

**THE PROTOCOL TO THE
AFRICAN CHARTER ON HUMAN AND PEOPLES'
RIGHTS ON THE RIGHTS OF WOMEN IN AFRICA**

Abridged Version



2009

**Women's Rights Advancement And Protection Alternative
(WRAPA) NIGERIA**

Raising Her Voice (RHV) Project

**with support from
OXFAM GB and DFID**

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Background

The African Charter on Human and Peoples' Rights (The Charter) was adopted in June 1981 and entered into force on October 21, 1986. It is a regional human rights instrument, which seeks to combine African values with international norms by promoting individual duties and collective rights in addition to internationally recognized individual rights. It reflects the history, values, traditions and development of Africa. Article 66 of the Charter provides for the establishment of Protocols and agreements to supplement its provisions and gave impetus for the consideration and subsequent formulation of the Women's Protocol. It was therefore gratifying when on 11 July 2003, the Assembly of Heads of States and Governments of the African Union (AU), at its 2nd Summit in Maputo, Mozambique adopted the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. The Protocol came into force in 25 November 2005 after the deposit of the 15th Instrument of Ratification by the Gambia.

The Protocol is in three sections. The first section covers the rationale behind its elaboration, making reference to both regional and international commitments regarding women's human rights. The second section outlines the rights to be upheld by the Protocol, whilst the third section covers implementation by addressing the manner in which it is to be adopted and monitored, as well as the process through which it may be amended. The Protocol affirms the following broad categories of rights: civil and political rights, economic, social and cultural rights, the rights to development and peace, and reproductive and sexual rights.

As at 2009, 46 African countries including Nigeria have signed the Protocol while 27 countries have ratified and deposited the instruments at the AU Commission. However, the ratification of the Protocol does not mean implementation as laws cannot be self-enforcing. The ratified Protocol will need to be domesticated by a bill of the National Assembly in accordance with the Constitution of the Federal Republic of Nigeria 1999; section 12 (1) which stipulates that *“No treaty between the Federation and any country shall have the force of law except to the extent to which any such treaty has been enacted into law by the National Assembly”*

In view of this, and towards generating endorsement and passage of the domestication and implementation the AU Protocol, there is a need for legislators, practitioners and citizens to be availed information that will enhance understanding of the provisions of the Protocol. This Simplified version of the AU Protocol to the African Charter on Human and Peoples' Rights of Women in Africa, is therefore developed as a tool for advocacy and enlightenment of Nigerians.

Preamble

The preamble situates the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa within the context of the African Charter on Human and Peoples' Rights, the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of all forms of Discrimination Against Women and its Optional Protocol, the African Charter on the Rights and Welfare of the child, the United Nations Plan of Action on the Environment and Development in 1992, on Human Rights in 1993, on Population and Development in 1994, and on Social Development in 1995, the African Platform for Action, the Dakar Declaration of 1994 as well as the Beijing Platform for Action of 1995 among other international, regional, sub regional instruments, resolutions, declarations, recommendations, decisions and conventions aimed at eliminating all forms of discrimination, and at promoting equality between men and women.

Article 1 - Definitions of Concepts

- **Discrimination against women** means any distraction, 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.
- **Harmful practices** means all behaviour, attitudes and / or practices, which negatively affect the fundamental rights of women and girls, such as their rights to life, health, dignity, education and physical integrity.
- **Violence Against Women (VAW)** means all acts perpetrated against women which cause or could cause them physical sexual, psychological and economic harm, including the threat to take such acts, or to undertake the imposition of arbitrary restrictions on or deprivation of fundamental freedoms in private or public life in peace time and during situations of armed conflicts or of war.
- **“Women”** means persons of female gender, including girls.

Article 2 - Elimination of Discrimination Against Women

Principle:

Deals with the elimination of all forms of discrimination against women

Provisions

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,

Benefit

✓ It will help to remove from the national legislations of each State Party discriminatory laws and enhance a reconstruction of the social system towards eliminating negative and unfair stereotyping of women.

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

Principle:

It enshrines the right of women to dignity and respect. The right, to be treated as a human beings and a recognition and protection of their human and legal rights as well as right to the free development of their personality.

Provisions

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.

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

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

4. 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.

Benefit

✓It will ensure that women are treated as human beings, and that no ceiling is put on their self-development.

