU (2002) advised against including references to the medicalization of FGM, but the CSO groups clearly won that argument.

The considerations concerning culture, tradition, and violence in the Maputo Protocol mirror the language of the Beijing PoA. Like the Protocol, the Beijing PoA uses the language of harmful practices, but links it regularly to specific practices such as FGM, child marriage, and the son preference, or custom and tradition.<sup>4</sup> The Beijing PoA also occasionally displays carefully calculated wording, for instance, “any harmful aspect of certain traditional, customary or modern practices that violates the rights of women should be prohibited and eliminated” (Beijing PoA, Article 224, p. 92). However, this quote is more of an outlier. The commitment to shifting the language of “harmful practices” away from its tradition-oriented predecessor appears half-hearted, as it links violence against women directly with tradition, custom, and culture:

Violence against women throughout the life cycle *derives* essentially from cultural patterns, in particular the harmful effects of certain traditional or customary practices. (Beijing PoA, Article 118, p. 49, author's emphasis).

And

Take urgent action to combat and eliminate violence against women, which is a human rights violation, *resulting from* harmful traditional or customary practices, cultural prejudices and extremism. (Beijing PoA, Article 232, Section g), p. 97, author's emphasis).

This representation, which creates a causal relationship between tradition, culture, custom, and violence, is not present in the Maputo Protocol. The concept of “harmful practices” is used in different ways in the two documents: while the Maputo Protocol broadened the term to include various forms of gendered violence, the Beijing PoA uses it as a replacement for “harmful traditional practices.” While the document analysis does not include the UN policy frameworks after the World Conferences on Women, they tend to use the same language as the Beijing PoA. Examples could be “A framework to underpin action to prevent violence against women” (2015) and the Spotlight Initiative (2017) by the UN. The first considers violence against women as “rooted in gender inequality, discrimination and harmful cultural and social norms” (UN Women Headquarters 2015), whereas the second uses language of harmful practices to talk exclusively about child marriage and FGM.

According to the drafters of the Maputo Protocol, they knew they had to reflect the complex terrains of “culture” and “tradition” in Africa for the document to be relevant to African women. The “problem of culture” is not embedded in history and custom, but it is a political project (Bacchi 2012). The interviewees reflected on this sentiment in various ways:

Your culture is always a positive thing that you can sell or give for free to the rest of humanity. But, you know, beating women is not a value, is not a culture. It's a tradition, it's bad behavior. Cutting people is not cultural. So don't make mistake. (IAC, online interview, June 22, 2021).

The Maputo Protocol presents a diversion from representations of Third World cultures that emerged from colonial epistemologies—as timeless and unchanging, where culture/tradition/religion blur into one, their practitioners being without history—and from representations of Third World countries as monolithic spaces without complexities or variations (Narayan 1997:45–50). One of the participants in the Maputo Protocol negotiations explained it as political and strategic:

[...] if you talked about harmful traditional practices, that was one of the ways to mobilize dissenters. [...] People just mobilized around [it] and said, this is racist. This is elitist. [...] Politically, it was so potent. And it could... it would silence you. (Former Akina Mama wa Afrika staff, online interview, August 18, 2021)



What the document achieved was thus to shift the focus from ahistorical, apolitical, and undefined “culture,” “tradition,” and “custom” to articulate the problem of violence against women through the concept of “harm.” The Protocol insists that any behavior, attitude, or practice harming women shall be eliminated—including those that are embedded in traditions or other value systems. The Protocol thus provides a solid basis for building a regionally relevant approach to eliminating violence against women. As we shall see, this opportunity was missed in the documents that came after.

### The Culture/Violence Nexus after the Protocol

International legal documents are subject to heavy negotiation and are likely to be more conservative than the policy frameworks. This may explain why the post-Maputo frameworks took a more radical stance toward “culture” and reverted to reinforcing the culture/tradition/custom and violence nexus—presumably with the idea of being progressive. The documents’ problem definition, causality, and interventions construct an ambiguous “problem of culture,” an undefined, static, ahistorical monolith that accounts for violence across member states. No political, economic, or systemic issue is given comparable weight as to culture and tradition. Nor do post-Maputo policies qualify the concept of “harmful practices,” but instead return to using “harmful traditional practices.”

