

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

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Introduction

The Working Group on Older Persons and Persons with Disabilities has taken account of the following guidelines while preparing the Draft Protocol on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa:

1. The Protocol seeks to provide an African context to rights of persons with disabilities.
2. In preparing the Protocol, cognisance has been taken of the way African human rights instruments are crafted.
3. The Protocol should not undermine the letter and spirit of the 2006 United Nations (UN) Convention on the Rights of Persons with Disabilities (CRPD). It therefore draws from and is inspired by the CRPD without necessarily adopting all the CRPD's detail.
4. Drafting a human rights instrument is not rocket science. Human rights concepts and norms are universal in nature. As such, precedents and language are drawn from international and regional human rights instruments to guide preparation of the Protocol. It is for example instructive that there is great similarity between the UN Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child.
5. This Draft Protocol should be read alongside the Concept on the List of Issues to Guide Preparation of a Protocol on the Rights of Persons with Disabilities in Africa.
6. Finally, it should be stressed that the Working Group is extremely keen that stakeholders from across Africa participate in critiquing and offering their suggestions on the Draft Protocol. Towards this end, the Working Group is placing the Draft Protocol on the website of the African Commission on Human and Peoples' Rights. The Working Group also calls upon and encourages stakeholders and other partners to undertake consultative sub-regional meetings on the basis of which memoranda may be prepared for the Working Group's attention.

Preamble

(Cf: Preambles of Convention on the Rights of Persons with Disabilities [CRPD]; African Charter on Human and Peoples' Rights [ACHPR]; Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa ['Maputo Protocol' or 'mp']; African Charter on the Rights and Welfare of the Child [ACRWC])

We, the Member States of the African Union:

Considering that Article 66 of the African Charter on Human and Peoples' Rights (hereinafter referred to as 'the African Charter') 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 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 Union;

Recognising that the 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;

Recalling 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 Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights;

Recalling further that the rights of persons with disabilities are affirmed in the Convention on the Rights of Persons with Disabilities adopted by the United Nations General Assembly on 13 December 2006 by Resolution A/61/611;

Further recalling that various continental human rights instruments, including the African Charter on the Rights and Welfare of the Child, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, the African Youth Charter and the African Charter on Democracy, Elections and Governance make provisions for the rights of persons with disabilities;

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

Recognising the diversity of persons with disabilities;

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

Further concerned that persons with disabilities in Africa continue to face systemic institutional weaknesses and extreme poverty;

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 their non-disabled peers;

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 of persons with disabilities in Africa 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

(CF: CRPD Preamble, Art. 1; ACHPR Art. 1; ACDEG Art. 1)

For the purpose of the present Protocol:

- a. **“African Charter”** means the African Charter on Human and Peoples’ Rights.
- b. **“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.
- c. **“Persons with disabilities”** include those who have long-term physical, mental, intellectual, developmental or sensory impairments which in interaction with environmental, attitudinal and other barriers hinder their full and effective participation in society on an equal basis with others.
- d. **“Protocol”** means the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Persons with Disabilities in Africa.
- e. **“Reasonable accommodation”** means necessary and appropriate modification 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’.
- f. **“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.

Article 2: General Obligations

(Cf: CRPD Art. 4; ACHPR Art. 1; MP Art. 2)

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. Integrating disability perspectives in policy decisions, legislation, development plans, programmes and activities and in all other spheres of life;
- c. Including 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 custom, tradition, cultural, religious or other harmful practice applied to persons with disabilities that is inconsistent with the rights, duties and obligations contained in the present Protocol;
- e. Taking measures to eliminate discrimination on the basis of disability by any person, organisation or private enterprise;
- f. Refraining from engaging in any act or practice that is inconsistent with this Protocol and ensuring that public authorities and institutions act in conformity with the Protocol; and
- g. Providing assistance and services as appropriate to enable realisation of the rights set out in this Protocol.

Article 3: Equality and Non-discrimination

(Cf: CRPD Art. 4; ACHPR Art. 2; MP Art. 3; ACDEG Art. 8, 2)

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. States Parties shall ensure that persons with disabilities are not discriminated, on one or more grounds, on the basis of their birth, age, gender, sex, race or ethnicity, economic status, social status or other such status.

2. States Parties shall take steps to ensure that special 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.
3. States Parties shall take effective and appropriate measures to protect the parents, guardians or caregivers of persons with disabilities from discrimination on the basis of their actual or apparent association with persons with disabilities.

