PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS ON THE RIGHTS OF CITIZENS TO SOCIAL PROTECTION AND SOCIAL SECURITY

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Preamble

We, the Heads of States and Government of the African Union:

Reaffirming that the right to social protection is a human right;

Considering that Article 66 of the African Charter on Human and Peoples' Rights (African Charter) provides that special protocols or agreements, if necessary, may supplement the provisions of the African Charter;

Recalling Executive Council Decision EX.CL/Dec.876 (XXVII) adopted in Johannesburg, South Africa, whereby the Executive Council requested the African Union Commission in collaboration with the African Commission on Human and Peoples' Rights, to develop an Additional Protocol to the African Charter on Human and Peoples' Rights on the Rights of Citizens to Social Protection and Social Security;

Taking into account the provisions of articles 5, 16, 17 and 18 of the African Charter on Human and Peoples' Rights, spelling out the rights of every individual and the commitment made by Member States of the African Union in article 1 of the African Charter on Human and Peoples' Rights to recognise the human and peoples' rights enshrined in the Charter and to adopt legislative or other measures to give effect to them;

Recalling that the provisions of Articles 60 and 61 of the African Charter on Human and Peoples' Rights recognise regional and international human rights instruments and African practices consistent with international norms on human and peoples' rights as being important reference points for its application and interpretation;

Mindful of Articles 5, 13, 16, 18 and 19 of the African Charter on the Rights and Welfare of the Child, Articles III, IV, X, XIII, XXII, XXIII, and XXIV of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa; Articles 8,15,16, 17, 18,19 and 20 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa; Articles 6, 7, 10, 11, 12, 13, 15,16 and 17 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa, in relation to social protection; Articles 3, 4 and 5 of the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa; Article 5 of the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa; and Article 2 of the African Charter on Maritime Security and Safety and Development in Africa (Lomé Charter), ratified by Member States;

Acknowledging the provisions of the Treaty Establishing the African Economic Community, the Protocol to the Treaty Establishing the African Economic Community Relating to Free Movement of Persons, Right of Residence and Right of Establishment, and Aspiration 2 of the AU Agenda 2063 which calls for "An integrated continent, politically united, based on the ideals of Pan Africanism and the vision of Africa's Renaissance", and the embedded principle of an African citizenship;

Taking into account Aspiration 1 of the AU Agenda 2063 which projects "A prosperous Africa, based on inclusive growth and social development", and calls for "A high standard of living, quality of life and well-being for all citizens" and envisages social security and social protection as a priority area;

Bearing in mind the Tunis Declaration of the Assembly of Heads of State and Government on Social Development (1994); the African Common Position on Human and Social Development in Africa (1994); the Livingstone Call for Action (2006); the AU Social Policy Framework for Africa (2009); the Yaoundé Tripartite Declaration on the Implementation of the Social Protection Floors (2010); the Principles and Guidelines on the Interpretation of Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights (2010); and the revised Ouagadougou Plan of Action on Employment Promotion and Poverty Alleviation (2014);

Having regard to the Universal Declaration of Human Rights, in particular Articles 22 and 25 and the International Covenant on Economic, Social and Cultural Rights, in particular Articles 9, 11 and 12; and the Convention on the Rights of the Child (CRC) and its Optional Protocols, in particular CRC Articles 26, 27 and 32;

In view of the ILO social security standards, in particular the Social Security (Minimum Standards) Convention, 1952 (Number 102); the Recommendation concerning National Floors of Social Protection Recommendation, 2012 (Number 202); and the Recommendation concerning The Transition from the Informal to the Formal Economy, 2015 (Number 204);

Realising the pillars of the Decent Work Agenda which are: employment creation, social protection, rights at work and social dialogue;

Recognising the virtues of African traditions, values and practices of social and national solidarity which should inspire and characterise the provision of mutual social and communal care and support;

Concerned that the vast majority of people in Africa are not appropriately covered by formal social protection provisions;

HAVE AGREED AS FOLLOWS:

ARTICLE 1
DEFINITIONS

1. For the purpose of the present Protocol:

(a) "African Charter" means the African Charter on Human and Peoples' Rights;

(b) "African Commission" means the African Commission on Human and Peoples' Rights;

(c) "African Court" means the African Court on Human and Peoples' Rights;

(d) "Assembly" means the Assembly of Heads of State and Government of the African Union;

