

THE INTERNATIONALISATION OF SEXUAL AND REPRODUCTIVE RIGHTS AND HEALTH FOR FEMALE TEENAGERS OF WEST AND CENTRAL AFRICA

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The opinions in this text are the sole responsibility of the author.

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LIST OF ACRONYMS

ACRWC: African Charter of Rights and Welfare of the Child

AU: African Union

CAP: Conference on the African population

CEDAW: Convention on the Elimination of All Forms of Discrimination Against Women

CPC: Committee on the Protection of Childhood

DAW: Division for the Advancement of Women

ECA: United Nations Economic Commission for Africa

ECOSOC: Economic and Social Council of the United Nations

Equipop: Balances and Populations

FGM: Female genital mutilation

FMF: French Muskoka Fund

FP2020: Family Planning 2020

GAUN: General Assembly of the United Nations

ICPD: International Conference on Population and Development

ICRC: International Convention on the Rights of the Child

INSTRAW: International Institute of Research for the Advancement of Women

LON: League of Nations

NGO: Non-Governmental Organisation

OAU: Organisation of African Unity

OCS: Organisation of civil society

OP: Ouagadougou Partnership

OSAGI: Office of the Special Adviser on Gender Issues and Advancement of Women

RBWCA: Regional Bureau of the UNFPA for West and Central Africa

RMNIAH-N: Reproductive, maternal, neonatal, infantile and adolescent health, and nutrition

SRRH: Sexual and reproductive rights and health

STI: Sexually Transmitted Infection

UDHR: Universal Declaration of Human Rights

UN Women: United Nations entity in charge of gender equality and emancipation of women

UNFP: United Nations Fund for Population

UNFPA: United Nations Population Fund

UNIFEM: United Nations Development Fund for Women

USAP: Union for the Study of the African population

VTP: Voluntary Termination of Pregnancy

WCA: West and Central Africa

WILDAF: Women in Law and Development in Africa

THE INTERNATIONALISATION OF SEXUAL AND REPRODUCTIVE RIGHTS AND HEALTH FOR FEMALE TEENAGERS OF WEST AND CENTRAL AFRICA

In light of the discrimination and physical, sexual and symbolic violence that female teenagers of West and Central Africa (WCA) endure¹, international actors gathered to set legal boundaries and create organisations destined to improve their status and make their sexual and reproductive rights be respected. Right in the middle of children's and women's rights, an international system was created around female teenagers' sexual and reproductive rights and health (SRRH).

A. Children's rights: the creation of a stake in international relations

According to international public law, any individual under the age of 18 is considered a child. After being considered passive for a long time, it was only in the 19th century that children and teenagers were recognised as beings to protect. It was then that rules on work, justice and schooling for children started out. There was a consensus on the philosophy of protectionist legislation for children, but there were differing opinions on how to put them into practise². Despite this favourable international context, it was only in the 20th century that international public law recognised the term of "children's rights"³.

First, in 1924, Eglantyne Jebb, the one who would later become the founder of the non-governmental organisation (NGO) Save the Children Fund, initiated the Geneva Declaration on the Rights of the Child adopted by the League of Nations (LON). The first international organisation dedicated to improving children's living conditions and favouring the evolution of national legislation in their favour was created in the same year: the Committee on the Protection of Childhood (CPC). 1924 was marked down as the date where a "new perspective on children" was created⁴.

Later, in 1959, the Declaration of the Rights of the Child was adopted by the General Assembly of the United Nations (GAUN). However, this Declaration was not binding for the signatory states, and was limited to reaffirming the existence of rights and specific needs for children, and the need to develop the Geneva Declaration of 1924⁵.

It will only be in 1989, with the adoption of the International Convention on the Rights of the Child (IRRC), that an international text was legally binding and consecrates the entirety of fundamental rights of girls and boys aged less than 18.

