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**DRAFT PROTOCOL TO THE AFRICAN CHARTER ON HUMAN  
AND PEOPLES' RIGHTS ON THE RIGHTS OF PERSONS WITH  
DISABILITIES IN AFRICA**

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Adopted at the 19th Extra-Ordinary Session of the African Commission on Human and Peoples' Rights, held between 16-25 February 2016, in the Islamic Republic of The Gambia

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# DRAFT PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS ON THE RIGHTS OF PERSONS WITH DISABILITIES IN AFRICA

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## Preamble

**We, the Heads of State and Government of the Member States of the African Union:**

*Considering* that Article 66 of the 1981 African Charter on Human and Peoples' Rights provides that special protocols or agreements, if necessary, may supplement the provisions of the African Charter;

*Further considering* that Article 18 (4) of the African Charter provides that persons with disabilities shall have the right to special measures of protection in keeping with their physical or moral needs;

*Noting* that the 2000 Constitutive Act of the African Union identifies respect for democratic principles, human rights, the rule of law and good governance as essential principles for the proper functioning of the African Union;

*Recognising* that the African Union and its agencies as well as States Parties to the African Charter have made various efforts towards ensuring the rights of persons with disabilities;

*Noting* that Articles 60 and 61 of the African Charter recognise regional and international human rights instruments and African practices consistent with international norms on human and peoples' rights as important reference points for the application and interpretation of the African Charter;

*Further noting* that human rights and fundamental freedoms are universal, indivisible, interdependent and interrelated, and that the rights of every individual are recognised in global human rights instruments, including the 1948 Universal Declaration of Human Rights, the 1966 International Covenant on Economic, Social and Cultural Rights and the 1966 International Covenant on Civil and Political Rights;

**Recalling** that the rights of persons with disabilities are affirmed in the 2006 Convention on the Rights of Persons with Disabilities;

**Further recalling** that various Continental human rights instruments, including the 1990 African Charter on the Rights and Welfare of the Child, the 2003 Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, the 2006 African Youth Charter, the 2007 African Charter on Democracy, Elections and Governance, and the 2009 African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa make provisions for the rights of persons with disabilities;

**Acknowledging** that persons with disabilities have inherent dignity and individual autonomy including the freedom to make one's own choices;

**Acknowledging** further the importance of full and effective participation and inclusion of persons with disabilities in society;

**Recognising** the diversity of persons with disabilities;

**Further recognising** the value of persons with disabilities, including those with high support needs, as full members of society;

**Noting** that persons with disabilities experience extreme levels of poverty;

**Concerned** that persons with disabilities continue to experience human rights violations, systemic discrimination, social exclusion and prejudice within political, social and economic spheres;

**Gravely concerned** by the harmful practices that persons with disabilities often experience;

**Concerned** in particular by the maiming or killing of persons with albinism in many parts of the continent;

**Further concerned** at the multiple forms of discrimination, high levels of poverty and the great risk of violence, exploitation, neglect and abuse that women and girls with disabilities face;

**Recognising** that families, guardians and caregivers play essential roles in the lives of persons with disabilities;

**Concerned** that adequate effective measures have not been taken to ensure that persons with disabilities may exercise their full rights on an equal basis with others;

**Recalling** the lack of a substantive binding African normative and institutional framework for ensuring, protecting and promoting the rights of persons with disabilities;

**Conscious** of the need to establish a firm legal Continental framework as a basis for policies, laws, administrative actions and resources to ensure the rights of persons with disabilities;

**Determined** that the rights and dignity of persons with disabilities should be promoted, protected and ensured in order to enable them to enjoy fully and equally all their human rights and fundamental freedoms;

**Have agreed as follows:**

## **Article 1: Definitions**

For the purpose of the present Protocol:

