

for African Women and Girls with Disabilities

in the

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

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Women with Disabilities are Uniquely Prioritized

Historically, human rights instruments included women with disabilities by applying women's rights or disability rights to women with disabilities without recognizing the specific challenges they face in the protection or enjoyment of their rights. The Protocol recognizes that the intersection of gender and disability along with other grounds of discrimination creates increased vulnerability and requires specific protection. It explicitly tackles the different forms of violations that women and girls with disabilities in Africa are particularly at risk of. By outlining specific and detailed provisions, the Protocol creates a more effective legal framework to protect women and girls with disabilities.

Fighting Against Discrimination by Association

The Protocol protects caregivers and family members who are discriminated because of their association with a person with a disability. Women and girls are disproportionately affected by discrimination by association and stigmatized as mothers who gave birth to a child with a disability. Women and girls are also more responsible for domestic labor which includes caring for family members, increasing the risk of being discriminated by association as caregivers.

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Protection from Harmful Practices

Women and girls with disabilities are disproportionately affected by harmful practices including forced sterilization and abortion, virgin testing, virgin rapes and infanticide. The Protocol protects persons with disabilities, including women and girls with disabilities, from harmful practices in Africa. It calls States to act and implement legal sanctions and educational and advocacy campaigns. The Protocol also categorizes stereotyping and derogatory language as harmful practices.

Progressive Disability Inclusive Gender Perspectives

The Protocol takes special care to specify that disability inclusive gender perspectives are applied in all spheres that affect women with disabilities, making sure intersectionality is considered in "policies, legislation, plans, programs, budgets and activities".

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Unprecedented Protection of Girls with Disabilities

Girls are largely undifferentiated in the main human rights treaties protecting women in general such as CEDAW or the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa which use general terms such as "women" and "children." The Protocol unprecedentedly mentions girls with disabilities in six different occasions. By specifically including girls with disabilities in different provisions, the Protocol acknowledges that girls with disabilities are at a high risk of violence, exploitation, neglect, and abuse. It demonstrates a clear prioritization of protection for African girls with disabilities.

The Protocol on the Rights of Persons with Disabilities in Africa, adopted 29 January 2018 (referred to as The Protocol), seeks "to promote, protect and ensure the full and equal enjoyment of all human and peoples' rights by all persons with disabilities and to ensure respect for their inherent dignity" (Article 2). The Protocol is a major progress in advancing the dignity and rights of all persons with disabilities in Africa, particularly of women, girls and older persons. Adopting an intersectional perspective, it is the first human rights treaty of its kind to elaborate on the specific provisions required to effectively address intersecting forms of discrimination and violence. While maintaining positive African values, the Protocol works to uphold the rights of women with disabilities of all ages by designating a whole article to women and girls as well as integrating a disability inclusive gender lens throughout. Additionally, the protective mandate of the Commission and the Court's jurisdiction are automatically extended to the Protocol, allowing individuals and NGOs who have exhausted the remedies provided by the domestic justice system to submit communications to the Commission or bring their case to the Court.





LOCALIZED

PROGRESSIVE

INTERSECTIONAL

GENDER
INCLUSIVE

WHAT'S NEXT

The Protocol on the Rights of Persons with Disabilities in Africa is a legally binding instrument that protects the rights of persons with disabilities in Africa. It maintains positive African values while protecting persons with disabilities from violations that are particularly relevant in Africa. It recognizes, for instance, the need to address harmful practices and gives a legal framework to fight discrimination by association. It also urges States to ensure that customary laws are inclusive and cannot be used to deny persons with disabilities access to justice. By having a regional protocol, the African Union supplements international conventions with rights and provisions that are contextualized. It creates a practical and efficient framework for African countries to establish progressive laws and policies.

Over ten years ago, the CRPD was written with major contributions from the African Union and African civil society. In 2018, the AU remained concerned that there were not effective measures to ensure that the rights of persons with disabilities were being protected. Specifically, they were concerned about the discrimination and violence against women and girls with disabilities, as well as the effect of harmful practices and the need to further protect caregivers and families of persons with disabilities. These concerns drove the AU to create the Protocol. In addition to expanding on protections for persons with disabilities, the Protocol moves away from the medical model of disability and reaffirms the rights of persons with disabilities through a human rights-based approach.

More than other regional human rights instruments, the Protocol adopts an intersectional approach to rights violations. People with disabilities are not a homogeneous group, and their challenges and rights violations vary drastically. The Protocol discusses the discrimination experienced by women with disabilities, older persons with disabilities, and children with disabilities with a gender lens. It also discusses youth with disabilities. Intersectionality is a vital concept to consider when working on upholding human rights; it ensures the rights of individuals with intersecting identities, who are more at risk for rights violations. The Protocol ensures that it applies an age and gender lens to people with disabilities to make sure that each unique individual's rights are effectively protected.

The Protocol on the Rights of Women in Africa (2005), applies women's rights to women with disabilities without including provisions specific to women with disabilities. The Protocol on the Rights of Persons with Disabilities improves this generalization drastically by including twelve provisions specific to women with disabilities. The Protocol embodies the objectives in the 2030 Sustainable Development Goal 5 on Gender Equality. These objectives include, but are not limited to ending all forms of discrimination against women and girls with disabilities everywhere, eliminating all forms of violence against women and girls with disabilities, eliminating all forms of harmful practices against women and girls with disabilities, and providing sexual and reproductive health care and information. The Protocol takes the priorities of the 2030 agenda and puts them into the legal language that the African Union can use to create laws, policies, and administrative actions that will protect the human rights of women and girls with disabilities in particular. Women and girls with disabilities are particularly vulnerable to experience rights violations concerning their own safety, as well as education, employment, and their social, economic, and political life. They are at a high risk for experiencing violence, and not having access to sexual and reproductive health services or education. It is especially important that legislation and legal actions specifically protect women and girls with disabilities to address these human rights violations and promote the empowerment and inclusion of women and girls with disabilities.

Even with the CRPD and the Sustainable Development Goals encouraging a future where “No One is Left Behind,” persons with disabilities in Africa continue to experience discrimination, violence, and exclusion from their enjoyment of rights. Action must happen now to protect the rights and lives of persons with disabilities. There needs to be a collective effort of all actors on all levels to advocate for the signing and ratification of the Protocol:

Governments: Signing and ratifying the Protocol will not only demonstrate the prioritization of the rights of persons with disabilities, but it could encourage other African States to sign and ratify. This will bring the Protocol into effect quicker and hasten the realization of rights for persons with disabilities.

Organizations: Disabled persons organizations, community-based organizations, organizations of women with disabilities, non-governmental organizations, women's rights and human rights organizations can help mobilize and inform individuals with and without disabilities of the rights of persons with disabilities, and how the Protocol will help ensure those rights. Organizations can also encourage governments to ratify the Protocol.

Individuals: Persons with disabilities can take ownership of their rights and advocate for them. By becoming informed of what the Protocol protects, individuals can become more empowered and effective advocates.