The founding principles of the IRRC are the following⁶ :

- Non-discrimination;

¹ Aline Nanko Samaké, « États des lieux des droits et de la santé sexuels des adolescentes en Afrique de l'Ouest et du Centre », Gender in Geopolitics Institute, March 2020, available at : <https://igg-geo.org/?p=338>

² Droux, J. (2011). L'internationalisation de la protection de l'enfance : acteurs, concurrences et projets transnationaux (1900-1925). *Critique internationale*, pp. 17-23.

³ Dhellemmes, V. (2010). La dignité et les droits de l'enfant : vingt ans d'avancées sur le plan international. *Transversalités*, pp. 99-110.

⁴ Guillemot-Treffainguy, V. (2015). De la transnationalisation des droits des enfants à l'internationalisation du droit de l'enfant (1924-1959). *Droits des enfants au XXe siècle - Pour une histoire transnationale*, pp. 143-150.

⁵ Youf, D. (2002). *Penser les droits de l'enfant*. Paris : Presses Universitaires de France.

⁶ UNICEF. (2012). *La CIDE, qu'est ce que c'est ?*

- Priority is given to the better interest of children;
- The right to live, to survive and to grow up;
- Respecting the opinions of children.

This text also plans the creation of the Committee on the Rights of the Child, a revision organisation made of experts who make sure that the Convention is respected. In 2000, two additional protocols are adopted to reinforce the legal influence of the IRRC: the Additional Protocol on the sale of children, the prostitution of children and pornography starring children, as well as the Additional Protocol on the Rights of Children involved in armed conflicts. With the IRRC, children and teenagers are considered as subjects of rights and to-be adults⁷.

While the IRRC doesn't mention sexual and reproductive health, it consecrated the rights of children and teenagers to get health services, from prevention to treatment, and demands that states develop services of family planning⁸. The IRRC also condemned violence and sexual exploitation of children multiple times⁹.

The main international agency for the rights of children was created before the IRRC. It is the United Nations International Children's Emergency Fund (UNICEF). Created in 1946, it became a permanent organ of the UN system in 1953. A multitude of NGOs act in accordance with the rules of these inter-state institutions to promote and protect the rights of children¹⁰.

On a regional scale, the member states of the Organisation of African Unity (OAU), ancestor of the African Union (AU), adopted the African Charter of the Rights and Welfare of the Child (ARCWC) in 1990 then ratified it in 1999, to guarantee the rights of children and teenagers on the continent. In 2014, 47 of the 54 members of the AU had ratified the ARCWC. The countries of the OAU who abstained were the Central African Republic, the Democratic Republic of the Congo and the Democratic Republic of São Tomé e Príncipe¹¹.

Inspired by the UN, the African Chart still tries to mention specific socio-cultural aspects of the continent. For example, article 31 declares that every child has responsibilities to their family, society, the state and every other legally recognised community, as well as to the international community: that is the sign of an African vision of the relations between an individual and a group, where the former is not more important than the latter¹². According to the article *Droits et misères de l'enfant en Afrique* (Rights and miseries of the child in Africa), "the Charter lists a series of norms, some of which innovate greatly and go far beyond the demands of the IRRC and place children at the heart of stakes and imperatives of peace, development and progress"¹³.

Like the IRRC, the ARCWC doesn't mention sexual and reproductive health. However, it consecrates the right to health, encourages the states to take measures to improve maternal health and, for that,

⁷ UNICEF. (2012). *La CIDE, qu'est ce que c'est ?*

⁸ Articles 23 et 24 available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

⁹ Articles 19 et 34 disponibles sur : <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

¹⁰ *Ibid.*

¹¹ African Union. (2014). *Communiqué de presse - Campagne pour la ratification de la Charte africaine des droits et le bien-être de l'enfant*. Addis-Abeba.

¹² Gherari, H. (1991). La Charte africaine des droits et du bien-être de l'enfant. *Études internationales*, pp. 735-751.

¹³ Anatole Ayissi, Catherine Maia & Joseph Ayissi. (2002). *Droits et misères de l'enfant en Afrique - Enquête au cœur d'une « invisible » tragédie*. *Études*, pp. 297-309.

develop family planning¹⁴. The ARCWC also condemns any type of sexual services and has an article on the fight against sexual exploitation¹⁵.

