

African Union, African Regional Bodies

African Charter on Human and Peoples' Rights

## Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa

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African Union

## African Charter on Human and Peoples' Rights

# Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa

Published

**Commenced**

*[This is the version of this document at 29 January 2018.]*

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

**Considering** that Article 66 of the African Charter on Human and Peoples' Rights of 27 June 1981 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 on Human and Peoples' Rights of 27 June 1981 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 Constitutive Act of the African Union of 11 July 2000 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 on Human and Peoples' Rights of 27 June 1981 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 international human rights instruments, including the Universal Declaration of Human Rights of 10 December 1948, the International Covenant on Economic, Social and Cultural Rights 16 December 1966 and the International Covenant on Civil and Political Rights 16 December 1966;

**Recalling** that the rights of persons with disabilities are affirmed in the Convention on the Rights of Persons with Disabilities 13 December 2006;

**Further recalling** that various African Union human rights instruments, including the African Charter on the Rights and Welfare of the Child of 11 July 1990, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa of 11 July 2003, the African Youth Charter of 2 July 2006, the African Charter on Democracy, Elections and Governance of 30 January 2007, and the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa 23 October 2009 make provisions for the rights of persons with disabilities;

**Considering further** paragraph 20 of the Kigali Declaration on Human Rights of 8 May 2003, which "calls upon States Parties to develop a Protocol on the protection of the rights of the elderly and persons with disabilities";

**Recalling** that the Decision 750 (XXII) of the Executive Council at its Twenty-Second Ordinary Session held in Addis Ababa, Ethiopia, from 21 to 25 January 2013, endorsed the African Union Disability Architecture (AUDA), of which a Protocol on the Rights of Persons with Disabilities to the African Charter is a central legal pillar;

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

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

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

**Appreciating** 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;

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

**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, caregivers and community 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 African Union framework as a basis for *laws*, policies, 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 to enable them 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:

"**African Charter**" means the African Charter on Human and Peoples' Rights adopted by the Heads of States and Government of the Organization of African Unity (OAU) in Banjul, Gambia, in June, 1981;

"**African Commission**" means the African Commission on Human and Peoples' Rights established by the African Charter on Human and Peoples' Rights adopted by the Heads of States and Government of the Organization of African Unity (OAU) in Banjul, Gambia, in June, 2000;

"**African Court**" means the African Court on Human and Peoples' Rights or any successor court including the African Court of Justice and Human Rights established by the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights adopted by the Heads of States and Government of the Organization of African Unity (OAU) in Ouagadougou, Burkina Faso, in June 1998;

"**Assembly**" means the Assembly of Heads of State and Government of the African Union.

"**AU**" or "**Union**" means the African Union established by the Constitutive Act of the African Union adopted by the Heads of States and Government of the Organization of African Unity (OAU) in Lome, Togo, in July, 2000;

"**Commission**" means the Commission of the African Union;

"**Deaf culture**" means the way deaf people interact, it includes a set of social beliefs, behaviours, art, literary traditions, history, values, and shared institutions of communities that are influenced by deafness and which use sign languages as the main means of communication.

**"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 and people's rights in the political, economic, social, cultural, civil or any other field. Discrimination on the basis of disability shall include denial of reasonable accommodation;

**"Habilitation"** means inpatient or outpatient health care services such as physical therapy, occupational therapy, speech-language pathology, audiology that address the competencies and abilities needed for optimal functioning to in interaction with their environments: enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social, and vocational ability, full inclusion and participation in all aspects of life;

**"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;

**"Legal capacity"** means the ability to hold rights and duties and to exercise those rights and duties;

**"Persons with disabilities"** include those who have physical, mental, psycho-social, intellectual, neurological, developmental or other 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;

**"Protocol"** means the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa;

**"Reasonable accommodation"** means necessary and appropriate modifications and adjustments 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 and people's rights;

**"Rehabilitation"** means inpatient or outpatient health care services such as physical therapy, occupational therapy, speech-language pathology and psychiatric rehabilitation services that help a person keep, restore or improve skills and functioning for daily living and skills related to communication that have been lost or impaired because a person was sick, injured or disabled.