Article 4 - The Right to Life Integrity and Security of the Person

Principle

It provides for respect for life and integrity and security of every woman and prohibition of all forms of exploitation cruel, inhuman or degrading punishment and treatment.

Provisions

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;

f) establish mechanisms and accessible services for effective information, rehabilitation and reparation for victims of violence against women;

Benefit

✓ It will ensure the physical integrity of women, the punishment of violators and the rehabilitation of and reparation for victims of VAW

- g) prevent and condemn trafficking in women, prosecute the perpetrators of such trafficking and protect those women most at risk;
- h) prohibit all medical or scientific experiments on women without their informed consent;
- i) provide adequate budgetary and other resources for the implementation and monitoring of actions aimed at preventing and eradicating violence against women;
- j) ensure that, in those countries where the death penalty still exists, not to carry out death sentences on pregnant or nursing women;
- k) ensure that women and men enjoy equal rights in terms of access to refugee status determination procedures and that women refugees are accorded the full protection and benefits guaranteed under international refugee law, including their own identity and other documents.

Article 5 - Elimination of Harmful Practices

Principle:

It seeks to eliminate all forms of harmful practices, which negatively affect the human rights of women and fall short of international standards.

Provisions

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. States Parties shall take all necessary legislative and other measures to eliminate such practices, including:

- a) creation of public awareness in all sectors of society regarding harmful practices through information, formal and informal education and outreach programmes;
- b) prohibition, through legislative measures backed by sanctions, of all forms of female genital mutilation, scarification,

medicalisation and para-medicalisation of female genital mutilation and all other practices in order to eradicate them;

c) provision of necessary support to victims of harmful practices through basic services such as health services, legal and judicial support, emotional and psychological counselling as well as vocational training to make them self-supporting;

d) protection of women who are at risk of being subjected to harmful practices or all other forms of violence, abuse and intolerance.

Benefit

✓It will reorient the society and discourage harmful practices as well as ensure provision of support to victims.

Article 6 - Marriage

Principle:

It enshrines equality of right for women and men in marriage

Provisions

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:

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

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

c) 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;

Benefits

✓It will discourage forced and early marriage; enhance the status of the woman in the marriage as she is conferred with equal rights with her husband. She can take decision concerning her life.

- d) every marriage shall be recorded in writing and registered in accordance with national laws, in order to be legally recognised;
- e) the husband and wife shall, by mutual agreement, choose their matrimonial regime and place of residence;
- f) 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;
- g) a woman shall have the right to retain her nationality or to acquire the nationality of her husband;
- h) a woman and a man shall have equal rights, with respect to the nationality of their children except where this is contrary to a provision in national legislation or is contrary to national security interests;
- i) a woman and a man shall jointly contribute to safeguarding the interests of the family, protecting and educating their children;
- j) during her marriage, a woman shall have the right to acquire her own property and to administer and manage it freely.

✓ **Makes the woman and the man to be jointly responsible for safeguarding the interests of the family as well as the protection and education of their children thus protecting the woman from being abandoned to do these Alone.**

✓ **Grants the woman the right to acquire her own property, administer and manage it freely.**

Article 7 - Separation, Divorce and Annulment of Marriage

Principle:

It provides for equal rights for women and men in case of separation, divorce or annulment of marriage.

Provisions

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:

- a) separation, divorce or annulment of a marriage shall be effected by judicial order;
- b) women and men shall have the same rights to seek separation, divorce or annulment of a marriage;
- c) 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;
- d) 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.

Benefits

✓ Right to seek separation, divorce or annulment of a marriage does not reside in the man alone- a woman can seek any of these thus relieving her the frustrating burden of continuing in a marriage because the husband would not file application in court for separation, divorce or annulment.

✓ A woman will not leave a marriage empty - handed since joint property deriving from the marriage is to be equitably shared

Article 8 - Access to justice and equal protection before the Law

Principle:

This article provides for equality of both sexes before the law- that is equal protection and benefit before the law.

Provisions

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:

- a) effective access by women to judicial and legal services, including legal aid;
- b) support to local, national, regional and continental initiatives directed at providing women access to legal services, including legal aid;
- c) the establishment of adequate educational and other appropriate structures with particular attention to women and to sensitise everyone to the rights of women;
- d) that law enforcement organs at all levels are equipped to effectively interpret and enforce gender equality rights;
- e) that women are represented equally in the judiciary and law enforcement organs;
- f) reform of existing discriminatory laws and practices in order to promote and protect the rights of women.