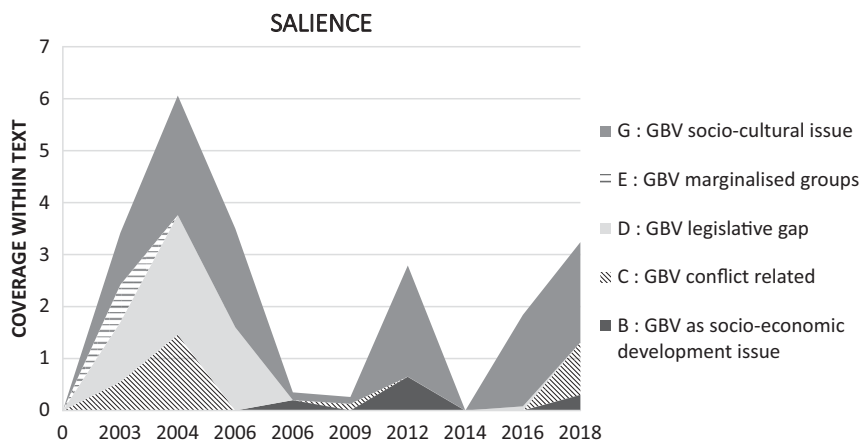
The AU’s Gender Policy does not define gendered violence, but its definition of “gender systems” states: “In most communities in Africa, women are dominated by men via patriarchal power, which has been a traditional and indeed a historical privilege for men” (Gender Policy, p. 29). The quote generalizes “African communities” as a coherent category, notwithstanding the histories of patriarchy across the world and the diversity of patriarchal systems. “African communities” then come across as stereotypically “consensual” wholes, with “ahistorical, backward-looking and patrimonialist” cultures (Olivier De Sardan 2005:77). This is interesting, as “gender” itself is articulated as having “changeable” and “time-bound” masculine and feminine characteristics, as well as differences that are socially and culturally constructed (Gender Policy, p. 27). The AU GEWE Strategy defines gender-based violence as interlinked with “culture” and as context-specific. It includes:

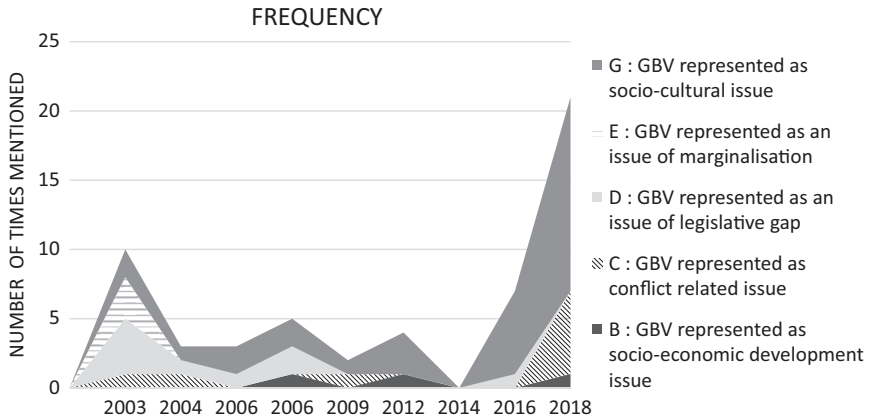
sexual violence, including sexual exploitation/abuse and forced prostitution; domestic violence; trafficking; forced/early marriage; harmful traditional practices such as female genital mutilation; honour killings; and widow inheritance. (GEWE Strategy, p. 62)

The definition of “gender equality” denotes “an element of interpretation of social justice, usually based on tradition, custom, religion or culture, which is most often to the detriment to women” (GEWE Strategy, p. 63). These definitions provide us with a vocabulary and interpretations of how we should understand the contents of the documents.