**"Ritual killings"** means the killing of persons motivated by cultural, religious or superstitious beliefs that the use of a body or a body part has medicinal value, possesses supernatural powers and brings good luck, prosperity and protection to the killer.

**"Situations of risks"** means any situation that poses grave risk to the general population, including disasters and all forms of armed conflict

**"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;

**"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;

**"Youth"** means every person between the ages of 15 and 35 years.

## Article 2 – Purpose

The purpose of this Protocol is to promote, protect and ensure the full and equal enjoyment of all human and people's rights by all persons with disabilities, and to ensure respect for their inherent dignity.

### **Article 3 – General principles**

This Protocol shall be interpreted and applied in accordance with the following general principles:

- a) Ensuring respect for and protection of the inherent dignity, privacy, individual autonomy including the freedom to make one's own choices, and independence of persons;
- b) Non-discrimination;
- c) Full and effective participation and inclusion in society;
- d) Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
- e) Equality of opportunity;
- f) Accessibility;
- g) Reasonable accommodation
- h) Equality between men and women;
- i) The best interests of the child
- j) Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

### **Article 4 – General obligations**

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

- a) Adopting appropriate measures for the full and effective 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 and empowerment 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) Ensuring effective participation of persons with disabilities or their representative organisations including women and children with disabilities, in all decision-making processes including in the development and implementation of legislation, policies and administrative processes to this Protocol.
- k) Ensuring, where persons with disabilities are lawfully deprived of any rights or freedoms contained in this protocol 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.

### **Article 5 – Non-discrimination**

- 1. Every person with a disability shall be entitled to the enjoyment of the rights and freedoms recognised and guaranteed in this Protocol without distinction of any kind on any ground including, race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or any status.
- 2. States Parties shall:
  - a) Prohibit discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.
  - b) Take steps to ensure that specific measures, as appropriate, are provided to persons with disabilities in order to eliminate discrimination and such measures shall not be considered discrimination.
  - c) Take effective and appropriate measures to protect the parents, children, spouses, other family members closely related to the persons with disabilities, caregivers or intermediaries from discrimination on the basis of their association with persons with disabilities.

### **Article 6 – Right to equality**

- 1. Every person with a disability is equal before the law and has the right to equal protection and benefit of the law.
- 2. Equality includes the full and equal enjoyment of all human and people's rights.
- 3. State Parties shall take all appropriate legislative, administrative, budgetary and other measures in order to promote equality for persons with disabilities.

### **Article 7 – Equal recognition before the law**

- 1. 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.
- 2. 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;
  - b) Non-State actors and other individuals do not violate the right to exercise legal capacity by persons with disabilities;
  - c) Persons with disabilities are provided with effective legal protection and support they may require in enjoying their legal capacity consistent with their rights, will and specific needs;
  - d) 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;
  - e) 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;

- f) 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;
- g) Persons with disabilities have the equal right to own or inherit property and are not arbitrarily dispossessed of their property;
- h) 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 8 – 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) Protection, respect for life 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 9 – Right to liberty and security of person**

1. Every person with a disability has the right to liberty and security of person.
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 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 effective 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 10 – Freedom from torture or cruel, inhuman or degrading treatment or punishment**

1. Every person with a disability shall have the right to the respect of his/her inherent dignity and to be free from torture or cruel, Inhuman or degrading treatment, slavery, forced labour or unlawful punishment.
2. States Parties shall take appropriate and effective measures to ensure that persons with disabilities, on an equal basis with others:
  - a) Are not subjected to torture or cruel, inhuman or degrading treatment or punishment;
  - b) Are not subjected without their free, prior and informed consent to medical or scientific experimentation or intervention;

- c) Are not subjected to sterilisation or any other invasive procedure without their free, prior and informed consent;
  - d) Are protected, both within and outside the home, from all forms of exploitation; violence and abuse.
3. States Parties shall take appropriate measures to prosecute perpetrators of such abuse and to provide remedies for the victims.

### **Article 11 – Harmful practices**

1. States Parties shall take all appropriate measures and offer appropriate support and assistance to victims of harmful practices, 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.