(e) "AU" means the African Union;

(f) "Blue economy" means sustainable economic development of oceans that use such technique as regional development to integrate the use of seas and oceans, coasts, lakes, rivers, and underground water for economic purposes, including, but without being limited to fisheries, mining, energy, aquaculture and maritime transport, while protecting the sea to improve social well-being;

(g) "Citizen" means any natural person who, in accordance with the laws of an African Union Member State, is a national of that Member State;

(h) "Commission" means the Secretariat of the African Union as provided by the Constitutive Act;

(i) "Family" means a unit that consists of a man, a woman or women and, other persons who can be defined as such by national laws of States Parties;

(j) “Individual” means all natural persons in States Parties, including non-nationals;

(k) "Informal economy" means all economic activities by workers and economic units that are – in law or in practice – not covered or insufficiently covered by laws and policies;

(l) "Kafala system" means a voluntary commitment made by a person (kafeel), according to the national law of the State Party, to undertake responsibility for the protection, upbringing and care of a child, in the same way as a parent would do for his or her own child;

(m) "Member States" means the Member States of the African Union;

(n) "Minimum package" refers to social protection provisions that cover essential basic benefits and services and which provide the platform for broadening, extending social protection and creation of more fiscal space;

(o) "Social Assistance" is a form of social security, funded from government revenue, which provides assistance in cash or in kind to persons who lack the means to support themselves and their dependants. It also includes payments financed from government revenue which are granted to designated categories deemed to have exceptional needs;

(p) "Social Allowances" means universal payments financed from government revenue which are granted to designated categories deemed to have exceptional needs (such as children, older persons and persons with disabilities). These benefits are not means tested;

(q) "Social Insurance" refers to a contributory form of social security designed to protect income earners and their dependants against a reduction or loss of income as a result of exposure to risks;

(r) "Social Protection" refers to public and private, or to mixed public and private measures designed to protect individuals against life-cycle crises that curtail their capacity to meet their needs, and includes all forms of social security, and strategies and programmes aimed at supporting and ensuring a minimum standard of livelihood and access to essential social services and care for all people;

(s) "Social Security" includes the social protection concept, social assistance, social insurance and social allowances, public and private measures, or mixed public and private measures, designed to protect individuals and families against income insecurity caused by contingencies such as unemployment, employment injury, maternity, sickness, poor health, disability, old age, maintenance of children and death of a family member;

(t) "States Parties" means Member States of the African Union that 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
GUIDING PRINCIPLES FOR SOCIAL PROTECTION AND STATE OBLIGATIONS TO GUARANTEE RIGHT TO SOCIAL PROTECTION AND SOCIAL SECURITY

In accordance with the principles enshrined in this Protocol States Parties shall:

1. Ensure good governance and coordination among institutions responsible for the delivery of social protection;

2. Protect the rights of individuals to human dignity and the special rights of children to survival, development and protection, and subject to the provisions of this Protocol, to equal treatment in relation to social protection;

3. Provide social protection benefits;

4. Develop policies, legislation and programmes that improve the standard of life of individuals and address the needs of vulnerable groups, including but not limited to children, persons with disabilities, women and older persons;

5. Ensure that social protection is human rights-based, follows a lifecycle approach, addresses vulnerability and inequality, and is inclusive, leaving no one behind;

6. Ensure continual progress in relation to the realisation of the rights, obligations and commitments contained in this Protocol, and take immediate steps, within its means;

7. Adhere to the principle of non-discrimination, namely that every individual shall be entitled to the enjoyment of the rights recognised and guaranteed in this Protocol without distinction of any kind such as age, disability, race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status;

8. Ensure that the provisions of this Protocol shall apply to all citizens and comply with their international obligations in relation to social protection;

9. Develop an integrated and comprehensive social protection system, which:

   (a) Ensures meaningful coverage in terms of, among others, social insurance schemes, social assistance measures and social services;

   (b) Protects against special and collective risks, including political conflict, climate change and natural disasters;

(c) Prevents poverty, deprivation and livelihood loss;

(d) Integrates and, when necessary, reintegrates persons, including workers in the labour force and into society;

(e) Provides for social protection in national legislation in order to ensure an appropriate mandate for government to act, and for clarity and certainty of the rights, obligations and functions of all social protection stakeholders.