Benefit

✓ Access of women to legal service including legal aid will allow them to enjoy their rights and sensitization of every one to women's rights will facilitate respect for these rights.

Article 9 - Right to participate in the political and decision - making process.

Principle:

It enshrines participative governance and equality of participation of women and men in the political life of countries.

Provisions

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, enabling national legislation and other measures to ensure that:

a) women participate without any discrimination in all elections;

b) women are represented equally at all levels with men in all electoral processes;

c) women are equal partners with men at all levels of development and implementation of State policies and development programmes .

2. States Parties shall ensure increased and effective representation and participation of women at all levels of decision-making.

Benefits

✓ It allows women to express fully their potential, capacities and abilities, which they have been denied from deploying and maximizing.

✓ Involvement of women in governance and political life affords women the opportunity of taking part in decision making and formulation of policies that affect them rather than being confined to the kitchen while the men take decision on their behalf.

Article 10 - Right To Peace

It gives women the avenue to bring to the front burner issues and problems that affect women and children.

Principles:

It gives women the right to peaceful existence and to participate in the promotion and maintenance of peace.

Provisions

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

2. States Parties shall take all appropriate measures to ensure the increased participation of women:

a) in programmes of education for peace and a culture of peace;

b) in the structures and processes for conflict prevention, management and resolution at local, national, regional, continental and international levels;

c) 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;

d) in all levels of the structures established for the management of camps and settlements for asylum seekers, refugees, returnees and displaced persons, in particular, women;

Benefit

✓ Women are the worst victims of crisis situation or war, therefore their participation as natural conciliator in prevention resolution and post - conflict reconstruction and rehabilitation will be beneficial To all.

e) in all aspects of planning, formulation and implementation of post-conflict reconstruction and rehabilitation.

3. States Parties shall take the necessary measures to reduce military expenditure significantly in favour of spending on social development in general, and the promotion of women in particular.

Article 11 - Protection of Women In Armed Conflict

Principle:

It enshrines respect for the rule of international humanitarian law applicable in armed conflict situations, which affect the population particularly women.

Provisions

1. 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.

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

3. States Parties undertake to protect asylum seeking women, refugees, returnees and internally displaced persons, against all forms of violence, rape and other forms of sexual exploitation, and to ensure that such acts are considered war crimes, genocide and/or crimes against humanity and that their perpetrators are brought to justice before a competent criminal jurisdiction.

4. States Parties shall take all necessary measures to 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.

Article 12 - Right to Education and Training

Principle:

It provides for non-discrimination against women, equal opportunity, and access to education and training.

Provisions

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;
- c) 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;
- d) provide access to counselling and rehabilitation services to women who suffer abuses and sexual harassment;
- e) 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;

Benefits

✓ It will reduce and ultimately eliminate the disparity between women and men literacy levels, the negative stereotyping of women into certain courses and professions and the society-imposed ceiling over women in advancement in their Professions

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

Principle:

It enshrines equal opportunity for women at work and career advancement and other economic opportunities.

Provisions

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;
- d) guarantee women the freedom to choose their occupation, and protect them from exploitation by their employers violating and exploiting their fundamental rights as recognised and guaranteed by conventions, laws and regulations in force;
- e) create conditions to promote and support the occupations and economic activities of women, in particular, within the informal sector;
- f) establish a system of protection and social insurance for women working in the informal sector and sensitise them to adhere to it;
- g) introduce a minimum age for work and prohibit the employment of children below that age, and prohibit, combat and punish all forms of exploitation of children, especially the girl-child;

- h) take the necessary measures to recognise the economic value of the work of women in the home;
- i) guarantee adequate and paid pre- and post-natal maternity leave in both the private and public sectors;
- j) ensure the equal application of taxation laws to women and men;
- k) recognise and enforce the right of salaried women to the same allowances and entitlements as those granted to salaried men for their spouses and children;
- l) recognise that both parents bear the primary responsibility for the upbringing and development of children and that this is a social function for which the State and the private sector have secondary responsibility;
- m) take effective legislative and administrative measures to prevent the exploitation and abuse of women in advertising and pornography.