### **Article 12 – 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, forced-displacements, humanitarian emergencies and natural disasters;
- b) Ensure that persons with disabilities are consulted and participate in all aspects of planning, implementation and monitoring of pre and post-conflict reconstruction and rehabilitation.

### **Article 13 – Right to access justice**

1. States Parties shall take measures to ensure that persons with disabilities have access to justice on an equal basis with others, including through the provision of procedural, age and gender-appropriate accommodations, in order to facilitate their effective roles as participants in all legal proceedings.
2. States Parties shall take reasonable steps to ensure that customary law processes are inclusive and should 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 14 – Right to live in the community**

1. Every person with a disability has the right to live in the community with choices on an equal basis with 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; and
- g) Community services and facilities for the general population, including health, transportation, housing, water, social and educational services, are available on an equal basis to persons with disabilities and are responsive to their needs.

### **Article 15 – 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 reasonable and progressive step 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; and
  - e) The modification of all inaccessible infrastructure and the universal design of all new infrastructure.

### **Article 16 – 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.
3. States Parties shall take, reasonable, appropriate and effective measures to ensure that inclusive quality education and skills training 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) Providing reasonable, progressive and effective individualised support measures 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, early intervention, regular assessments and certification for learners are undertaken regardless of their disabilities;
  - h) Ensuring educational institutions are equipped with the teaching aids, materials and equipment to support the education of students with disabilities and their specific needs;
  - i) Training education professionals, including persons with disabilities, on how to educate and interact with children with specific learning needs; and
  - j) Facilitating respect, recognition, promotion, preservation and development of sign languages.
4. 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; and
  - d) The preservation and strengthening of positive African values.

### **Article 17 – Right to 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, the provision of medicines including pain relieving drugs;
  - c) Prohibiting discrimination against persons with disabilities by providers of health services or providers of 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; and

- 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 formal and informal health services do not violate the rights of persons with disabilities.

### **Article 18 – Habilitation and rehabilitation**

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 19 – Right to work**

1. Every person with a disability has the right to decent work, to just and favourable conditions of work, to protection against unemployment, to protection against exploitation 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, promotion, 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, entrepreneurship and to access financial services;
  - 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 with disabilities or those who become disabled are not unfairly dismissed from employment on the basis of their disability.
3. States Parties shall take legislative, administrative and budgetary measures to ensure that the principle of equal pay for equal work is not used to undermine the right to work for persons with disabilities.

4. States Parties shall take appropriate measures to recognise the social and cultural value of the work of persons with disabilities.

### **Article 20 – Right to adequate standard of living**

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; and
  - d) Facilitating provision of assistance, including interpreters, guides, auxiliary and augmentative supporters and caregivers, while respecting the rights, will and preferences of persons with disabilities.

### **Article 21 – 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 and voter education materials are availed in accessible formats;
  - b) Encouraging the effective participation of persons with disabilities in political and public life including as members of political parties, electors and holders of political and public offices in accordance with national laws;
  - 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 in accordance with national laws;
  - d) Realising increased and effective representation and participation of persons with disabilities on an equitable basis as members of regional, subregional, 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 22 – 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 at national, regional and international levels;

- b) To build relationships and networks at national, regional and international levels;
- c) Form and participate in the activities of nongovernmental organisations and other associations;
- d) Effectively advocate for their rights and inclusion in their societies;
- e) 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 and academic institutions and other organisations;
- f) Be actively consulted and involved in the development and implementation of all legislation, policies, programmes and budgets that impact persons with disabilities.

### **Article 23 – Right to freedom of expression and opinion**

- 1. Every person with a disability has the right to freedom of expression and opinion including the freedom to seek, receive and impart information and ideas through all forms of communication of their choice.
- 2. States Parties shall take policy, legislative, administrative and other measures to ensure that persons with disabilities can exercise these rights, on an equal basis with others.

### **Article 24 – Access to information**

- 1. Every person with a disability has the right to access information.
- 2. States Parties shall take policy, legislative, administrative and other measures to ensure that persons with disabilities can exercise 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 print and electronic media, to provide information and services in accessible and usable formats for persons with disabilities;
  - c) Recognising and promoting the use of sign languages and deaf culture; and
  - 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.