There is therefore no international legislation specific to teenagers. Only international days allow for the reaffirming of their rights. It is the case for, for example, the International Youth Day¹⁶ (10-24 year-olds) that celebrates the youth as essential actors of change, or the International Day of the Girl Child¹⁷ that sheds a light on their specific needs and promotes their emancipation and the exercising of their fundamental rights to handle the challenges they face.

B. Women's rights in the international system

Women started to organise in an international way at the end of the 19th century. In 1878, before the International Women's Council was born in 1888, the first congress on the condition of women took place. The goal of these two initiatives was to gather women from all countries to discuss stakes and ways to demand the political citizenship of women¹⁸.

Between the World Wars, feminists counted on the League of Nations to enact gender equality through a treaty. While the failure of the LON precipitated that of the internationalisation of women's rights, in the San Francisco Charter of 1945, the members of what was to become the United Nations (UN) proclaimed "the equal rights of men and women"¹⁹. To give effect to this declaration of interest, a Commission on the Condition of Women was created in 1946 and supported by the Division for the Advancement of Women (DAW). A year later, the Division initiated conventions promoting gender equality that would raise awareness of gender issues in the international community and bring women's issues into the debate²⁰.

In the wake of the efforts to theorise women's condition that is inherent to the second wave of feminism, feminist studies join the academic world in the 1970s. It is in this context that, in 1975, the UN launches

¹⁴ Article 14 « Health and medical services » available at: https://www.un.org/fr/africa/osaa/pdf/au/afr_charter_rights_welfare_child_africa_1990f.pdf

¹⁵ Article 27 « Sexual exploitation » available at: https://www.un.org/fr/africa/osaa/pdf/au/afr_charter_rights_welfare_child_africa_1990f.pdf

¹⁶ United Nations. (s.d.). *International Day of the Girl Child, 11th October*.

Available at <https://www.un.org/fr/events/girlchild/>

¹⁷ United Nations. (s.d.). *International Youth Day, 12th August*.

Available at <https://www.un.org/fr/events/youthday/>

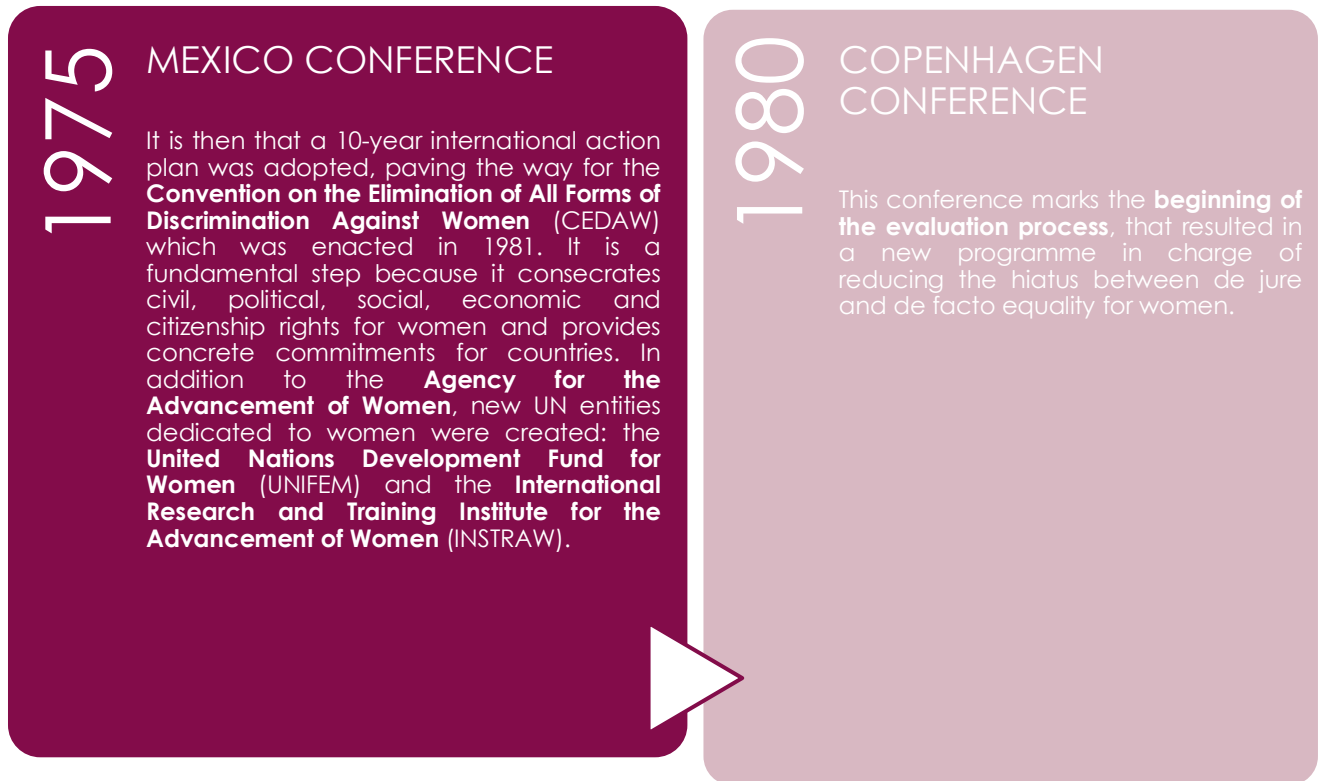
¹⁸ Gaspard, F. (2000). Les femmes dans les relations internationales. *Politique étrangère*, pp. 730-74.