Unlike other problem representations, Figures 3 and 4 show that socio-cultural characterizations of gendered violence (GBV) are present in all of the documents, most prominently in the GEWE Strategy (2018). Additionally, the coding strategy shows that the Maputo Protocol included a comparatively wide range of causes of gendered violence. While the Solemn Declaration of 2004 included lengthy paragraphs that addressed violence against women and culture (Figure 3), such references were not particularly frequent (Figure 4). This is why the argument in this article focuses on qualitative properties found in the wording, conceptual references, and silences in those documents. For instance, the SRHR Policy states that “traditional” practices are enabled by local norms, and sexual and domestic violence are being tolerated for “socio-cultural reasons” (SRHR Policy, p. 16). The policy claims that women “suffer in silence” without reporting abuse because of normative social beliefs. Interestingly, the SRHR Policy (2006) makes only one reference to the Maputo Protocol, building mostly instead on the 1994 International Conference on Population and Development (ICPD) and the Millennium Development Goals. The GEWE Strategy reinforces the socio-cultural logic of poor reporting, claiming that such matters are private (GEWE Strategy, pp. 35, citing UNDP Africa Human Development Report 2016, p. 50). Leaning on demographic health surveys by the UN, the Strategy provides evidence of violence against women being normalized in many countries. While this may be so, other studies reveal that victims distrust the criminal system and state mechanisms, which in turn remove incentives for reporting (Medie 2017, 418). Therefore, the reality is that victims do not ascribe to a cultural mindset that accepts violence as normal; rather, they are caught between social and institutional norms, which severely restrict their options.

**Figure 3. Salience of different problem representations across frameworks**



**Figure 4. Frequency of different problem presentation across frameworks**

**Note:** The figures show the prominence of problem representations relative to each other across analyzed documents (Figure 1, marked by years). “Salience” refers to the volume (long and numerous sections) of codes, whereas “frequency” refers to the occurrence (however often) of codes.

The proposed interventions further reproduce a focus on culture. The SDGEA (2004) calls for public campaigns to address gender-based violence and invites its Member States to make legislative changes to “alter the attitude and behavior of the African society” (See Table 3). The culture vs. rights approach is explicit, as is the expectation that protection, criminalization, and punishment will alter the mindsets of people in “African society.” Yet, the idea that human rights can only be granted through “enforceable rights to individuals” is an element of specific political culture, one that has not explored the potential of delivering rights through already existing social institutions (Mutua 2002; Zwart 2012).<sup>5</sup> SRHR Policy (p.19) argues that, for the “largest possible adherence” to legal changes, the community needs to be included in the discussions, as “socio-cultural values are deeply rooted in the mind of people.” Here inclusion represents an attempt to convince rather than engage in a dialogue. Furthermore, states are given the responsibility to “take all necessary measures to remove socio-cultural structures and norms that promote and perpetuate gender-based inequality” (General Comments on Article 14 (2), p. 8). The references to administrative, social, and economic measures, usually the mandate of the state, are not unpacked. The focus remains on legislative and socio-cultural change.

The proposed interventions include awareness-raising, information provision, and other knowledge-based interventions to change social norms. The maternalistic language and approach rest on the assumption that the practicing communities do not know better. This reflects criticism of the disconnect between elite women’s organizations dominating the gender agenda and speaking “development” language, and the more organic, often rural

**Table 3. Examples of how violence against women is represented**

Document	Quotation
Maputo Protocol	eradicate <i>elements</i> in traditional and cultural beliefs, practices and stereotypes which <i>legitimise and exacerbate</i> the persistence and tolerance of violence against women;
Solemn Declaration	impunity of crimes committed against women in a manner that will <i>change and positively</i> alter the <i>attitude and behaviour</i> of the <i>African society</i>
General Comment No. 1	Specific efforts should be made to address gender disparities, <i>harmful traditional and cultural practices, patriarchal attitudes</i> , discriminatory laws and policies per articles 2 and 5 of the Protocol. In this regard, <i>States should collaborate with traditional and religious leaders, social movements, civil society, non-governmental organisations, including women-centred NGOs, international organisations and development partners.</i>
GEWE Strategy	Violence against women and <i>related</i> harmful traditional practices are <i>symptomatic</i> of the <i>accepted social norms in many countries and communities.</i>

women's groups which engage in locally embedded practices of empowerment (Amadiume 2000). More strategically, the language of saving "third world women" is a useful communication strategy used to facilitate financial and other support for specific development interventions (Cornwall 2016). However, African policies require an understanding of African women in terms of more than the dichotomy between "elite women" and the "grassroots woman who is perpetually poor, powerless and pregnant" (Okech & Musindarwezo 2019:78). The different "cultures" from which women come do not just refer to ethnic belonging but are also political cultures involving relationships with formal and informal structures and perceptions of personhood.