ARTICLE 3
RIGHT TO SOCIAL PROTECTION AND STATE OBLIGATIONS

1. Every citizen has the right to social protection;

2. States Parties have the obligation to ensure that social protection is available, accessible, adequate, affordable and transparent;

3. To comply with the obligation provided under sub-article 2, States Parties shall progressively:

(a) Develop, maintain and expand an appropriate regulatory, institutional and operational framework for the provision of social protection and ensure good and democratic governance of social protection schemes and arrangements;

(b) Establish and maintain a system of social protection in accordance with the provisions of this Protocol;

(c) Provide a minimum package of essential social protection, which should at least cover the basic needs of all;

(d) Ensure that every citizen who has insufficient means of subsistence to support themselves and their dependants is entitled to adequate social assistance and other services provided by the state;

(e) Increase coverage of social protection and raise systems of social protection to a higher level, in accordance with the provisions of this Protocol and in accordance with the ratio of economic growth and the relevant national laws;

(f) Encourage and regulate private and public sector participation, with regard to the provision and management of social protection.

ARTICLE 4
SOCIAL INSURANCE

States Parties shall:

1. Review and adopt legislation that compels all employers to enrol all employees into social insurance schemes;

2. Establish health insurance schemes that cover all sections of the population;

3. Put in place measures that enable everyone, especially the youth, to prepare for retirement, and that give expression to the need to contribute to social insurance schemes;

4. Carry out periodic reviews of social insurance benefits to ensure that they are in line with inflation and prevailing economic conditions;

5. Adopt legislative and other measures to ensure that persons can benefit from their contributions even when they move between similar schemes or to other countries (portability of benefits);

6. Ensure the protection of social insurance benefits for those covered by bilateral or multilateral agreements;

7. Adopt legislative and other measures to ensure the sound management and administration of social insurance arrangements, the protection of social insurance funds against mismanagement, diversion for other purposes, cyclical fluctuations and market failure.

ARTICLE 5
INFORMAL AND RURAL ECONOMIES

In order to regulate and provide sufficient social protection to the informal and rural sectors, States Parties shall:

1. Ensure the participation of representatives of the informal and rural economy in the design, development and implementation of social protection policies and programmes;

2. Adopt a regulatory framework promoting appropriate and adequate social security of informal and rural workers, through the inclusion of these workers in general social security schemes adapted to suit the context of these workers, the provision or recognition of appropriate formal and informal social insurance and micro-insurance mechanisms, social assistance measures, and dedicated savings instruments;

3. Develop and implement social security contribution modalities, qualifying conditions and benefits that are suited to the context of informal and rural workers;

4. Ensure access to a minimum package of social protection to informal and rural workers and their families;

5. Ensure that the special context of women is appropriately accommodated in social protection systems and in particular that maternity and health protection is extended to working mothers in the informal and rural economies to enable a better conciliation of work, family and care responsibilities;

6. Facilitate access to markets and credit for informal and rural workers to sustain their livelihood support and income-generating potential;

7. Ensure progressive formalisation of the informal economy through enabling a legal and regulatory environment for sustainable enterprises, skills development, and progressive extension of labour and social protection;

8. Put in place measures to protect income earned from informal and rural activities and encourage workers in those sectors to enrol in social protection programmes.

ARTICLE 6
UNEMPLOYMENT AND UNDEREMPLOYMENT

States Parties shall:

1. Adopt proactive policies and legislative measures to promote inclusive economic and social development so as to eradicate poverty and absorb the majority of the labour force into productive employment and income–generating activities;

2. Progressively provide unemployment benefits for all citizens, in particular by taking steps to establish unemployment insurance schemes, in accordance with national laws;

3. Adopt measures to increase investment in education and training, especially technical and vocational training, and stimulate and support job creation initiatives;

4. Introduce measures to engage those who can work but are not employed, and shall consider for this purpose among others public employment schemes and employment guarantee schemes;

5. Promote a culture of entrepreneurship to provide support structures, innovative, sex-sensitive training and skills development programmes, such as apprenticeship programmes, mentorship and business incubators;

6. Provide support structures to be set up to assist entrepreneurs in the establishment and development of small- and medium-sized enterprises and provide effective social protection coverage to workers in those enterprises;

7. Afford preferential employment opportunities to vulnerable groups, especially the youth, women, older persons and persons with disabilities, in accordance with national laws;

8. Significantly and progressively reduce the unemployment rate among, and increase participation in gainful employment of, women, persons with disabilities and young people, in accordance with national laws;

9. Take concrete steps to address the underemployment of workers, to align skills demand with skills supply and to strengthen the links between education, skills training and the labour market;

10. Formulate strategies to enhance productivity as key to the efforts to reduce underemployment and poverty;

11. Ensure adequate protection against loss of employment, including protection against arbitrary and/or unfair dismissal.