### **Article 25 – 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 and ensuring provision of appropriate infrastructure;

- 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; and
- j) Recognising and supporting the cultural and linguistic identities of persons with disabilities, including deaf-blind and deaf culture, and sign languages.

### **Article 26 – Right to family**

1. Everyone with a disability has a right to marry and form a family with their full, prior and informed consent.
2. States Parties shall take all necessary and appropriate measures to eliminate discrimination against persons with disabilities including negative stereotypes in all matters with regard to family, marriage, parenthood, guardianship, adoption and relationships on an equal basis with others, in order to ensure that:
  - a) 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 and services;
  - b) Persons with disabilities have the right to keep their children and not be deprived of their children on account of their disability.

### **Article 27 – Women and girls with disabilities**

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

- a) Women and girls with disabilities participate in social, economic and political decision-making and activities;
- b) Barriers that hinder the participation of women with disabilities in society are eliminated;
- c) Women with disabilities are included in mainstream women's organisations and programmes;
- d) Women and girls with disabilities are protected from discrimination based on disability and enjoy the right to be treated with dignity;
- e) Women with disabilities access information, communication and technology;
- f) Women with disabilities have access to employment and to professional and vocational training;
- g) Programmes to overcome social and economic isolation and removing systemic barriers in the labour market for women with disabilities are developed;
- h) Women with disabilities have access to income generating opportunities and credit facilities;
- i) Specific measures are developed and implemented to facilitate full and equal participation for women and girls with disabilities in sports, culture and technology;

- j) 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;
- k) 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 and are not sterilised without their consent;
- l) Disability inclusive Gender perspectives are integrated in policies, legislation, plans, programmes, budgets and activities in all spheres that affect women with disabilities.

### **Article 28 – Children with disabilities**

1. States Parties shall ensure that Children with disabilities have full enjoyment of human and people's rights on an equal basis with other children.
2. States Parties shall respect and promote the right of children with disabilities, in particular, 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 undertaken by any person or authority concerning children with disabilities.
4. States Parties shall ensure the rights and welfare 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 life, survival, protection and development of children with disabilities;
  - d) Ensuring children with disabilities have a name, a nationality 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 for, sexual exploitation, child labour harvesting organs;
  - f) Ensuring that children with disabilities are protected from all forms of sexual exploitation, abuse and forced labour;
  - g) Protecting children from being separated from their parents, caregivers and guardians 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 education, training and 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 29 – Youth with disabilities**

1. States Parties shall ensure that Youth with disabilities have full enjoyment of human and peoples' rights 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, programmes, including training for leadership and governance skills for their participation at national, regional and international levels;
  - 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 30 – Older persons with disabilities**

1. State Parties shall ensure that older persons with disabilities have full enjoyment of human and peoples' rights 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 neglect, violence, including violence on the basis of accusations or perceptions of witchcraft;
  - f) Ensuring that older persons with disabilities have access to appropriate sexual and reproductive health information and services.

### **Article 31 – Duties of persons with disabilities**

1. States Parties shall recognise that persons with disabilities have duties on an equal basis with other person 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 32 – Statistics, data and other surveys**

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 and other survey 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.
- d) Ensure effective involvement and participation of Persons with Disabilities in the design, collection and dissemination of data.

### **Article 33 – Cooperation**

States Parties shall:

- a) 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;
- b) Ensure that regional and sub-regional cooperation programmes and institutions support the implementation of this Protocol and are accessible to Persons with Disabilities;
- c) Ensure full and effective participation of persons with disabilities in the implementation and monitoring of this Protocol.
- d) Support the African Union Commission to set up an Advisory Council on Disability [as an *ad hoc*] mechanism to facilitate the implementation and follow up of the continental policies and plans on disability.