¹⁹ Rupp, L. J. (1997). *Worlds of Women. The Making of an International Women's Movement*. Princeton : Princeton University Press.

²⁰ Gaspard, F. (2000). Les femmes dans les relations internationales. *Politique étrangère*, pp. 730-74.

the “women’s decade” that marks the organisation of a series of conferences on women’s condition that would take place every five years^{21 22}.

Cycle of five-yearly conferences on women’s condition



Made by the author

²¹ Giovanna Procacci & Maria Grazia Rosellini. (1997). La construction de l'égalité dans les actions des organisations internationales. Paris : PUF. p.832

²² UN Information Department. (2000, April). The Four Global Women's Conferences 1975-1995: Historical Perspective. Available at un.org : <https://www.un.org/womenwatch/daw/followup/session/presskit/presskit.htm>

1985

NAIROBI CONFERENCE

This is another **follow-up conference** that reviewed the achievements of the United Nations Decade for Women when it comes to equality, development and peace. While it is marked by the East/West conflict and the North/South controversies, it still manages to emphasise the active participation of women in all fields of society.

1995

BEIJING CONFERENCE

During this conference, the **Beijing Declaration and Platform for Action** is adopted. This process, which organises the global fight for gender equality and the emancipation of women, stirs up a real political engagement and creates a greater visibility of those issues. It becomes one of the international references for the advancement of women's condition on an international scale. This conference also marks the birth of the **Office of the Special Adviser on Gender Issues and Advancement of Women (OSAGI)**.

In 2011, DAW, UNIFEM, INSTRAW and OSAGI fuse to become UN Women, Made by the author that became the Commission Secretary on Women's Condition. This entity coordinates and promotes UN actions that favour gender equality and works to create a more inclusive international system²³.

When it comes to SRRH in the international conventions mentioned above, the CEDAW references the access to family planning services for women²⁴. The Beijing Platform for Action goes even further and explicitly mentions the necessity of promoting education in terms of sexual and reproductive health, and paragraph 94 is dedicated to health for procreation as a condition for a satisfying and safe sex life²⁵. While the CEDAW doesn't include measures on violence against women, whether they're sexual or not, the Beijing Platform for Action condemns sexual and sex-related violence²⁶. Finally, Article 39 of the Beijing Programme is dedicated to the protections of girls and teenagers' rights by mentioning the harmful effects of child marriage, child pregnancy, sexual mutilation or the importance of their access to education²⁷.