- a. *"African Charter"* means the African Charter on Human and Peoples' Rights;
- b. *"African Commission"* means the African Commission on Human and Peoples' Rights;
- c. *"African Court"* means the African Court on Human and Peoples' Rights or any successor court including the African Court of Justice and Human Rights;
- d. *"Discrimination on the basis of disability"* means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. Discrimination on the basis of disability shall include denial of reasonable accommodation;
- e. *"Harmful practices"* include behaviour, attitudes and practices based on tradition, culture, religion, superstition or other reasons, which negatively affect the human rights and fundamental freedoms of persons with disabilities or perpetuate discrimination;

- f. *“Legal capacity”* means the ability to hold rights and duties and to exercise those rights and duties;
- g. *“Persons with disabilities”* include those who have physical, mental, intellectual, developmental or sensory impairments which in interaction with environmental, attitudinal or other barriers hinder their full and effective participation in society on an equal basis with others;
- h. *“Protocol”* means the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Persons with Disabilities in Africa;
- i. *“Reasonable accommodation”* means necessary and appropriate modifications and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms;
- j. *“States Parties”* mean any Member States of the African Union which have ratified or acceded to this Protocol and deposited the instruments of ratification or accession with the Chairperson of the African Union Commission;
- k. *“Universal design”* means the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialised design, and shall not exclude assistive devices for particular groups of persons with disabilities where this is needed.

## **Article 2: General Obligations**

States Parties shall take appropriate and effective measures, including policy, legislative, administrative, institutional and budgetary steps, to ensure, protect and promote the rights and dignity of persons with disabilities, without discrimination on the basis of disability, including by:

- a. Adopting appropriate measures for the implementation of the rights recognised in the present Protocol;

- b. Mainstreaming disability in policies, legislation, development plans, programmes and activities and in all other spheres of life;
- c. Providing in their constitutions and other legislative instruments and taking other measures to modify or abolish existing policies, laws, regulations, customs and practices that constitute discrimination against persons with disabilities;
- d. Modifying, outlawing, criminalising or campaigning against, as appropriate, any harmful practice applied to persons with disabilities;
- e. Promoting positive representations of persons with disabilities through training and advocacy;
- f. Taking measures to eliminate discrimination on the basis of disability by any person, organisation or private enterprise;
- g. Refraining from engaging in any act or practice that is inconsistent with the present Protocol and ensuring that public authorities, institutions and private entities act in conformity with the Protocol;
- h. Providing assistance and support as necessary and appropriate to enable the realisation of the rights set out in the present Protocol;
- i. Putting in place adequate resources, including through budget allocations, to ensure the full implementation of this Protocol;
- j. Closely consulting and actively engaging persons with disabilities and their representative organisations in implementation of the Protocol.

### **Article 3: Equality and Non-discrimination**

1. States Parties shall prohibit discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.

2. States Parties shall ensure that persons with disabilities are not discriminated, on one or more grounds, including denial of reasonable accommodation, on the basis of birth, age, gender, sex, race or ethnicity, language, religion, colour, nationality, economic, social or political status, health or other status.
3. States Parties shall take steps to ensure that specific measures, as appropriate, are provided to persons with disabilities in order to promote equality and eliminate discrimination, and such measures shall not be considered discrimination.
4. States Parties shall take effective and appropriate measures to protect the parents, children, caregivers or intermediaries of persons with disabilities from discrimination on the basis of their association with persons with disabilities.

#### **Article 4: Right to Life**

1. Every person with a disability has the inherent right to life and integrity.
2. States Parties shall take effective and appropriate measures to ensure:
  - a. Respect for life, physical and mental integrity and the dignity of persons with disabilities, on an equal basis with others;
  - b. That persons with disabilities have access to services, facilities and devices to enable them to live with dignity and to realise fully their right to life.