Article 4: Right to Life and Right to Security of Person

(Cf: CRPD Arts 10, 11, 14, 15; MP Art. 4; ACRWC Art. 5; African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa Art. 9; Protocol on the Protection and Assistance to Internally Displaced Persons Art. 4)

1. States Parties shall take appropriate and effective measures to ensure that persons with disabilities, on an equal basis with others:
 - a. Exercise the right to life, including their survival, protection and development;
 - b. Enjoy the right to liberty and security of person;
 - c. Are not deprived of their liberty unlawfully or arbitrarily;
 - d. Are not subjected to torture or cruel, inhuman and degrading treatment or punishment;
 - e. Are not subjected without their free, prior and informed consent to medical or scientific experimentation;
 - f. Are not, without their free, prior and informed consent, sterilised; and
 - g. Are protected, both within and outside the home, from all forms of exploitation, violence and abuse.
2. States Parties shall identify the causes and consequences of deprivation of liberty on persons with disabilities and take appropriate measures to prevent such deprivation.
3. States Parties shall take special measures to ensure that persons with disabilities have access to facilities and devices which ensure effective enjoyment of the right to life.

Article 5: Harmful Practices

States Parties shall ensure the protection of all persons with disabilities by combating or modifying, through legal sanctions, educational and advocacy campaigns, harmful cultural, religious or other social practices such as witchcraft and taboos used to justify the killing, abandonment or other mistreatment of persons with disabilities. States Parties shall discourage stereotyped views on the capabilities of persons with disabilities.

Article 6: Situations of Risk

States Parties shall take special measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and natural disasters.

Article 7: Equal Recognition before the Law

(CF: CRPD Art 12; MP Article 8)

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. 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 of persons with disabilities to realise their right to legal capacity;
- 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. 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; and
- e. Persons with disabilities have the equal right to own or inherit property, 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 Access Justice

(Cf: CRPD Art. 13)

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 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.

Article 9: Living in the Community

(Cf: CRPD Art. 19)

States Parties shall recognise that persons with disabilities have, on an equal basis with others, the right to live in the community, with choices equal to others. States Parties shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of these rights, including by ensuring that:

- a. Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others;
- b. Persons with disabilities who require intensive support and their families have adequate and appropriate facilities and services, including carers 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, social and educational services, are available on an equal basis to persons with disabilities and are responsive to their needs.

Article 10: accessibility

(Cf: CRPD Article 9, Article 20)

States Parties shall recognise that persons with disabilities have the right to access the physical environment, transportation, information and communications, and other facilities and services open or provided to the public. The measures which States Parties may take towards realisation of these rights shall apply among others 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 and other services, including electronic services and emergency services;
- d. Quality and affordable mobility aids, devices, assistive technologies and forms of live assistance and intermediaries; and
- e. The progressive modification of all inaccessible infrastructure and the universal design of all new infrastructure.

Article 11: Right to Education

(Cf: CRPD Art. 24; ACRWC Art. 11; MP Art. 12; ACHPR Art. 17; ACDEF Art. 43; ACDEF Art. 13)

1. States parties shall ensure that persons with disabilities access education on an equal basis with others.
2. The education of persons with disabilities shall be directed to:
 - a. The full development of human potential, sense of dignity and self-worth;
 - b. Fostering respect for human diversity, human rights and fundamental freedoms, with particular reference to those set out in the provisions of various African instruments on human rights and international human rights conventions and declarations;
 - c. 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;
 - d. Enabling persons with disabilities to participate effectively in a free society; and
 - e. The preservation and strengthening of positive African morals, values and cultures.

3. States Parties shall take appropriate and effective measures to ensure that the goal of inclusive education for persons with disabilities is realised fully, including by ensuring that:
 - a. Persons with disabilities can access free, quality and compulsory basic and secondary education;
 - b. 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. Reasonable accommodation of the individual's requirements is provided, and that persons with disabilities receive the support required to facilitate their effective education;
 - d. Effective individualised support measures are provided in environments that maximise academic and social development, consistent with the goal of full inclusion;
 - e. Appropriate schooling choices are available to persons with disabilities who may prefer to learn in particular environments;
 - f. Persons with disabilities learn life and social development skills to facilitate their full and equal participation in education and as members of the community; and
 - g. Multi-disciplinary assessments are undertaken to determine appropriate supports for learners with disabilities.
4. States Parties shall ensure that persons with disabilities shall on no account be presumed to be uneducable or untrainable, and regular assessments and certification for learners shall be undertaken regardless of their disabilities.