The policies represent gendered violence predominantly as sexual violence and harmful traditional practices. For example, the GEWE Strategy explains:

Violence against women and related harmful traditional practices are symptomatic of the accepted social norms in many countries and communities. (GEWE Strategy, p. 10)

By linking gender-based violence to harmful traditional practices, gendered violence is rendered not only social, but also cultural. While harmful traditional practices are never defined in AU frameworks, they are often cited alongside FGM. Furthermore, the GEWE Strategy proposes a "continental campaign to declare 'illiteracy a harmful traditional practice'" (p. 25). It

should be questioned what is hoped to achieve by categorizing illiteracy in this way, and who is being held responsible for its persistence.

Table 3 highlights examples of the “deep-seated presuppositions and assumptions” that are internal to the policy discourse (Bacchi 2015:2). The Maputo Protocol uses open-ended words such as “legitimate and exacerbate” to emphasize probability. The SDGEA example assumes that punishment will result in positive change. General Comment No. 1 reveals an assumption that collaborating with traditional and religious leaders will result in the elimination of harmful cultural and traditional practices, while the GEWE strategy presupposes a connection between violence against women, tradition, and social norms. Importantly, the meaning of culture, tradition, and custom is assumed, as they are never conceptualized or defined. Culture and tradition are presented as homogenous and as relatively static, interrelated wholes which can account for violent practices against women in all Member States.

While groups in different parts of Africa may (or may not) share common socio-cultural conceptions, these, like elsewhere in the world, are: (a) changeable, (b) not equally applicable to all people, (c) not homogeneous, (d) not necessarily integrated into “world views,” and (e) not necessarily generated by fundamental “values” (Olivier De Sardan 2005:83). These issues are not reflected in the AU’s gender frameworks, which reproduce an oversimplified culture/violence nexus. Tracing the development of the AU’s gender agenda shows that the end of Cold War brought along the advent of a global liberal individual women’s rights agenda, in which activists see culture as the primary impediment to gender justice, and antagonistic to individual rights (Merry 2003b). Around the millennium, the African women’s movements became increasingly intertwined with transnational and Western feminisms, rather than pursuing an alternative path, which is evident from their approach to eliminating violence against women. Not least, the post-Maputo policies are not legally binding, and their drafting dynamics are less politicized than the Maputo Protocol. Consequently, the contestations around culture are more visible in the implementation gaps than in the policy adoption.

## Conclusion

This article has explored how violence against women is represented as a policy problem in the AU’s legal, policy, and strategy frameworks addressing the situation of women on the continent. The analysis shows that, regardless of the Maputo Protocol’s nuanced handling of the “culture struggle,” gender-based violence continues to be represented primarily as a socio-cultural problem. The criticisms that post- and decolonial readings make of this problem representation are twofold. First, the language of ambiguous culture and tradition fails to break with the colonial discourse of women in Africa. It reproduces tropes of unenlightened third world women, rather than seeking transcultural dialogue and consensus-building. Second, violence against women is represented as apolitical and inherently

inter-personal. In this fashion, the policies fail to engage with issues of global political economy, securitization, militarization, and other power relations that perpetuate gendered violence.

[The Protocol] dealt with the abuses as we saw them. But what really was the underlying drivers of that, I think we stopped short of addressing that within the Protocol. (Former Akina Mama wa Afrika staff, online interview, August 18, 2021)

An in-depth analysis of the effects of this problem representation is beyond the scope of this article (Bacchi & Goodwin 2016:20). Yet, it is clear that some actors benefit from this specific approach to violence against women more than others, and as a result, some political projects will be advanced as compared to others. For one thing, the maternalistic, culture-focused language may be effective in galvanizing donor support and solidarity from non-African feminists. Engaging traditional and religious leaders is now an informal requirement when projects addressing violence against women are submitted. The AU's flagship initiatives, the Saleema Initiative to eliminate FGM and the Campaign to End Child Marriage, both focus on culturally informed harmful practices. The Africa Program of the UN-EU Spotlight Initiative, one of the largest programmatic efforts to eliminate violence against women in the world, focuses exclusively on FGM and child marriage. It has other priorities in other world regions, but no programs in the so-called Global North. No doubt these initiatives can make positive steps toward the emancipation of women, yet discursively this problem formulation pathologizes the women it claims to be defending from violence.