Benefit

✓ It will enhance women's economic empowerment and independence, ensure job security and equitable remuneration, eliminate discrimination against women in recruitment, promotion and advancement in the workplace and discourage the debasing of womanhood in advertising and pornography.

Article 14 - Health and Reproduction Rights

Principle:

Respect for and promotion of the rights to health of women including sexual and reproductive health.

Provisions

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;
 - g) 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;
 - b) Establish and strengthen existing pre-natal, delivery and post-natal health and nutritional services for women during pregnancy and while they are breast-feeding;
 - c) Protect the reproductive rights of women by authorising 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 foetus.

Benefits

✓ The woman is neither a minor nor incapable of determining what is good for her. Therefore, the Article allows the woman to voluntarily decide what is good for her health and makes it mandatory for governments (states parties) to provide structures and facilities that will make the woman enjoy her right to health and reproductive rights.

Article 15 - Right to Food Security

Principles:

It enshrines the right to nutrition and adequate food.

Provisions

States Parties shall ensure that women have the right to nutritious and adequate food. In this regard, they shall take appropriate measures to:

- 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.

Benefits

✓It will eliminate under-nutrition, malnutrition, hunger, and other food and water related diseases in women and their families thereby leading to improved quality of life, high life expectancy, normal formation of babies in the womb during pregnancy and high productivity.

✓Provision of source of domestic fuel will discourage environmental degradation, deforestation and desertification.

Article 16 - Right to Housing

Principle:

It provides for equal access to housing and to acceptable living conditions in a healthy environment.

Provisions

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.

Benefits

✓It ensures that women do not live in slums, inhabitable structures or become homeless. Access to decent shelter whether a woman is married, divorced, separated single or a widow becomes states' responsibility as much as they do for men. It removes discrimination in access on the basis of gender.

Article 17 - Right to Positive Cultural Context

Principle:

It provides for right of women to live in a positive cultural context and to participate at all levels in the determination of cultural policies.

Provisions

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.
2. States Parties shall take all appropriate measures to enhance the participation of women in the formulation of cultural policies at all levels.

Benefits

- ✓It ensures equal participation of women and men in decision - making process concerning culture which has been wrongly and selfishly used by men to perpetrate serious crime against women.
- ✓It will help to correctly define culture which rather than being static is dynamic.

Article 18 - Right to Healthy and Sustainable Environment

Principle:

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

Provisions

1. Women shall have the right to live in a healthy and sustainable environment.
2. States Parties shall take all appropriate measures to:
 - a) Ensure greater participation of women in the planning, management and preservation of the environment and the sustainable use of natural resources at all levels;

Benefit

- ✓Women as an integral part of the society will be protected from the damage to the environment and involved in the management of the environment.

- b) Promote research and investment in new and renewable energy sources and appropriate technologies, including information technologies and facilitate women's access to, and participation in their control;
- c) Protect and enable the development of women's indigenous knowledge systems;
- c) Regulate the management, processing, storage and disposal of domestic waste;
- d) Ensure that proper standards are followed for the storage, transportation and disposal of toxic waste.

Article 19 - Right To Sustainable Development

Principle:

Women shall have the right to fully enjoy their right to sustainable development.

Provisions

Women shall have the right to fully enjoy their right to sustainable development. In this connection, the States Parties shall take all appropriate measures to:

- a) Introduce the gender perspective in the national development planning procedures;
- b) Ensure participation of women at all levels in the conceptualisation, decision-making, implementation and evaluation of development policies and programmes;
- c) Promote women's access to and control over productive resources such as land and guarantee their right to property;

Benefits

✓ Gender perspective in national development allows for women's interest and concern to be taken into account.

d) 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;

e) Take into account indicators of human development specifically relating to women in the elaboration of development policies and programmes; and

f) Ensure that the negative effects of globalisation and any adverse effects of the implementation of trade and economic policies and programmes are reduced to the minimum for women.

✓It will improve women's financial strength and standing as women have access to credit and the negative impact of economic programmes and policies, and globalization is mitigated.

Article 20 - Widows' Rights

Principle:

Widows shall enjoy all human rights

Provisions

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) That 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;

Benefits

✓It discourages harmful traditional practices that dehumanize widows and deny them their right to human dignity.