Article 12: Right to Access Highest Attainable Standard of Health

(CF: CRPD Art. 25; ACHPR Art. 16; ACRWC Art. 14; MP Art. 14)

States parties shall ensure that persons with disabilities have, on an equal basis with others, the right to enjoy the highest attainable standard of health. States Parties shall take appropriate and effective measures to ensure persons with disabilities have 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 disability, including among children, women and older persons;
- c. Prohibiting discrimination of persons with disabilities in the provision of health insurance and life insurance;
- d. Prohibiting any form of treatment without free and informed consent on the basis of one's disability;
- e. Providing persons with disabilities with health-care in the community to the largest extent possible;
- 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 health campaigns do not stigmatise persons with disabilities and designing services to minimise and prevent further disability; and
- h. Ensuring that the training of health-care providers takes account of the rights of persons with disabilities, and ensuring that informal health services do not violate the rights of persons with disabilities.

Article 13: Rehabilitation and Habilitation

(Cf: CRPD Art. 26; Continental Plan of Action for the African Decade of Persons with Disabilities 2010-2019)

States Parties shall take effective and appropriate measures 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 assistive devices and technologies, designed for persons with disabilities, as they relate to habilitation and rehabilitation;
- d. Increasing access to appropriate, suitable and affordable assistive devices;
- e. Supporting the design, development, production, distribution and servicing of assistive devices and equipment for persons with disabilities, adapted to local conditions; and

- f. Developing, adopting and implementing standards, including regulations on accessibility and universal design suitable to local conditions.

Article 14: Right to Work

(Cf: CRPD Art. 27; ACHPR Art. 15; MP Art. 13)

1. States Parties shall ensure that persons with disabilities have, on an equal basis with others, 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. States Parties shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right, 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, 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 special measures such as tax incentives;
 - f. Ensuring that reasonable accommodation is provided to persons with disabilities in the workplace; and
 - g. Ensuring that persons who become disabled in the course of their employment are not laid off from their jobs on the basis of their disability.
2. 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 15: Right to Adequate Standard of Living and Right to Social Protection

(Cf: CRPD Art. 28; MP Art. 15, 16)

1. States Parties shall ensure that persons with disabilities have the right, without discrimination, 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, 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 carers;
 - b. Ensuring access by persons with disabilities to social protection programmes, including retirement benefits;
 - 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 assisters, including interpreters, guides, auxiliary and augmentative supporters and carers, while respecting the rights, will and preferences of persons with disabilities.

Article 16: Right to Participate in Political and Public Life

(CF: CRPD Art. 29; ACDEF Art. 31; ACHPR Art. 13, 1; MP Art. 9)

States Parties shall ensure that persons with disabilities have the right to participate in political and public life without discrimination and on an equal basis with others. States Parties shall take all appropriate policy, legislative and other measures to ensure this right, 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 availed in accessible formats;
- b. Ensuring that persons with disabilities, on an equal basis with others, 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 at least five per cent representation of persons with disabilities in national and local legislative bodies; and
- e. Repealing or amending laws that restrict the right to vote, stand for or remain in public office on the basis of disability.

Article 17: Self-representation

(Cf: CRPD Art. 29; CPOA)

States Parties shall recognize 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. Participate in the activities of other non-governmental organisations and associations; and
- 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.

Article 18: Right to Participate in Sports, Recreation and Culture

(Cf: CRPD Art. 30)

States Parties shall recognise that persons with disabilities have the right to participate in sports, recreation and cultural activities on an equal basis with others. States Parties shall take effective and appropriate policy, legislative, budgetary, administrative and other measures to ensure this right, 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 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;
- 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; and
- j. Recognising and supporting the cultural and linguistic identities of persons with disabilities, including deaf-blind and deaf culture, and Sign Language.

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

(Cf: ACHPR Art. 9; CRPD Art. 21; ICCPR Art. 19; Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired or Otherwise Print Disabled)

States Parties shall recognise that persons with disabilities have the right to freedom of expression and opinion and the right to access information on an equal basis with others. States Parties shall take policy, legislative, administrative and other measures to ensure these rights 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;
- 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; 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 and by making changes as appropriate to the international copyright system.