Parallel to this movement of internationalisation of women's rights in intergovernmental organs, many NGOs became specialists in these themes: activists promoting gender equality organise, institutionalise and become professionals. It is during this period that the organisation Women in Law and Development in Africa (WILDAF) is born²⁸. In 1995, it organises a meeting and calls for a legislative corollary related to women's rights on the continent. This process ended up with the adoption by the AU in 2003 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of

²³ Gaspard, F. (2002). Les « droits de la femme » : construction d'un enjeu en relations internationales. *Revue internationale et stratégique*, pp. 46-52.

²⁴ Article 14 available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx>

²⁵ Paragraphs 74 and 94 available at:

http://www.onufemmes.fr/wp-content/uploads/2017/01/BPA_F_Final_WEB.pdf

²⁶ Article 99 available at:

http://www.onufemmes.fr/wp-content/uploads/2017/01/BPA_F_Final_WEB.pdf

²⁷ Article 39 available at:

http://www.onufemmes.fr/wp-content/uploads/2017/01/BPA_F_Final_WEB.pdf

²⁸ Panata, S. (2016). Revendiquer des droits politiques au Nigéria. *Le Women Movement dans les années 1950. Clio. Femmes, Genre, Histoire*, pp. 174-183.

Women in Africa. It is an international treaty that guarantees a number of fundamental rights to women of the continent: the right to participate to political processes, social and political equality with men, the improvement of their autonomy in decision-making in terms of health, the prohibition of FGM, etc.²⁹. While it is inspired by international treaties on that subject, the Maputo Protocol takes into account “historical traditions and values of the African civilisation”³⁰. This Protocol, which is binding, was signed by 49 countries out of 55 and ratified by 41 countries of the AU. Among the absentees of WCA, we find the Central African Republic and Chad that signed it but did not ratify it, but also Niger that has not signed it³¹.

Article 14 of Maputo is dedicated to the rights to health and control of reproductive functions. It talks about the issue of family planning, prevention for STIs and sexual education³². While those rights related to sexual health are affirmed by the Maputo Protocol, it is in part because the International Planned Parenthood Federation (IPPF) largely influenced negotiations with its advocacy³³. The Protocol encourages measures in favour of the access to sexual and reproductive health, but it also condemns violence on grounds of sex³⁴ as well as “all forms of harmful practices that negatively affect women’s human rights and that are against international norms”³⁵, like female genital mutilation. The rights of female teenagers are also protected since the minimum age for marriage for a girl is set to 18³⁶ and the right to education and formation is affirmed³⁷.

C. Towards a recognising of rights and sexual and reproductive health on the international scene

The advancements in international public law in terms of women and children’s rights participated to the establishment of an environment that is favourable to the rights of the youth when it comes to sexual and reproductive health and rights.

The first World Population Conference took place in 1927 in Geneva. Back then, the activists for family planning that allowed for individual liberty as a means to escape “assertive maternity”³⁸, and those

²⁹ Wikigender. (2016). *Protocole de Maputo*. Available at Wikigender.org : <https://www.wikigender.org/fr/wiki/protocole-de-maputo/>

³⁰ African Union. (2003). *Protocole à la Charte africaine des droits de l’Homme et des peuples relatif aux droits des femmes en Afrique*. Maputo.

³¹ African Union. (2019). *List of countries who have signed or ratified*. Addis Abeba.

³² Available at:

https://www.un.org/fr/africa/osaa/pdf/au/protocol_rights_women_africa_2003f.pdf

³³ Vie Humaine Internationale. (2007). *Le Protocole de Maputo, Un danger imminent*. Virginia: Human Life International.