✓It saves widows the double pain of losing their husbands and being denied the company and comfort of their children while also giving them the right to remarry a person of their choice, as a man will normally do.

c) That a widow shall have the right to remarry, and in that event, to marry the person of her choice.

Article 21 - Right to Inheritance

Principle:

A widow shall have the right to an equitable share in the inheritance of the property of her husband, continue to live in the matrimonial house and in case of remarriage retain the house if it belongs to her or she has inherited it. Women and men shall have the right to inherit in equitable shares, their parents' properties.

Provisions

1. A widow shall have the right to an equitable share in the inheritance of the property of her husband. A widow shall have the right to continue to live in the matrimonial house. In case of remarriage, she shall retain this right if the house belongs to her or she has inherited it.
2. Women and men shall have the right to inherit, in equitable shares, their parents' properties.

Benefit

✓ It further emphasizes equality of women and men and corrects the belief in patriarchal society that women are inferior

Article 22 - Special Protection for Elderly Women

Principle:

Elderly women have the right to freedom from violence including sexual abuse, discrimination based on age and right to be treated with dignity.

Provisions

The States Parties undertake to:

- a) Provide protection to elderly women and take specific measures commensurate with their physical, economic and social needs as well as their access to employment and professional training;
- b) Ensure the right of elderly women to freedom from violence, including sexual abuse, discrimination based on age and the right to be treated with dignity.

Benefit

✓ Ensure that elderly women too are not treated less than human because of their age but enjoy non - discrimination

Article 23 - Special Protection of Women with Disabilities

Principle:

Women with disabilities have the right to freedom from violence including sexual abuse, discrimination based on disability and right to be treated with dignity.

Provisions

The States Parties undertake to:

- a) Ensure the protection of women with disabilities and take specific measures commensurate with their physical, economic and social needs to facilitate their access to employment, professional and vocational training as well as their participation in decision-making;

Benefit

✓ Allow women with disabilities to utilize their abilities, express themselves, maximize their potential, participate in decision - making, be protected from violence and be treated with dignity.

b) Ensure the right of women with disabilities to freedom from violence, including sexual abuse, discrimination based on disability and the right to be treated with dignity.

Article 24 - Special Protection of Women in Distress

Principle:

Pregnant or nursing women or women in detention, poor women, women heads of families and women from marginalized groups have the right to an environment suitable to their condition and the right to be treated with dignity.

Provisions

The States Parties undertake to:

- a) Ensure the protection of poor women and women heads of families including women from marginalized population groups and provide an environment suitable to their condition and their special physical, economic and social needs;
- b) Ensure the right of pregnant or nursing women or women in detention by providing them with an environment which is suitable to their condition and the right to be treated with dignity.

Article 25 - Remedies

Principle:

Any woman whose rights or freedom as recognized in the Protocol is violated shall be entitled to appropriate remedy.

Provisions

States Parties shall undertake to:

- a) Provide for appropriate remedies to any woman whose rights or freedoms, as herein recognised, have been violated;
- b) Ensure that such remedies are determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by law.

Benefits

✓ Women can access their rights and freedoms as well as seek redress for violation in the law court.

Article 26 - Implementation and Monitoring

Principle:

This article provides for the implementation and monitoring of the Protocol at national levels.

Provisions

1. States Parties shall 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 herein recognised.
2. States Parties undertake to adopt all necessary measures and in particular shall provide budgetary and other resources for the full and effective implementation of the rights herein recognised.

Article 27 - Interpretation

Principle:

This article vests the power of interpretation of the Protocol on the African court on Human and People's rights.

Provisions

The African Court on Human and Peoples' Rights shall be seized with matters of interpretation arising from the application or implementation of this Protocol.

Article 28 - Signature, Ratification and Accession

Principle:

This article states the procedure for signing, ratification and accession.

Provisions

1. This Protocol shall be open for signature, ratification and accession by the States Parties, in accordance with their respective Constitutional procedures.
2. The instruments of ratification or accession shall be deposited with the Chairperson of the Commission of the AU.

Article 29 - Entry into Force

Principle:

This article provides the statutory number of countries that are required to bring the Protocol into force.

Provisions

1. This Protocol shall enter into force thirty (30) days after the deposit of the fifteenth (15) 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 Commission of the AU shall notify all Member States of the coming into force of this Protocol.