ARTICLE 7
CROSS-BORDER MIGRANTS AND INTERNALLY DISPLACED PERSONS

States parties shall:

1. Adopt legislative, administrative and other measures to ensure that their citizens who are migrants including migrant workers are provided with social protection benefits;

2. In according with their capacities and national laws, introduce measures to facilitate the co-ordination and portability of social security entitlements and benefits, especially through the adoption of appropriate bilateral and multilateral agreements providing for equality of treatment between individuals from countries of origin and countries of destination, aggregation of insurance periods, maintenance of acquired rights and benefits, portability of benefits, pro-rata sharing of financial liability, institutional cooperation, and the avoidance of double taxation;

3. Develop mechanisms, services and effective financial products to facilitate the affordable transfer of remittances by migrants;

4. Ensure that displaced persons are included in social protection schemes or measures that are responsive to their needs and contexts.

ARTICLE 8
WOMEN AND GIRLS

States Parties shall:

1. Abolish all discriminatory laws, policies, customs and harmful traditional practices based on sex in their respective social protection systems and ensure that women and girls are also included in their own right in social protection schemes targeting the formal, informal and rural sectors;

2. Provide social protection to vulnerable women and girls, including those that are heads of families, from marginalised population groups and in the blue economy, and provide an environment suitable to their condition and their special physical, economic and social needs;

3. Adopt and promote policies that ensure that workers, particularly female workers, are able to balance occupational and family obligations;

4. Promote equal access to employment, equal pay for work of equal value and social protection;

5. Provide social assistance to girls and protect them against early marriages and other harmful practices;

6. Promote the provision of social protection schemes that support the enrolment and retention of girls in schools and other training institutions and the organisation of programmes for women and girls who leave school prematurely;

7. Provide technical and financial assistance to women, as applicable, who embark on agriculture and improve their access to land, credit, including microfinance, training and invest in their financial empowerment;

8. Make available social protection to women and girls exposed to gender-based violence.

ARTICLE 9
FAMILY

States parties shall:

1. Ensure that the family, as a fundamental unit of society and the natural environment for the growth and well-being of all its members and particularly children, is appropriately assisted and protected. Member States should promote the legal, economic and social protection of family life;

2. Empower the family and enhance its capacity to enable it to meet its socio-economic needs through appropriate social protection in interventions;

3. Ensure that social protection systems and programmes reflect the reality and importance of the extended family, as understood in the national context;

4. Develop, integrate and implement effective social policies, programmes and strategies to address the social protection needs of families in vulnerable and crisis situations;

5. Adopt measures to promote and support community associations or networks which support families in times of need;

6. Provide a framework for the extension of appropriate family benefits;

7. Promote family reunification.

ARTICLE 10
OLDER PERSONS

States Parties shall:

1. Develop policies and legislation that ensure that older persons are provided with adequate pensions and other forms of social security, including post-retirement health cover and disability benefits;

2. Adopt mechanisms for the transfer of social assistance or social security mechanisms in order to ensure security of income for older persons who did not have the possibility of subscribing to a pension scheme;

3. Promote independent living and support institutional, residential, family, community and home-based care for older persons;

4. Establish, operationalise and implement national long-term care policies or strategies, including through appropriate complaint mechanisms and redress for care recipients;

5. Promote policies to encourage productive and dignified ageing and ensure that employment undertaken after retirement does not entail discrimination against older workers in relation to labour standards, conditions of employment and rates of remuneration;

6. Recognise and encourage the participation of organisations representing older persons, and national consultative councils of older persons according to relevant national laws.