## **Article 5: Right to Liberty, Security of Person and Freedom from Torture or Cruel, Inhuman or Degrading Treatment or Punishment**

1. Every person with a disability has the right to liberty and security of person and the right to be free from torture or cruel, inhuman or degrading treatment or punishment.
2. States Parties shall take appropriate and effective measures to ensure that persons with disabilities, on an equal basis with others:
  - a. Enjoy the right to liberty and security of person and are not deprived of their liberty unlawfully or arbitrarily;
  - b. Are not forcibly confined or otherwise concealed by any person or institution;
  - c. Are not subjected to torture or cruel, inhuman or degrading treatment or punishment;
  - d. Are not subjected without their free, prior and informed consent to medical or scientific experimentation or intervention;
  - e. Are not subjected to sterilisation or any other invasive procedure without their free, prior and informed consent;
  - f. Are protected, both within and outside the home, from all forms of exploitation, violence and abuse.
3. States Parties shall take appropriate measures to prevent deprivation of liberty to persons with disabilities, to prosecute perpetrators of such abuse and to provide remedies for the victims.
4. Where persons with disabilities are lawfully deprived of their liberty, States Parties shall ensure that they are on an equal basis with others entitled to guarantees in accordance with international human rights law and the objects and principles of the present Protocol.

5. The existence of a disability or perceived disability shall in no case justify deprivation of liberty.

## **Article 6: Harmful Practices**

1. States Parties shall take all appropriate measures, including legal sanctions, educational and advocacy campaigns, to eliminate harmful practices perpetrated on persons with disabilities, including witchcraft, abandonment, concealment, ritual killings or the association of disability with omens.
2. States Parties shall take measures to discourage stereotyped views on the capabilities, appearance or behaviour of persons with disabilities, and they shall prohibit the use of derogatory language against persons with disabilities.
3. States Parties shall offer appropriate support and assistance to victims of harmful practices.

## **Article 7: Situations of Risk**

States Parties shall:

- a. Take specific measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, arbitrary displacements, humanitarian emergencies and natural disasters;
- b. Ensure that persons with disabilities are consulted in all aspects of planning and implementation of post-conflict reconstruction and rehabilitation.

## Article 8: Equal Recognition before the Law

1. Every person with a disability has the right to legal capacity.
2. States Parties shall recognise that persons with disabilities are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law.
3. States Parties shall take all appropriate and effective measures to ensure that:
  - a. Persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life, and that State, non-State actors and other individuals do not violate the right to exercise legal capacity by persons with disabilities;
  - b. Persons with disabilities are provided with the support they may require in enjoying their legal capacity, and that such support respects the rights, will and preferences of persons with disabilities and does not amount to substituted decision-making;
  - c. Appropriate and effective safeguards are put in place to protect persons with disabilities from abuses that may result from measures that relate to the enjoyment of their legal capacity;
  - d. Policies and laws which have the purpose or effect of limiting or restricting the enjoyment of legal capacity by persons with disabilities are reviewed or repealed;
  - e. Persons with disabilities have the equal right to hold documents of identity and other documents that may enable them to exercise their right to legal capacity;
  - f. Persons with disabilities have the equal right to own or inherit property and are not arbitrarily dispossessed of their property;
  - g. Persons with disabilities have equal rights to control their own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit.

## **Article 9: Right to Access Justice**

1. States Parties shall take all appropriate and effective measures to ensure that persons with disabilities have access to justice on an equal basis with others, including through the provision of procedural, and age and gender-appropriate accommodations, in order to facilitate their effective roles as participants in all legal proceedings.
2. States Parties shall ensure that traditional forms of justice shall not be used to deny persons with disabilities their right to access appropriate and effective justice.
3. All law enforcement and justice personnel shall be trained at all levels to effectively engage with and ensure the rights of persons with disabilities are recognised and implemented without discrimination.
4. States Parties shall ensure legal assistance including legal aid to persons with disabilities.

## **Article 10: Right to Live in the Community**

1. Every person with a disability has the right to live in the community with choices equal to others.
2. States Parties shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of the right to live in the community, on an equal basis with others, including by ensuring that:
  - a. Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live;
  - b. Persons with disabilities who require intensive support and their families have adequate and appropriate facilities and services, including caregivers and respite services;

- c. Persons with disabilities have access to a range of in-home, residential and other community support services necessary to support living and inclusion in the community;
- d. Persons with disabilities have personal mobility with the greatest possible independence;
- e. Community-based rehabilitation services are provided in ways that enhance the participation and inclusion of persons with disabilities in the community;
- f. Community living centres organised or established by persons with disabilities are supported to provide training, peer support, personal assistance services and other services to persons with disabilities;
- g. Community services and facilities for the general population, including health, transportation, housing, social and educational services, are available on an equal basis to persons with disabilities and are responsive to their needs.