Article 30 - Amendment and Revision

Principle:

This article states the procedure for the amendment or revision of the Protocol where necessary.

Provisions

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 Commission of the AU who shall transmit the same to the States Parties within thirty (30) days of receipt thereof.
3. The Assembly, upon advice of the African Commission, shall examine these proposals within a period of one (1) year following notification of States Parties, in accordance with the provisions of paragraph 2 of this article.
4. Amendments or revision shall be adopted by the Assembly by a simple majority.
5. The amendment shall come into force for each State Party, which has accepted it thirty (30) days after the Chairperson of the Commission of the AU has received notice of the acceptance.

Article 31 - Status of the Present Protocol

Principle:

This provides that the Protocol shall not affect other provisions favorable to women's rights.

Provisions

None of the provisions of the present Protocol shall affect more favourable provisions for the realisation of the rights of women contained in the national legislation of States Parties or in any other regional, continental or international conventions, treaties or agreements applicable in these States Parties.

Article 32 - Transitional Provisions

Principle:

To avail to women without delay access to the protection the law seeks to award.

Provisions:

Pending the establishment of African Court on Human and Peoples' Rights, the African Commission on Human and Peoples' Rights shall be seized with matters of interpretation arising from the application and implementation of this Protocol.

Benefit

This ensures that access to the benefits of the provisions of the law are not denied or delayed by absence of the Court vested with the power of interpretation.

Policy Brief For Nigeria Protocol to the African Charter on the Rights of Women

Introduction

The Protocol affirms four broad categories of rights: civil and political rights; economic, social and cultural rights; the rights to development and peace; and reproductive and sexual rights. The Protocol will come into force, thirty days (30) after the deposit of the fifteenth instrument of ratification as required by Article 29 of the Protocol. Once the Protocol is domesticated by Nigeria, it will be committed to:

- Submit periodic reports to the ACHPR on legislative and other measures they have undertaken to ensure the full realization of rights recognized under the Protocol;
- Integrate a gender perspective in their policy decisions, legislation, development plans and activities and ensure the overall well-being of women;
- Include in their national constitutions and other legislative instruments fundamental principles of the Protocol and ensure their effective implementation;
- Eliminate all forms of violence and discrimination against women in Africa and promote equality between men and women;

Requirements

The Executive should:

- Make provisions for the effective implementation of the national policy on women.
- Develop policy guidelines that guarantee the provision of employment and access to livelihood needs for women.
- Take effective steps to promote, protect and safeguard women's human rights, and also introduce positive measures to eliminate violence against women.

- Implement gender specific economic, social, and legal measures aimed at combating the HIV/AIDS pandemic. Ensure that treatment and social services are available to women at the local level making it more responsive to the needs of families that are providing care for PLWHIV/AIDS.
- Ensure the full and effective participation and representation of women in peace process including the prevention, resolution, management of conflicts and post conflict reconstruction in Nigeria.
- Engage in sustained public campaigns against gender based violence as well as the problem of trafficking in women and girls; enforce legal mechanisms that will protect women at the national level and end impunity of crimes committed against women in a manner that will change and positively alter the attitude and behavior of the Nigerian society.
- Promote a gender parity principle within all the other organs of government at the national, state and local levels in collaboration with political parties in the country.
- Ensure the active promotion and protection of all human rights for women and children including the right to development by raising awareness among the citizens and law enforcement agencies.
- Actively promote the implementation of legislation to guarantee women's land, property and inheritance rights including their rights to housing.
- Take specific measures to ensure the education of girls and literacy of women, especially in the rural areas.
- Encourage gender sensitive trainings for the judiciary, law enforcement officers, health workers, law and medical students, and community leaders

- Ensure the review of school curricula and text books to include the concept of gender, and gender concerns
- Ensure the integration of gender perspectives into macro-economic policies.

The Legislature should:

- Domesticate the Protocol.
- Incorporate the principles of the provisions of the Protocol in any Constitutional Review.
- Enact Laws that will prohibit and protect women, guarantee their rights to land, property and inheritance, including their rights to housing.
- Enact legislation to end discrimination against people living with HIV/AIDS and for the protection and care of HIV persons, particularly women.
- Increase budgetary allocations to HIV/AIDS interventions in order to alleviate women's burden of care.
- Review and amend obnoxious laws that are discriminatory to women.