³⁴ Article 3, paragraph 4 available at:

https://www.un.org/fr/africa/osaa/pdf/au/protocol_rights_women_africa_2003f.pdf

³⁵ Article 5 available at:

https://www.un.org/fr/africa/osaa/pdf/au/protocol_rights_women_africa_2003f.pdf

³⁶ Article 6.b) available at:

https://www.un.org/fr/africa/osaa/pdf/au/protocol_rights_women_africa_2003f.pdf

³⁷ Article 12 available at:

https://www.un.org/fr/africa/osaa/pdf/au/protocol_rights_women_africa_2003f.pdf

³⁸ The “Motherhood in bondage” campaign was launched by US nurse Margaret Sanger who witnessed first-hand the plight of young mothers in the poorest parts of the city. As a result, she devoted the rest of her life to spreading information on reproduction and contraception for women, publishing books and articles and founding contraceptive clinics.

who wanted to fight against the fall in the birth rate battled.³⁹ After the Second World War, a World Population Conference is called in Rome in 1954. The aim of this conference made up of experts is to demand that every country create a population policy that itself would be anchored in a globalisation policy. That is how a global action plan was considered during the Belgrade Conference in 1965. A few years later, the Club of Rome, a think tank on global issues, concludes that the economic growth of rich countries and the demographic growth of poor countries threatened the future of the planet. The best comprehension of the stakes related to the rise of the population come with political desires in terms of SRRH, and added to the improvement of contraception in the 1960s, led to the creation of the United Nations Population Fund (UNFPA) in 1967. Then followed the Conferences of Bucarest in 1974 and of Mexico in 1984. With motivations that were far more political, they show a real awareness of the existing links between the evolution of the population and the socio-economic development of societies⁴⁰.

It is the International Conference on Population and Development (ICPD) in Cairo that marked the beginning of the recognising and realisation of girls and women's rights as essential principles of development. According to researchers C. Alison McIntosh and Jason L. Finkle in *The Cairo Conference on Population and Development: a new paradigm?* this conference is the result of a compromise between neo-Malthusians that reflected the "macro" aspect of the movement of population, emphasising that rapid demographic growth slows down socio-economic development, and feminists, that represent the "micro" aspect, the part of the population that believed in the individual right of access to contraception⁴¹.

From this conference emerges the notions of sexual and reproductive rights, of sexual health and sexual citizenship that recognises the sexual identity of individuals and their rights to a quality sex life. In order to make these principles effective, the text of the ICPD encourages countries to guarantee an access to health services and information that allows people to lead a risk-free sexual life thanks to the adoption of the Cairo Programme of Action (CPA)⁴². With it, the 179 signatories recognise the rights to reproduction as a guarantee of freedom for girls and women in terms of maternity, fertility and procreation without any form of discrimination, coercion or violence. Teenagers are particularly taken into account in these family planning and sexual education measures to limit the risks of child pregnancy or STIs⁴³.

The issue of abortion, despite its controversy, is also treated: there is no explicit demand for the legalisation of Voluntary Termination of Pregnancy (VTP), and it is stipulated that VTP must not be considered as a means of regulating births. However, the CPA condemns illegal abortions and calls for the establishment of counsel and help services for women who have aborted so that they can be treated with humanity and dignity⁴⁴.

Beyond the considerations linked to SRRH, the CPA mentions the promotion of protecting measures for girls and teenagers to fight against FGM, child marriage or any other act of violence based on

³⁹ Institut National d'Etudes Démographiques. (1994). Les conférences mondiales sur la population. *Population & Sociétés*.

⁴⁰ Institut National d'Etudes Démographiques. (1994). Les conférences mondiales sur la population. *Population & Sociétés*.

⁴¹ C. Alison McIntosh & Jason L. Finkle. (1995). The Cairo Conference on Population and Development: a new paradigm? *Population and Development Review*.

⁴² Yebga, N. S. (2014). La conciliation, une procédure locale de contournement d'une norme juridique : l'expérience des droits reproductifs autour de l'avortement au Cameroun. *Autrepart*, pp. 91-107.