## **Article 11: Accessibility**

1. Every person with a disability has the right to barrier free access to the physical environment, transportation, information, including communications technologies and systems, and other facilities and services open or provided to the public.
2. States Parties shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right, and such measures shall, among others, apply to:
  - a. Rural and urban settings and shall take account of population diversities;
  - b. Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces;
  - c. Information, communications, sign languages and tactile interpretation services, braille, audio and other services, including electronic services and emergency services;

- d. Quality and affordable mobility aids, assistive devices or technologies and forms of live assistance and intermediaries;
- e. The modification of all inaccessible infrastructure and the universal design of all new infrastructure.

## **Article 12: Right to Education**

1. Every person with a disability has the right to education.
2. States Parties shall ensure to persons with disabilities the right to education on an equal basis with others. Persons with disabilities shall on no account be presumed to be uneducable or untrainable.
3. The education of persons with disabilities shall be directed to:
  - a. The full development of human potential, sense of dignity and self-worth;
  - b. The development by persons with disabilities of their personality, talents, skills, professionalism and creativity, as well as their mental and physical abilities, to their fullest potential;
  - c. Educating persons with disabilities in a manner that promotes their participation and inclusion in society;
  - d. The preservation and strengthening of positive African values.
4. States Parties shall take appropriate and effective measures to ensure that inclusive quality education for persons with disabilities is realised fully, including by:
  - a. Ensuring that persons with disabilities can access free, quality and compulsory basic and secondary education;
  - b. Ensuring that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others, including by ensuring the literacy of persons with disabilities above compulsory school age;

- c. Ensuring reasonable accommodation of the individual's requirements is provided, and that persons with disabilities receive the support required to facilitate their effective education;
- d. Ensuring effective individualised support measures are provided in environments that maximise academic and social development, consistent with the goal of full inclusion;
- e. Ensuring appropriate schooling choices are available to persons with disabilities who may prefer to learn in particular environments;
- f. Ensuring that persons with disabilities learn life and social development skills to facilitate their full and equal participation in education and as members of the community;
- g. Ensuring that multi-disciplinary assessments are undertaken to determine appropriate reasonable accommodation and support measures for learners with disabilities, and regular assessments and certification for learners are undertaken regardless of their disabilities;
- h. Training education professionals, including persons with disabilities, on how to educate and interact with children with specific learning needs;
- i. Facilitating respect, promotion, preservation and development of sign languages.

### **Article 13: Right to Highest Attainable Standard of Health**

1. Every person with a disability has the right to the highest attainable standard of health.
2. States Parties shall take appropriate and effective measures to ensure persons with disabilities have, on an equal basis with others, access to health services, including sexual and reproductive health, such as by:

- a. Providing persons with disabilities with the same range, quality and standard of free or affordable health care and programmes as provided to other persons;
- b. Providing those health services needed by persons with disabilities specifically because of their disabilities or health services designed to minimise or prevent further disability, including among children, women and older persons;
- c. Prohibiting discrimination against persons with disabilities by providers of health and life insurance;
- d. Ensuring that all health services are provided on the basis of free, prior and informed consent;
- e. Providing persons with disabilities with health-care in the community;
- f. Ensuring that health-care services are provided using accessible formats and that communication between service providers and persons with disabilities is effective;
- g. Ensuring that persons with disabilities are provided with support in making health decisions, when needed;
- h. Ensuring that health campaigns include disability specific needs, but in a manner which does not stigmatise persons with disabilities, and designing services to minimise and prevent further disability;
- i. Ensuring that the training of health-care providers takes account of the disability specific needs and rights of persons with disabilities, and ensuring that informal health services do not violate the rights of persons with disabilities.