### **Article 34 – Implementation**

1. States Parties shall ensure the implementation of this Protocol, and shall indicate in their periodic reports submitted to the African Commission in accordance with Article 62 of the African Charter, the legislative and other measures undertaken for the full realisation of the rights recognized in this Protocol.
2. States Parties shall establish or designate national mechanisms, including independent national institutions, to monitor the implementation of the rights of persons with disabilities.
3. In the implementation of this Protocol, the African Commission shall have the mandate to interpret the provisions of the Protocol in accordance with the African Charter.
4. The African Commission may refer matters of interpretation and enforcement or any dispute arising from the application or implementation of this Protocol to the African Court on Human and Peoples' Rights.

5. In accordance with Articles 5 and 34(6) of the Protocol Establishing the Africa Court, the African Court on Human and Peoples' Rights shall have the mandate to hear disputes arising from the application or implementation of this Protocol.

### **Article 35 – Popularization of the Protocol**

States Parties shall take all appropriate measures to ensure the widest possible dissemination of this Protocol in accordance with the relevant provisions and procedures of their respective constitutions.

### **Article 36 – Safeguard clause**

1. No provision in this Protocol shall be interpreted as derogating from the principles and values contained in other relevant instruments for the realisation of the rights of Persons with Disabilities in Africa.
2. In the event of a contradiction between two or more provisions of this Protocol, the interpretation which favours the rights of Persons with Disabilities and protects their legitimate interests shall prevail.

### **Article 37 – Signature, ratification and accession**

1. This Protocol shall be open to Member States of the Union for signature, ratification or accession.
2. The instrument of ratification or accession to the present Protocol shall be deposited with the Chairperson of the Commission who shall notify all Member States of the dates of the deposit of the instruments of ratification or accession.

### **Article 38 – Entry into force**

1. This Protocol shall enter into force thirty (30) days after the deposit of the fifteenth (15<sup>th</sup>) instrument of ratification by a Member State.
2. The Chairperson of the Commission shall notify all Members States of the African Union of the entry into force of the present Protocol.
3. For any Member State of the African Union acceding to the present Protocol, the Protocol shall come into force in respect of that State on the date of the deposit of its instrument of accession.

### **Article 39 – Reservations**

1. A State Party may, when, ratifying or acceding to this Protocol, submit in writing a reservation with respect to any of the provisions of this Protocol. Reservation shall not be incompatible with the object and purpose of this Protocol.
2. Unless otherwise provided, a reservation may be withdrawn at any time.
3. The withdrawal of a reservation must be submitted in writing to the Chairperson of the Commission who shall notify other States Parties of the withdrawal accordingly.

### **Article 40 – Depository**

This Protocol shall be deposited with the Chairperson of the African Union Commission, who shall transmit a certified true copy of the Protocol to the Government of each signatory State.

### **Article 41 – Registration**

The Chairperson of the Commission upon the entry into force of this Protocol shall register this Protocol with the United Nations Secretary General in conformity with Article 102 of the Protocol of the United Nations.

### **Article 42 – Withdrawal**

1. At any time after three years from the date of entry into force of this Protocol, a State Party may withdraw by giving written notification to the Depository.
2. Withdrawal shall be effective one year after receipt of notification by the Depository, or on such later date as may be specified in the notification.
3. Withdrawal shall not affect any obligation of the withdrawing State Party prior to the withdrawal.

### **Article 43 – Amendment and revision**

1. Any State Party may submit proposal(s) for the amendment or revision of this Protocol. Such proposal(s) shall be adopted by the Assembly.
2. Proposals for amendment or revision shall be submitted to the Chairperson of the Commission who shall transmit such proposals to the Assembly at least six months before the meeting at which it shall be considered for adoption.
3. Amendments or revisions shall be adopted by the Assembly by consensus or, failing which, by a two-thirds majority.
4. The amendment or revision shall enter into force in accordance the procedures outlined in Article 26 of this Protocol.

### **Article 44 – Authentic texts**

This Protocol is drawn up in four (4) original texts, in Arabic, English, French and Portuguese languages, all four (4) texts being equally authentic.

**IN WITNESS WHEREOF** the undersigned, being duly authorized to that effect, has signed this Protocol.

**ADOPTED BY THE THIRTIETH ORDINARY SESSION OF THE ASSEMBLY, HELD IN ADDIS ABABA, ETHIOPIA ON 29 JANUARY 2018**