⁴³ Paragraph 7 available at: <https://www.unfpa.org/sites/default/files/pub-pdf/ICPD-PoA-Fr-FINAL.pdf>

⁴⁴ Paragraph 8.25 available at: <https://www.unfpa.org/sites/default/files/pub-pdf/ICPD-PoA-Fr-FINAL.pdf>

gender⁴⁵. The question of SRRH of sexual minorities, however, is non-existent. It is only in 2007 with the principles of Yogyakarta on the application of international legislation of human rights in terms of sexual orientation and gender identity. However, only 57 countries approved the text (none in WCA), which does not allow it to be binding⁴⁶.

On a regional scale, the principles of the ICPD were integrated to the Maputo Protocol. Conferences on the African Population (CAP) are organised every four years by the African Union to study the evolution of the African population (UAPS)⁴⁷. The equivalent of the CPA in WCA can be found in cooperation in different regions. Originally started by international backers, Western governments or regional organisation, this cooperation don't always involve the same intervening countries, which guarantees their complementarity.

The three most important cooperation mechanisms are:

- **The Ouagadougou Partnership (OP)**⁴⁸ : created in 2011 during the Regional Conference on Population, Development and Family Planning, its members are Benin, Burkina Faso, the Ivory Coast, Guinea, Mali, Mauritania, Niger, Senegal and Togo, and it aims to accelerate progress in the use of family planning services⁴⁹.
- **The French Muskoka Fund (FMF)**⁵⁰: initiated in 2010 by France during the G8, it is at the root of the creation of a coordination mechanism of technical support and implementation of United Nations agencies in terms of reproductive, maternal, neonatal, infantile and teenager health and nutrition (RMNITH-N) services in Mali, Senegal, Niger, Guinea, the Ivory Coast, Benin, Togo and Chad⁵¹.
- **The FAMILY Planning 2020 (FP2020)**⁵²: implemented from 2012 to 2020, the FP2020 is a global movement promoting the reinforcement of the supply and demand in terms of family planning and modern contraception that is present in the entirety of WCA⁵³.

While a normative, international and regional framework was set to guarantee the respect of sexual and reproductive rights and health of female teenagers in West and Central Africa, we must note that there are still gaps between principles and their effectiveness. This gap can also be explained because the issue of SRRH of teenagers in WCA is the object of many quarrels rooted in the original tension that exists between universal and individual. Indeed, the promotion of SRRH implies the deconstruction of the merits of some traditional and religious practices, but also the questioning of the way sexuality, the control of bodies, men-women relations generally characterised by masculine domination, etc, are treated. The stake is to manage to find a balance that allows for global and local to coexist, meaning

⁴⁵ Paragraph 4.12 available at:

<https://www.unfpa.org/sites/default/files/pub-pdf/ICPD-PoA-Fr-FINAL.pdf>

⁴⁶ Christophe Broqua, Olivier Fillieule & Marta Roca i Escoda. (2016). Sur le façonnement international des causes liées à la sexualité. *Critique internationale*, pp. 9-19.

⁴⁷ The UAPS is a panafrikan scientific organisation created by the United Nation's Economic Commission for Africa (ECA).

⁴⁸ USAIS, UNFPA, CEDEAO, Hewlett foundation, AFD, MEAE, Gates foundation, Royaume des Pays-Bas & Canada.

⁴⁹ Ouagadougou Partnership. (2015). *Who we are*. Available at [partenariatouaga.org](https://partenariatouaga.org/en/about-us/the-partnership/) : <https://partenariatouaga.org/en/about-us/the-partnership/>

⁵⁰ MEAE, UNICEF, WHO, UNFPA & UN Women

⁵¹ French Muskoka Fund. (2015). *Program*. Available at [ffmuskoka.org](https://ffmuskoka.org/en/accueil/): <https://ffmuskoka.org/en/accueil/>

⁵² USAID, UNFPA, UK Aid, Gates Foundation

⁵³ Family Planning 2020. (2019). *Home*. Available at [familyplanning2020.org](https://www.familyplanning2020.org/): <https://www.familyplanning2020.org/>

to question the compatibility of norms issued by international conferences with the realities of national systems, then the modalities of different scales.