## **Article 14: Rehabilitation and Habilitation**

States Parties shall take effective and appropriate measures, including peer support, to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life, including by:

- a. Organising, strengthening and extending comprehensive habilitation and rehabilitation services and programmes, particularly in the areas of health, employment, education and social services;
- b. Promoting the development of initial and continuing training for professionals and staff working in habilitation and rehabilitation services;
- c. Promoting the availability, knowledge and use of appropriate, suitable and affordable assistive devices and technologies;
- d. Supporting the design, development, production, distribution and servicing of assistive devices and equipment for persons with disabilities, adapted to local conditions;
- e. Developing, adopting and implementing standards, including regulations on accessibility and universal design, suitable to local conditions.

## **Article 15: Right to Work**

1. Every person with a disability has the right to decent and productive work, to just and favourable conditions of work, to protection against unemployment and to protection from forced or compulsory labour.
2. States Parties shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right on an equal basis with others, including by:
  - a. Prohibiting discrimination on the basis of disability with regard to all matters concerning all forms of employment, including employment opportunities, vocational training, conditions of recruitment, hiring and employment, continuance of employment, career advancement, and safe and healthy working conditions;
  - b. Protecting the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work and the right by persons with disabilities to exercise their labour and trade union rights;

- c. Promoting opportunities for persons with disabilities to initiate self-employment and entrepreneurship;
  - d. Employing persons with disabilities in the public sector, including by reserving and enforcing minimum job-quotas for employees with disabilities;
  - e. Promoting the employment of persons with disabilities in the private sector through appropriate policies and measures, including through the use of specific measures such as tax incentives;
  - f. Ensuring that reasonable accommodation is provided to persons with disabilities in the workplace;
  - g. Ensuring that employees who become disabled are not dismissed from their jobs on the basis of their disability.
3. States Parties shall take steps to ensure that the principle of equal pay for equal work is not used to undermine the right to work for persons with disabilities. In particular, States Parties shall take appropriate measures to recognise the social and cultural value of the work of persons with disabilities.

## **Article 16: Right to Adequate Standard of Living and Right to Social Protection**

1. Persons with disabilities have the right to an adequate standard of living for themselves and their families, including adequate food, access to safe drinking water, housing, sanitation and clothing, to the continuous improvement of living conditions and to social protection.
2. States Parties shall take appropriate and effective measures to facilitate full enjoyment by persons with disabilities of this right, on the basis of equality, including by:
  - a. Ensuring that persons with disabilities shall access appropriate and affordable services, devices and other assistance for disability-related needs,

- including accessible housing and other social amenities, mobility aids and caregivers;
- b. Ensuring access by persons with disabilities to social protection programmes;
  - c. Putting financial measures in place to cover disability-related expenses, including through the use of tax exemptions or concessions, cash-transfers, duty waivers and other subsidies;
  - d. Facilitating provision of assisters, including interpreters, guides, auxiliary and augmentative supporters and caregivers, while respecting the rights, will and preferences of persons with disabilities.

## **Article 17: Right to Participate in Political and Public Life**

1. Every person with a disability has the right to participate in political and public life.
2. States Parties shall take all appropriate policy, legislative and other measures to ensure this right, on the basis of equality, including through:
  - a. Undertaking or facilitating systematic and comprehensive civic education to encourage full participation of persons with disabilities in democracy and development processes, including by ensuring civic education materials are available in accessible formats;
  - b. Ensuring that persons with disabilities, including persons with psychosocial disabilities and intellectual disabilities, can effectively participate in political and public life, including as members of political parties, electors and holders of political and public offices;
  - c. Putting in place reasonable accommodation and other support measures consistent with the secrecy of the ballot, including as appropriate, by ensuring accessibility to polling stations and facilitating assisted voting, for persons with disabilities to enable their effective participation in political and public life;

- d. Realising increased and effective representation and participation of persons with disabilities on an equitable basis as members of national and local legislative bodies;
- e. Repealing or amending laws that on the basis of disability restrict the right of persons with disabilities to vote, stand for or remain in public office.