Article 19: Women with Disabilities

(Cf: CRPD Art. 6; MP generally)

States Parties shall ensure that women with disabilities have full enjoyment of human rights and fundamental freedoms without discrimination 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. Women with disabilities may exercise their right to marry; and
- e. Mothers with disabilities have the right to keep their children and not be deprived of their children on account of disability.

Article 20: Children with Disabilities

(Cf: CRPD Preamble, Arts 3, 7, 8, 16, 23, 24; ACHPR Art. 18, 3; ACRWC Art. 13 and generally; Convention on the Rights of the Child Art. 23)

1. States Parties shall recognise that 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 a 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 and age-appropriate assistance to realise their rights;
- c. Ensuring, to the maximum extent possible, the survival, protection and development of the child with disability;
- 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 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 a child from being separated from its parents merely on the basis that either the child or its parents have a disability;
- h. Taking special 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; and
- l. Ensuring that under no circumstances may children on account of their disabilities be sterilised.

Article 21: Youth with Disabilities

(Cf: African Youth Charter Art. 24; CPOA)

States Parties shall recognise that youth with disabilities have full enjoyment of human rights and fundamental freedoms on an equal basis with other youth. 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 especially for youth with disabilities in rural areas;
- 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; and
- g. Developing and implementing special measures to facilitate full and equal participation of youth with disabilities in training at sports, culture, science and technology.

Article 22: Older Persons

(Cf: CRPD; ACHPR Art. 18; Draft Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa [Draft Older Persons Protocol])

States Parties shall recognise that older persons with disabilities have full enjoyment of human rights and fundamental freedoms on an equal basis with other older persons. 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-related aspects of disability in programming and resourcing in accordance with this 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; and
- d. Ensuring that older persons with disabilities have access to appropriate services that respond to their needs within the community.

Article 23: Responsibilities

(CF: CRPD Preamble; ACHPR Arts 27-29; ACRWC Art. 31; Draft Older Persons Protocol Art. 22)

States Parties shall recognise that persons with disabilities have responsibilities to other individuals, their families and to the community. These responsibilities shall include:

- a. Respecting and giving consideration to others without discrimination on any ground, and maintaining relations aimed at promoting, safeguarding and reinforcing mutual respect and tolerance;
- b. Raising awareness on and educating others on persons with disabilities;
- c. Playing active social, economic, political and other roles as full members of their families, communities and States; and
- d. Preserving and strengthening positive African cultural values in their relations with other members of the society, and contributing to the promotion of the moral well being of society, including promoting and preserving African unity and integration.

Article 24: Statistics and Data

(Cf: CRPD Art. 31)

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 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; and
- c. Ensure that the collection, analysis, storage and dissemination of statistics and data on persons with disabilities complies with acceptable ethical, confidentiality and privacy standards.

Article 25: Implementation and Monitoring

(Cf: Draft Older Persons Protocol Art. 23; MP Article 26; CRPD Art. 32)

1. States Parties shall:
 - a. Ensure the implementation of this Protocol at national level, and 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;
 - 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. Establish and use national, sub-regional and continental mechanisms to coordinate and monitor the implementation of the rights of persons with disabilities;
 - d. Cooperate at the 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; and
 - e. Ensure full and effective participation of persons with disabilities in the implementation and monitoring of this Protocol.
2. The provisions of sub-paragraph 1 d of this article are without prejudice to the obligations of each State Party to fulfil its obligations under this Protocol.

Article 26: Remedies

(Cf: MP Article 25)

States Parties shall undertake to provide remedies within competent national, sub-regional or continental legislative, judicial or administrative mechanisms, as appropriate, to persons with disabilities whose rights under this Protocol are violated.

Article 27: Interpretation of Protocol

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 international Convention or agreement in force in that State.

2. The African Commission shall, in terms of Article 45 of the African Charter on Human and Peoples' Rights, be seized with matters of interpretation arising from the application and implementation of this Protocol.

Article 28: 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 29: Entry into Force

1. This Protocol shall enter into force 30 days after the deposit of the 15th 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 30: 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 30 days of receipt thereof.
3. The Assembly of Heads of States 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.
5. The amendments shall come into force for each State Party which has accepted them 30 days after the Chairperson of the African Union Commission has received notice of the acceptance.