The Judiciary should:

- Demonstrate greater awareness and application of gender dynamics, and human rights in the dispensation of justice.
- Cultivate a culture of judicial activism to enhance implementation of the Protocol and by extension the enjoyment of its benefits for women.
- Undertake regular training of Judges and Magistrates on human rights and gender analysis through the Judicial Service Commission.

Religious Institutions

- Support the domestication of the Protocol and endeavor to corroborate its provisions with the spiritual virtues of equality before God, justice for all especially the weak and vulnerable members.

- Contextualize the Protocol by creating awareness on its principles, which hinge on the concept of justice, equity and fairplay of its provisions
- Consolidate the gains of the benefits of the Protocol among their communities among their followers while urging their active participation in its implementation at their various levels of engagement.

Traditional Institutions should:

- Emphasize those positive cultural values that elevate the woman as a valuable and indispensable partner for progeny.
- Institute communal reforms that will lead to the elimination of all forms of discrimination and violence against women.
- Actively participate in enlightenment campaigns that will popularize the Protocol, its provisions and how women can access its benefits.
- Uphold the tenets of equal attention to both boys and girls in the upbringing of children to ensure that children will grow up seeing themselves as equal and complementary partners in the society.

Civil Society Organizations should

- Build more on the efforts and experiences gained during the advocacy for the adoption of the Protocol in order to have the required number of signatures and domestications.
- Work on creating a better and common understanding of issues as provided for in the Protocol.
- Prioritize certain issues that would be of interest than an attempt to take on more issues than can be handled or made sense of.
- Support the organization of local focal points on the Protocol to lobby and monitor government positions. These focal points will later be effective in the monitoring of implementation of the Protocol by governments.

- Contact relevant government officials such as Ministries of Foreign Affairs, Women's Affairs, and Justice and urge them to ratify the Protocol. Other officials involved in the process both at policy level and those likely to be involved in the implementation of the Protocol should also be contacted.
- Urge governments to be fully involved in the full realization of the human rights of women, if they have not done so, especially in the domestication of the Protocol.
- Encourage government officials to include the issue of the Protocol in contacts with other governments and to state their positions publicly in the media or other events.
- Encourage governments to send strong delegations to the African Charter on Human and Peoples' Rights (ACHPR) Sessions that include the appropriate experts from relevant state departments.
- Inform and increase public awareness about the Protocol by putting women's issues on the human rights agenda at various fora.
- Mobilize national and local support for the Protocol among academics, parliamentarians, the media and Civil Society Organizations.

The Media

- Attune publications to issues, especially those that upgrade the status of women and justify their protection and inclusion in decision-making structures.
- Publish articles that show the negative effects of harmful traditional practices and violence against women.
- Ensure constructive journalism in reporting women issues to specifically move away from trivializing and sensationalizing only. In effect, put in place standards that will stop the reduction of women's issues to fashion and beauty concerns only.
- Forge and sustain networks with civil society groups (especially women

groups) in order to facilitate access to quality input, especially disaggregated data on women and their concerns.

Development Partners should:

- Sustain support to government and civil society in the attainment of the goals of the Protocol.
- Support the design and implementation of intervention in programmes that will actualize the elimination of discriminatory practices against women, and promote gender equality.
- Build capacity of institutions directly engaged in the realization of the provisions of the Protocol, the Legislature, Executive, the Police and Prisons personnel.
- Engage in local and regional advocacy to ensure Judiciary and other essential arms are involved in the dispensation of justice especially compliance by Member States.

Women's Rights Advancement and Protection Alternative, Nigeria

Women's Rights Advancement and Protection Alternative, (WRAPA) is a registered non-governmental, non-political, non-profit charitable membership organization; founded in 1999 by Hon. Justice F.L. Abubakar. Activities of the organization include legal aid and counselling services for women, mobilization and sensitization, skills training and advocacy for legal reforms. In pursuance of our vision for enhancing access to justice for women through legal aid services WRAPA supports litigation of women all over Nigeria under various circumstances and within the legal systems obtainable in Nigeria.