By depoliticizing violence against women, the engagement with traditional and religious leaders, primarily men, is presented as apolitical. The ways in which such interventions shape the roles of selected community leaders and create male gatekeepers constraining women's emancipation goes unchecked. There is conflicting evidence about persistent social, economic, and political factors and the return of practices such as child marriage, which indicates that interventions may have to be more context-specific (Maiden 2021; Affoum & Recavarrenn 2020). Recent studies show that perceptions of early marriage are often at odds with the abstract concepts adopted in policy circles. There is confusion and disagreement over what constitutes marriage, over the notions of forced, child, and early marriage, whether they happen within the participants' communities or not, and the harm and benefits of marrying young (Schaffnit et al. 2021). Oversimplifying social factors as generic "culture" or "tradition" has so far not proved to be effective for policymaking (Karimakwenda 2020).

A politics of culture has become visible in the backlash against gender movements across the world, including in Africa. Yet, Africa in particular is presented as the region where "culture" can explain just about anything. The reckoning of how "culture" and "tradition" were constructed and used in colonial world-making might help to re-historicize the concept.

Acknowledging the making of “cultures” through colonial knowledge and governance systems counters claims of “traditionality” by the powerful and women’s activists alike. The AU’s 2021 theme of the year was art, culture, and heritage for people in Africa. It created occasions for introspection into specific socio-cultural histories and their meaning for women on the continent. The Women, Gender and Development Directorate made an effort to reframe the idea of “African culture” and to appeal to the dynamic, changing, contestable, and political aspects of cultures. Given that these features are important to the ways cultures are lived, the question is how to include them in policymaking for gender equality.

Furthermore, there is considerably more research available on the harmful effects of various culturally informed practices than research on traditions of empowerment. An increasing body of knowledge is emerging on the latter, but it is rarely reflected in policy texts (Kuumba 2006; Nyanzi 2013; Akurugu, Domapielle, & Jatoe 2021; Gumbonzvanda, Gumbonzvanda, & Burgess 2021). Echoing these perspectives, Mutua argues that we should think beyond implementing the existing rights regime and pursue a human rights system that is truly multi- and trans-cultural (Mutua 2002). Postcolonial critics advocate mutual respect, dialogue, and coalition-building across cultures, however dynamic they may be, as the gateway to a more holistic approach to gendered violence.

While pan-African and African nationalist movements ascribed in many ways to the colonial structures of governance, they wholeheartedly rejected the notion that African cultures should be sacrificed in the name of progress. The AU is a product of those ideas and tensions of decolonization, which is why it is important to interrogate the ways in which it makes, redefines, recycles, and perhaps decolonizes its gender agenda. Regionalism in Africa has a particular pan-African history and political dynamism, which informs the normative debates on the continental level. A deeper understanding of how these play into policy formulation will provide crucial insights into both practices of and gaps in implementation.

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## Notes

1. Tamale operationalizes the concept of "African culture," which the author of this article does not agree, nor think it necessary to sustain Tamale's argument.
2. The GEWE Strategy was published by the AU in 2018 as an official framework, but the Member States had not adopted it until 2021 due to disagreements over the concepts and definitions in the appendix.
3. Arusha Strategies for the Advancement of Women in Africa: Beyond the End of the United Nations Decade for Women (henceforth the Arusha Strategies), October 2–13, 1984; the Abuja Declaration on Participatory Development: the Role of Women in Africa in the 1990s (henceforth the Abuja Declaration), Nigeria November 6–10, 1989; African Platform for Action: African Common Position for the Advancement of Women (henceforth the Dakar PoA), November 16–23, 1994.
4. Examples can be found in Beijing Platform of Action, Article 39, p.14, Article 93, p. 35, Article 107, Section a), p. 42, Article 113, Section a), p. 48, Article 259, p. 110, and Article 276, section b), p. 113.
5. The author of this article does not align with Zwart's use of "Africa" and "Africans."