## **Article 18: Self-representation**

States Parties shall recognise and facilitate the right of persons with disabilities to represent themselves in all spheres of life, including by promoting an environment that enables persons with disabilities to:

- a. Form and participate in the activities of organisations of and for persons with disabilities;
- b. Form and participate in the activities of nongovernmental organisations and other associations;
- c. Gain and enhance capacities, knowledge and skills for effectively articulating and engaging in issues of disability, including through direct collaboration with organisations for persons with disabilities;
- d. Be actively consulted and involved in the development and implementation of all legislation, policies and programmes that impact persons with disabilities.

## **Article 19: Right to Freedom of Expression and Opinion and Access to Information**

1. Every person with a disability has the right to freedom of expression and opinion and the right to access information.
2. States Parties shall take policy, legislative, administrative and other measures to ensure these rights, on the basis of equality, including by:

- a. Providing information intended for the general public as well as information required for official interactions to persons with disabilities in accessible formats and technologies appropriate to different kinds of disabilities in a timely manner, and without additional cost to persons with disabilities;
- b. Requiring private entities that provide services to the general public, including through the internet, to provide information and services in accessible and usable formats for persons with disabilities;
- c. Recognising and promoting the use of sign languages;
- d. Ensuring that persons with visual impairments or with other print disabilities have effective access to published works including by using information and communication technologies and by making changes as appropriate to the international copyright system.

## **Article 20: Right to Participate in Sports, Recreation and Culture**

1. Every person with a disability has the right to participate in sports, recreation and cultural activities.
2. States Parties shall take effective and appropriate policy, legislative, budgetary, administrative and other measures to ensure this right, on the basis of equality, including through:
  - a. Ensuring that persons with disabilities have access to sports, recreational and cultural services and facilities, including access to stadia and other sporting facilities, theatres, monuments, entertainment establishments, museums, libraries and other historical sites;
  - b. Encouraging and promoting the participation, to the fullest extent possible, of persons with disabilities in mainstream sporting activities at all levels;
  - c. Promoting disability-specific sporting and recreational activities;

- d. Facilitating funding, research and other measures aimed at promoting the participation of persons with disabilities both in disability-specific and mainstream sporting and recreational activities;
- e. Enabling children with disabilities to participate in play within the learning environment;
- f. Facilitating access to audio, video, print and media technologies and services including theatre, television, film and other cultural performances and activities;
- g. Discouraging negative representations and stereotyping of persons with disabilities in both traditional and modern cultural activities and through the media;
- h. Encouraging and supporting creativity and talent among persons with disabilities for their own and the society's benefit;
- i. Putting in place measures to mitigate barriers that hinder access to cultural materials in accessible formats due to factors such as intellectual property law and inadequate technology;
- j. Recognising and supporting the cultural and linguistic identities of persons with disabilities, including deaf-blind and deaf culture, and sign languages.

## **Article 21: Right to Family**

States Parties shall take all necessary and appropriate measures to eliminate discrimination against persons with disabilities in all matters with regard to family, marriage, parenthood and relationships, on an equal basis with others, in order to ensure that:

- a. Persons with disabilities may exercise their right to marry and form a family, with their full, prior and informed consent;
- b. Persons with disabilities may decide on the number and spacing of their children, and have access to family planning, and sexual and reproductive health education;
- c. Persons with disabilities have the right to keep their children and not be deprived of their children on account of their disability.

## **Article 22: Women with Disabilities**

States Parties shall ensure that women with disabilities have full enjoyment of human rights and fundamental freedoms on an equal basis with other persons, including by ensuring that:

- a. Women with disabilities participate in social, economic and political decision-making and activities;
- b. Women with disabilities are protected from sexual and gender based violence and are provided with rehabilitation and psychosocial support against sexual and gender based violence;
- c. The sexual and reproductive health rights of women with disabilities are guaranteed, and women with disabilities have the right to retain and control their fertility;
- d. Gender perspectives are integrated in policies, legislation, plans, programmes and activities in all spheres that affect women with disabilities.

