

MAPUTO PROTOCOL

AFRICAN UNION, 2003

SUMMARY

The African Union* adopted the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, better known as the Maputo Protocol, in July 2003. The Protocol guarantees comprehensive rights to women in Africa, including: the right to participate in the political process, to social and political equality with men, improved autonomy in their reproductive health decisions, and an end to female genital mutilation (FGM).

The articles dealing with reproductive health and FGM have been particularly controversial, with various religious groups opposing these rights as expressed in the Maputo Protocol.

**The African Union is a continental organization of 55 countries in Africa. Some of its major goals are: to achieve unity and solidarity between the member states, to promote peace, and to defend the sovereignty and territorial integrity of African countries. Its predecessor, the Organization of African Unity, was active from 1963 to 2002.*

SOURCE

Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, African Union, <https://au.int/en/treaties/protocol-african-charter-human-and-peoples-rights-rights-women-africa>.



Flag of the African Union (Wikimedia Commons)

DOCUMENT TEXT

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[...] RECOGNISING the crucial role of women in the preservation of African values based on the principles of equality, peace, freedom, dignity, justice, solidarity and democracy;

BEARING IN MIND related Resolutions, Declarations, Recommendations, Decisions, Conventions and other Regional and Sub-Regional Instruments aimed at eliminating all forms of discrimination and at promoting equality between women and men; [...]

HAVE AGREED AS FOLLOWS: [...]

Article 2

Elimination of Discrimination Against Women

1. States Parties shall combat all forms of discrimination against women through appropriate legislative, institutional and other measures. In this regard they shall:
 - a) include in their national constitutions and other legislative instruments, if not already done, the principle of equality between women and men and ensure its effective application;
 - b) enact and effectively implement appropriate legislative or regulatory measures, including those prohibiting and curbing all forms of discrimination particularly those harmful practices which endanger the health and general well-being of women;
 - c) integrate a gender perspective in their policy decisions, legislation, development plans, programmes and activities and in all other spheres of life;
 - d) take corrective and positive action in those areas where discrimination against women in law and in fact continues to exist;
 - e) support the local, national, regional and continental initiatives directed at eradicating all forms of discrimination against women.
2. States Parties shall commit themselves to modify the social and cultural patterns of conduct of women and



men through public education, information, education and communication strategies, with a view to achieving the elimination of harmful cultural and traditional practices and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes, or on stereotyped roles for women and men.

Article 3

Right to Dignity

Every woman shall have the right to dignity inherent in a human being and to the recognition and protection of her human and legal rights;

Every woman shall have the right to respect as a person and to the free development of her personality;

States Parties shall adopt and implement appropriate measures to prohibit any exploitation or degradation of women;

States Parties shall adopt and implement appropriate measures to ensure the protection of every woman's right to respect for her dignity and protection of women from all forms of violence, particularly sexual and verbal violence.

Article 4

The Rights to Life, Integrity and Security of the Person

1. Every woman shall be entitled to respect for her life and the integrity and security of her person. All forms of exploitation, cruel, inhuman or degrading punishment and treatment shall be prohibited.
2. States Parties shall take appropriate and effective measures to:
 - a) enact and enforce laws to prohibit all forms of violence against women including unwanted or forced sex whether the violence takes place in private or public;
 - b) adopt such other legislative, administrative, social and economic measures as may be necessary to ensure the prevention, punishment and eradication of all forms of violence against women;
 - c) identify the causes and consequences of violence against women and take appropriate measures to prevent and eliminate such violence;
 - d) actively promote peace education through curricula and social communication in order to eradicate elements in traditional and cultural beliefs, practices and stereotypes which legitimise and exacerbate the persistence and tolerance of violence against women;
 - e) punish the perpetrators of violence against women and implement programmes for the rehabilitation of women victims; [...]

Article 5

Elimination of Harmful Practices

States Parties shall prohibit and condemn all forms of harmful practices which negatively affect the human rights of women and which are contrary to recognised international standards. [...]

Article 6

Marriage

States Parties shall ensure that women and men enjoy equal rights and are regarded as equal partners in marriage. They shall enact appropriate national legislative measures to guarantee that:

no marriage shall take place without the free and full consent of both parties;

the minimum age of marriage for women shall be 18 years;

monogamy is encouraged as the preferred form of marriage and that the rights of women in marriage and family, including in polygamous marital relationships are promoted and protected;

every marriage shall be recorded in writing and registered in accordance with national laws, in order to be legally recognised;

the husband and wife shall, by mutual agreement, choose their matrimonial regime and place of residence;

a married woman shall have the right to retain her maiden name, to use it as she pleases, jointly or separately with her husband's surname;

a woman shall have the right to retain her nationality or to acquire the nationality of her husband; [...]

during her marriage, a woman shall have the right to acquire her own property and to administer and manage it freely.