WRAPA is a membership organization of men women, and youth nationwide with over 25,000 registered members as at 2009. A network of volunteers in all the 36 states and the FCT supports the operations of WRAPA. Funding is through membership fees, dues, and donations from individuals, corporate organisations and international agencies. Other sources are investments, volunteer services, and subsidized charges for some services. WRAPA; has adult literacy centres, legal aid centres and vocational training centres in many states.

Areas of strength for WRAPA include an active and influential Board of Trustees, tested expertise in legal aid and counseling services, extensive national network of membership & volunteers in all the 36 states and some local governments, as well as local and international networking and collaboration and prompt and accessible reconciliation, counseling and legal aid services for women.

WRAPA is the host organization for Solidarity for African Women's Rights (SOAWR) in Nigeria. SOAWR is a regional network made up of 32 national, regional and international civil society organizations working towards the promotion and protection of women rights in Africa. Since its inauguration in 2004, SOAWR's main objective has been to compel African countries to ratify, domesticate and implement the AU Protocol. As an international partner in the campaign, WRAPA was one of the women groups that worked at the AU level in the advocacy preceding the adoption of the Protocol in July 2003 and the Ratification of the Protocol by Nigeria in July 2004. Currently, through its Raising Her Voice (RHV) Project, WRAPA is working to fast track the process for the domestication of the Protocol to the African Charter on the Rights of Women by Nigeria.

Raising Her Voice (RHV) Project

The 'Raising Her Voice Project' (RHV) is a portfolio of projects in 17 countries across the world and focuses on improving governance and transparency by recognizing and increasing the significant contribution poor women can make to public life and in promoting their own rights. The project employs four approaches to reach its objectives: networking, lobbying and advocacy with poor women activists; working with public/traditional institutions and decision making forums; empowering and building capacity of CSOs. In Africa, RHV project is being implemented in 8 countries including Nigeria with the same goal of strengthening national legislation, adequate budgeting and implementation of the AU Protocol on the Rights of Women through community popularization and advocacy activities. Oxfam GB is supporting Women's Rights Advancement and Protection Alternative (WRAPA) to work with the African Union, the Nigerian Government and CSOs in Nigeria to ultimately enable the domestication of the Protocol in Nigeria by 2012.

Project Rationale

The African Union Protocol on the Rights of Women offers a comprehensive picture of issues confronting women in Africa and sets mechanism to address such issues. The Protocol provides broader protection for women's human rights, including their sexual and reproductive rights, violence against women, harmful traditional practices, discrimination and other constraints faced by women, etc. The Protocol therefore presents a basis and opportunities to influence national policies limiting poor women's participation and exacerbating voicelessness.

Project Goal/Objective

The purpose of this project is to promote the participation of poor and marginalized Nigerian women in decision making processes on issues affecting their lives. The overall objective is to contribute towards reducing gender inequality through promoting increased participation of poor women in governance in Nigeria while specific objective is to facilitate the accelerated domestication and implementation of the provisions of the AU Women's Protocol in Nigeria through legislative advocacy by 2012.

Activities implemented by the Project from April 2009 to March 2010:

- **5** Capacity Building Training on the contents, provisions and benefits of the Protocol for grass root women activists
- **3** Legislative Advocacy to State and National Assembly
- **3** Advocacy visits to institutions of faith and culture to promote acceptance and ownership of the Protocol
- **4** Town Hall meetings on VAW and the Protocol
- **10** Media Engagements
- **2** Campaigns and Outreach
- **2** School debates to discuss contentious issues of the Protocol and raise awareness among youths

Support for the Domestication

The African Union Protocol on the Rights of Women is an African Law made by Africans for Africans. It does among other things call for:

An end to all forms of Violence Against Women in all its forms and in all situations.

It promotes the use of corrective measures (Affirmative Action) for women's equal participation and representation in elected and appointive offices.

It clearly provides for the reproductive health rights of women and girls.

It provides for remedies for any woman whose rights and freedoms are violated or denied.

It entitles her to seek and obtain redress through accessible government and non/ governmental agencies, mechanisms, and services.

Nigeria ratified the Protocol in 2004 and 6 years after; it is yet to be domesticated and the benefits of its provisions availed to Nigerian Women.

This is a CALL to ALL Nigerians to support the DOMESTICATION of the AU Protocol.

Let us protect Our Women and Girls, Let us bring the Law to life in Nigeria.

- Raising Her Voice (RHV) Project



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