## **Article 23: Children with Disabilities**

1. Children with disabilities have full enjoyment of human rights and fundamental freedoms on an equal basis with other children.
2. States Parties shall respect the evolving capacities of children with disabilities, and their right to preserve their identities and to enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.
3. States Parties shall ensure that the best interests of the child are the primary consideration in all actions concerning children with disabilities.
4. States Parties shall ensure the rights of children with disabilities by taking policy, legislative and other measures aimed at:

- a. Ensuring children with disabilities have the right to express their views freely on all matters affecting them, their views being given due weight in accordance with their age and maturity, on an equal basis with other children;
- b. Providing children with disabilities, disability, age and gender-appropriate assistance to realise their rights;
- c. Ensuring the survival, protection and development of children with disabilities;
- d. Ensuring children with disabilities have a name and that they are registered immediately after birth;
- e. Ensuring children with disabilities are not abducted, sold or trafficked for any purpose or in any form by any person, and that they are not concealed or used in any form of begging;
- f. Ensuring that children with disabilities are protected from all forms of sexual exploitation and sexual abuse;
- g. Protecting children from being separated from their parents merely on the basis that either the children or their parents have a disability;
- h. Taking specific measures to protect children with disabilities who require more intensive support;
- i. Ensuring children with disabilities have effective access to training and to recreational opportunities in settings most conducive for them to achieve the fullest possible social inclusion, individual development and cultural and moral development;
- j. Fostering in all children from an early age an attitude of respect for the rights of persons with disabilities;
- k. Protecting children with disabilities from exploitation, violence and abuse within family, institutional and other settings;
- l. Ensuring that under no circumstances may children on account of their disabilities be sterilised.

## **Article 24: Youth with Disabilities**

1. Youth with disabilities have full enjoyment of human rights and fundamental freedoms on an equal basis with other youth.
2. States Parties shall take policy, legislative, administrative and other measures to ensure that all the rights of youth with disabilities are fully respected, including by:
  - a. Promoting full, inclusive and accessible education for youth with disabilities;
  - b. Promoting the inclusion of youth with disabilities in mainstream youth organisations and programmes;
  - c. Removing barriers that hinder or discriminate against the participation of youth with disabilities in society;
  - d. Promoting training and access to information, communication and technology for youth with disabilities;
  - e. Developing programmes to overcome social and economic isolation, and removing systemic barriers in the labour market for youth with disabilities;
  - f. Ensuring access to credit facilities for youth with disabilities;
  - g. Developing and implementing specific measures to facilitate full and equal participation of youth with disabilities in sports, culture, science and technology;
  - h. Promoting sexual and reproductive health education for youth with disabilities;
  - i. Promoting the participation of youth with disabilities in political decision-making and activities.

## **Article 25: Older Persons**

1. Older persons with disabilities have full enjoyment of human rights and fundamental freedoms on an equal basis with other older persons.
2. States Parties shall ensure that all the rights of older persons with disabilities are fully protected by taking policy, legislative and other measures, including for:

- a. Ensuring that older persons with disabilities, on an equal basis with others, access social protection programmes;
- b. Taking account of age and gender-related aspects of disability in programming and resourcing in accordance with the present Protocol;
- c. Ensuring that older persons with disabilities exercise their legal capacity on an equal basis with others, and that appropriate measures and safeguards are put in place to provide older persons with all the support they may require to exercise their legal capacity;
- d. Ensuring that older persons with disabilities have access to appropriate services that respond to their needs within the community;
- e. Ensuring that older persons with disabilities are protected from violence, including violence on the basis of accusations or perceptions of witchcraft;
- f. Ensuring that older persons have access to appropriate sexual and reproductive health information and services.