Article 7

Separation, Divorce and Annulment of Marriage

States Parties shall enact appropriate legislation to ensure that women and men enjoy the same rights in case of separation, divorce or annulment of marriage. In this regard, they shall ensure that:

separation, divorce or annulment of a marriage shall be effected by judicial order;

women and men shall have the same rights to seek separation, divorce or annulment of a marriage;

in case of separation, divorce or annulment of marriage, women and men shall have reciprocal rights and responsibilities towards their children. In any case, the interests of the children shall be given paramount importance;

in case of separation, divorce or annulment of marriage, women and men shall have the right to an equitable sharing of the joint property deriving from the marriage.

Article 8

Access to Justice and Equal Protection before the Law

Women and men are equal before the law and shall have the right to equal protection and benefit of the law.

States Parties shall take all appropriate measures to ensure:

effective access by women to judicial and legal services, including legal aid;

support to local, national, regional and continental initiatives directed at providing women access to legal services, including legal aid;

the establishment of adequate educational and other appropriate structures with particular attention to women and to sensitise everyone to the rights of women;

that law enforcement organs at all levels are equipped to effectively interpret and enforce gender equality rights;

that women are represented equally in the judiciary and law enforcement organs;

reform of existing discriminatory laws and practices in order to promote and protect the rights of women.

Article 9

Right to Participation in the Political and Decision-Making Process

1. States Parties shall take specific positive action to promote participative governance and the equal participation of women in the political life of their countries through affirmative action, [...]
2. States Parties shall ensure increased and effective representation and participation of women at all levels of decision-making.

Article 10

Right to Peace

1. Women have the right to a peaceful existence and the right to participate in the promotion and maintenance of peace. [...]

Article 11

Protection of Women in Armed Conflicts

States Parties undertake to respect and ensure respect for the rules of international humanitarian law applicable in armed conflict situations which affect the population, particularly women.

States Parties shall, in accordance with the obligations incumbent upon them under the international humanitarian law, protect civilians including women, irrespective of the population to which they belong, in the event of armed conflict. [...]

Article 12

Right to Education and Training

1. States Parties shall take all appropriate measures to:

- a) eliminate all forms of discrimination against women and guarantee equal opportunity and access in the sphere of education and training;
 - b) eliminate all stereotypes in textbooks, syllabuses and the media, that perpetuate such discrimination; protect women, especially the girl-child from all forms of abuse, including sexual harassment in schools and other educational institutions and provide for sanctions against the perpetrators of such practices; provide access to counselling and rehabilitation services to women who suffer abuses and sexual harassment; integrate gender sensitisation and human rights education at all levels of education curricula including teacher training.
2. States Parties shall take specific positive action to:
- a) promote literacy among women;
 - b) promote education and training for women at all levels and in all disciplines, particularly in the fields of science and technology;
 - c) promote the enrolment and retention of girls in schools and other training institutions and the organisation of programmes for women who leave school prematurely.

Article 13

Economic and Social Welfare Rights

States Parties shall adopt and enforce legislative and other measures to guarantee women equal opportunities in work and career advancement and other economic opportunities. In this respect, they shall:

- a) promote equality of access to employment;
- b) promote the right to equal remuneration for jobs of equal value for women and men;
- c) ensure transparency in recruitment, promotion and dismissal of women and combat and punish sexual harassment in the workplace; [...]

Article 14

Health and Reproductive Rights

1. States Parties shall ensure that the right to health of women, including sexual and reproductive health is respected and promoted. This includes:
- a) the right to control their fertility;
 - b) the right to decide whether to have children, the number of children and the spacing of children;
 - c) the right to choose any method of contraception;
 - d) the right to self-protection and to be protected against sexually transmitted infections, including HIV/AIDS;
 - e) the right to be informed on one's health status and on the health status of one's partner, particularly if affected with sexually transmitted infections, including HIV/AIDS, in accordance with internationally recognised standards and best practices;
 - f) the right to have family planning education.
2. States Parties shall take all appropriate measures to:
- a) provide adequate, affordable and accessible health services, including information, education and communication programmes to women especially those in rural areas; [...]

Article 15

Right to Food Security

- a) provide women with access to clean drinking water, sources of domestic fuel, land, and the means of producing nutritious food;
- b) establish adequate systems of supply and storage to ensure food security.

Article 16

Right to Adequate Housing

Women shall have the right to equal access to housing and to acceptable living conditions in a healthy environment. To ensure this right, States Parties shall grant to women, whatever their marital status, access to adequate housing.

Article 17

Right to Positive Cultural Context

1. Women shall have the right to live in a positive cultural context and to participate at all levels in the determination of cultural policies. [...]

Article 18

Right to a Healthy and Sustainable Environment

1. Women shall have the right to live in a healthy and sustainable environment. [...]

Article 20

Widows' Rights

States Parties shall take appropriate legal measures to ensure that widows enjoy all human rights through the implementation of the following provisions:

- a) that widows are not subjected to inhuman, humiliating or degrading treatment;
- b) a widow shall automatically become the guardian and custodian of her children, after the death of her husband, unless this is contrary to the interests and the welfare of the children;
- c) a widow shall have the right to remarry, and in that event, to marry the person of her choice. [...]