



# WIA DIGEST

## 02

## MAPUTO PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLE'S RIGHTS ON THE RIGHTS OF WOMEN IN AFRICA

<b>Published by</b>	African Union	<b>Connected to</b>	Article 66 of the African Charter on Human and Peoples' Rights. Resolution AHG/Res.240 (XXXI) - Assembly of Heads of State and Government of the Organization of African Unity meeting in its thirty-first Ordinary Session in Addis Ababa, Ethiopia, in June 1995, following the recommendation of the African Commission on Human and Peoples' Rights to elaborate a Protocol on the Rights of Women in Africa.
<b>Adopted On</b>	July 11th, 2003, in Maputo	<b>Web link to the document</b>	The document: <a href="http://www.achpr.org/instruments/women-protocol/">http://www.achpr.org/instruments/women-protocol/</a> Follow-up: <a href="http://www.achpr.org/instruments/women-protocol/ratification/">http://www.achpr.org/instruments/women-protocol/ratification/</a>
<b>Motto</b>	«States Parties shall combat all forms of discrimination against women through appropriate legislative, institutional and other measures.» Art.2		
<b>Scope</b>	54 countries in Africa.		
<b>Target</b>	African States, policy and lawmakers, civil society, African citizens.		

## DEFINITION

«Discrimination against women» means “*Any distinction, exclusion or restriction or any differential treatment based on sex and whose objectives or effects compromise or destroy the recognition, enjoyment or the exercise by women, regardless of their marital status, of human rights and fundamental freedoms in all spheres of life.*” (Art.1)

## MAIN COMMITMENTS

### INTEGRATION OF THE GENDER PERSPECTIVE IN LEGISLATIONS

States Parties shall combat all forms of discrimination against women through **appropriate legislative, institutional and other measures**, including insertion in their national constitutions and other legislative instruments the principle of equality between women and men. They shall ensure its **effective application**, and 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 (Art. 2).

### RIGHT TO DIGNITY, LIFE, INTEGRITY, SECURITY

Every woman shall have the right to dignity and respect, and States Parties shall adopt and implement appropriate measures to prohibit any exploitation or degradation of women (Art. 3). 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** (Art. 4). States Parties shall prohibit and condemn all forms of harmful practices, like female genital mutilation, scarification, medicalization and para-medicalization of female genital mutilation Art. 5).

### MARRIAGE

States Parties shall ensure that women and men enjoy equal rights and are regarded as equal partners in marriage (Art. 6 et 7) : 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; during her marriage, a woman shall have the right to **acquire her own property** and to administer and manage it freely. 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**.

## EQUAL PROTECTION BEFORE THE LAW, EQUAL PARTICIPATION TO DECISION-MAKING PROCESSES

Women and men are equal before the law and shall have the right to **equal protection and benefit of the law** (Art. 8). 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 : women shall participate without any discrimination in all elections, and be represented equally at all levels with men in all electoral processes (Art.9).

## PEACE AND CONFLICTS

Women have the right to **a peaceful existence** and the right to participate in the promotion and maintenance of peace. States Parties shall take all appropriate measures to ensure the increased participation of women in programmes of **education for peace and a culture of peace**, and in the local, national, regional, continental and international decision-making structures to ensure physical, psychological, social and legal **protection of asylum seekers, refugees, returnees and displaced persons, in particular women** (Art. 10). 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. They shall ensure that **no child, especially girls under 18 years of age, take a direct part in hostilities** and that no child is recruited as a soldier (Art. 11).

## EDUCATION AND TRAINING

States Parties shall take all appropriate measures to **eliminate stereotypes in textbooks, syllabuses and the media**, that perpetuate such discrimination; to 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, and to **promote literacy among women**, and education and training for women, **particularly in the fields of science and technology** (Art.12).

## ECONOMIC AND SOCIAL WELFARE

States Parties shall adopt and enforce legislative and other measures to guarantee women equal opportunities in work and career advancement and other economic opportunities (Art.13). They shall :

→ Promote **equality of access to employment** and the right to **equal remuneration** for jobs of equal value for women and men

→ Ensure **transparency in recruitment**, promotion and dismissal of women and combat and punish **sexual harassment in the workplace**, establish a system of protection and social insurance for women working in the informal sector and sensitize them to adhere to it

→ Take the necessary measures to recognize the **economic value of the work of women** in the home

→ Guarantee **adequate and paid pre- and post-natal maternity leave** in both the private and public sectors

→ Ensure the **equal application of taxation laws** to women and men

## HEALTH AND REPRODUCTIVE RIGHTS

States Parties shall ensure that the right to health of women, including sexual and reproductive health is respected and promoted (Art.14). This includes **the right to control their fertility** and the right to self-protection and be protected against sexually transmitted infections, including HIV/AIDS. States Parties shall take all appropriate measures to provide adequate, affordable and accessible health services, especially to women in rural areas; and to establish pre-natal, delivery and post-natal health and nutritional services for women during pregnancy and while they are breast-feeding. They shall protect the reproductive rights of women by **authorizing medical abortion** in cases of sexual assault, rape, incest, and where the continued pregnancy endangers the mental and physical health of the mother or the life of the mother or the fetus.

## FOOD SECURITY, ADEQUATE HOUSING, POSITIVE CULTURAL POLICIES, SUSTAINABLE DEVELOPMENT

States Parties shall ensure that women have the right to **nutritious and adequate food**, by enabling clean drinking water, sources of domestic fuel, land, and the means of producing nutritious food (Art.15). Women shall have the right to **equal access to housing** and to acceptable living conditions in a healthy and sustainable environment. States shall undertake appropriate policies to regulate the management, processing, storage and disposal of **domestic waste** and ensure that proper standards are followed for the storage, transportation and disposal of **toxic waste**. They shall protect and enable the development of **women's indigenous knowledge systems** (Art. 18). States shall promote women's **access to credit**,

**training, skills development** and extension services at rural and urban levels in order to provide women with a higher quality of life and reduce the level of poverty among women.

### **SPECIAL PROTECTION FOR WIDOWS, INHERITANTS, ELDERLY WOMEN, WOMEN IN DISABILITY AND DISTRESS (ART.20-24)**

States Parties shall take appropriate legal measures to ensure that widows are **not subjected to inhuman, humiliating or degrading treatment**. 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. A widow shall have the **right to an equitable share in the inheritance** of the property of her husband. Women and men shall have the right to inherit, in equitable shares, their parents' properties. The States Parties undertake to provide protection to elderly women, women with disability, and women in distress, ensure their **right to freedom from violence**, including sexual abuse, discrimination based on age, and the right to be treated with dignity.

### **REMEDIES**

States Parties shall undertake to provide for **appropriate remedies to any woman whose rights or freedoms have been violated**, and ensure that such remedies are determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by law.

## **FOLLOW UP**

The Protocol was expected to be fully ratified in 2015 by the 54 members. In October 2015, although 51 countries had already signed, **only 37 countries had ratified the Maputo Protocol**; Sierra Leone being the last country in 2015, after Cameroon in 2012.

In 2017, **17 countries have not yet ratified the Protocol** : Algeria, Botswana, Burundi, Central African Republic, Chad, Egypt, Eritrea, Ethiopia, Madagascar, Mauritius, Niger, Sahrawi Arab Democratic Republic, Sao Tome and Principe, Somalia, South Sudan, Sudan and Tunisia.