## **Article 26: Duties**

1. States Parties shall recognise that persons with disabilities have duties on an equal basis with others as elaborated in the African Charter.
2. States Parties shall ensure that persons with disabilities are rendered the forms of assistance and support, including reasonable accommodations, which they may require in performance of such duties.

## **Article 27: Statistics and Data**

States Parties shall ensure the systematic collection, analysis, storage and dissemination of national statistics and data covering disability to facilitate the protection and promotion of the rights of persons with disabilities. Towards this end, States Parties shall:

- a. Disaggregate statistics and data, as appropriate, on the basis of disability, gender, age and other relevant variables, including by ensuring that national population census captures data on disability;
- b. Disseminate statistics and data in forms accessible to all persons including persons with disabilities;
- c. Ensure that the collection, analysis, storage and dissemination of statistics and data on persons with disabilities comply with acceptable ethical, confidentiality and privacy standards.

## **Article 28: Implementation and Monitoring**

1. States Parties shall:
  - a. Ensure implementation of the present Protocol at the national level;
  - b. Adopt all necessary measures, including providing budgetary and other resources, for the full and effective implementation of the rights recognised in this Protocol;
  - c. Cooperate at the international, Continental, sub-regional and bilateral levels on capacity-building on issues of persons with disabilities, including by sharing research, technical, human and financial resources, information and good practices to support implementation of this Protocol;
  - d. Ensure full and effective participation of persons with disabilities in the implementation and monitoring of this Protocol.
2. The provisions of sub-paragraph 1 (c) of this article are without prejudice to the responsibility of each State Party to fulfil its obligations under this Protocol.

3. States Parties shall, in their periodic reports submitted in accordance with Article 62 of the African Charter, indicate the legislative and other measures undertaken for the full realisation of the rights recognised in this Protocol.
4. States Parties shall establish or designate national mechanisms, including independent national institutions, to monitor the implementation of the rights of persons with disabilities.

## **Article 29: Remedies**

States Parties shall:

- a. Provide appropriate remedies to any person with disability whose rights or freedoms under this Protocol have been violated;
- b. Ensure that such remedies are determined by competent judicial, administrative or legislative authorities or by other competent authority provided for by law.

## **Article 30: Interpretation**

1. Nothing in this Protocol shall affect any provisions that are more conducive or favourable to the realisation of the rights and fundamental freedoms of persons with disabilities contained in the law of a State Party or in any other convention or agreement in force in that State.
2. The African Commission and the African Court shall be seized with matters of interpretation arising from application and implementation of this Protocol, as provided in the African Charter and the Protocol to the African Charter on Human and Peoples' Rights on Establishment of an African Court on Human and Peoples' Rights.

## **Article 31: Signature, Ratification and Accession**

1. This Protocol shall be open for signature, ratification and accession by the Member States of the African Union, in accordance with their respective constitutional procedures.
2. The instruments of ratification or accession shall be deposited with the Chairperson of the African Union Commission.

## **Article 32: Entry into Force**

1. This Protocol shall enter into force thirty days after the deposit of the fifteenth instrument of ratification.
2. For each State Party that accedes to this Protocol after its coming into force, the Protocol shall come into force on the date of deposit of the instrument of accession.
3. The Chairperson of the African Union Commission shall notify all States Parties of the coming into force of this Protocol.

## **Article 33: Amendment and Revision**

1. Any State Party may submit proposals for the amendment or revision of this Protocol.
2. Proposals for amendment or revision shall be submitted, in writing, to the Chairperson of the African Union Commission who shall transmit the same to the States Parties within thirty days of receipt thereof.
3. The Assembly of Heads of State and Government of the African Union, upon advice of the African Union Commission, shall examine these proposals within a period of one year following notification of States Parties, in accordance with the provisions of paragraph 2 of this article.

4. Amendments or revisions shall be adopted by the Assembly by a simple majority of the States Parties present and voting.
5. The amendments shall come into force for each State Party which has accepted them thirty days after the Chairperson of the African Union Commission has received notice of the acceptance.