ARTICLE 11
CHILDREN, ADOLESCENTS AND YOUTH

States Parties shall:

1. Ensure that social protection programmes are sensitive to the needs of children and contribute to the fulfilment of their right to registration at birth, nationality and a standard of living adequate for the child's physical, mental, spiritual, moral and social development in accordance with relevant national laws;

2. Provide social protection services and transfers in cash and in kind to ensure that the basic needs of children are met;

3. Recognise the right for every child to benefit from social security, including social insurance, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child as appropriate;

4. Adopt measures to provide social protection schemes aimed at protecting children in conflict situations, orphans, children of mothers in prison and other vulnerable children;

5. Adopt specific protection measures in relation to the employment of children, including minimum age for admission to employment, and appropriate regulation of the hours and conditions of employment;

6. Support measures to protect, reintegrate and rehabilitate children in conflict with the law;

7. Invest in social protection schemes that contribute to early childhood development, including attention to adequate nutrition, good health, safety and protection, opportunities for early learning and responsive caregiving;

8. Put in place effective measures and provision for adequate care of children, among others through kinship care, care under the kafala system, foster-care and adoption arrangements in accordance with relevant national laws;

9. Facilitate mentoring and support of child-headed households;

10. Ensure free primary and secondary education and institute clear steps to progressively extend access to free education beyond primary and secondary schooling, including pre-primary education;

11. Adopt social protection measures that contribute to ending child labour, exploitation, neglect and violence, child marriages, trafficking in persons, including child trafficking, and child soldiering;

12. Ensure that children and the youth participate in developing social protection programmes.

ARTICLE 12
PERSONS WITH DISABILITIES

States Parties shall:

1. Adopt legislative policy and other measures and implement measures that will ensure the extension of social protection to all persons with disabilities so that they enjoy an adequate standard of living for themselves and their families, as well as care and support;

2. Ensure that social protection schemes provided to persons with disabilities improve their social and professional inclusion, including through measures such as habilitation, rehabilitation, vocational training, accessibility and mobility, provision of assistive devices and technologies, means of transport and housing and the appropriate organisation of work and the working environment;

3. Ensure that social protection schemes guarantee equality of access and coverage to and reasonable accommodation of persons with disabilities;

4. Mainstream access to social services for persons with disabilities;

5. Facilitate personal assistance to persons with disabilities to live independently and participate in the community;

6. Involve persons with disabilities, their families and their representative organisations in the revision, planning and design of national social protection strategies;

7. Initiate legal and policy reforms to promote adequate and flexible combination of income and disability related support for economic empowerment;

8. Raise awareness to persons with disabilities and their families on the existence of social protection programmes to ensure their participation.

ARTICLE 13
MATERNITY AND PATERNITY

States Parties shall:

1. Ensure that reproductive, maternity and paternity rights are protected in all social protection programmes in accordance with national laws;

2. Provide social protection measures that protect women against discrimination and dismissal in relation to maternity, and guarantee adequate and paid pre- and post-natal maternity leave, of at least fourteen weeks' duration, in both the private and public sectors;

3. Ensure that fathers are enabled to share responsibilities in pre- and post-natal care, including the granting of appropriate paternity leave;

4. Establish and strengthen existing pre-natal, delivery and post-natal health and nutritional services, including hospitalisation for women;

5. Ensure that, unless universal coverage and financing are provided for, maternity and paternity benefits shall be financed through compulsory social insurance paid by both the employer and the employees, without distinction of gender, through social assistance or social allowances. Appropriate provision shall be made for maternity benefits in the case of those involved in the informal economy.

ARTICLE 14
HEALTH CARE, PROTECTION AND SICKNESS BENEFITS

States Parties shall:

1. Develop social protection programmes that ensure that every citizen has equal access to adequate, affordable and quality health care, including comprehensive sexual and reproductive health services and facilities for current, previous and future users of psychiatric services;

2. Put in place legislative policy and other measures to achieve universal health coverage and financing, and shall ensure that every citizen is covered by health insurance schemes;

3. Ensure that health care shall be preventive, curative, rehabilitative and promotive, and shall include primary, secondary and tertiary health care and provision of essential pharmaceutical supplies;

4. Put in place palliative care and support to the terminally ill;

5. Adopt measures to regulate sickness and invalidity cash benefits;

6. Ensure relevant social protection, to support the poorest families in their efforts to mitigate the economic and social impacts of epidemics and crises;

7. Put in place special measures to address the impact of the HIV/AIDS pandemic, malaria, tuberculosis, and other diseases;

8. Adopt and develop social protection measures to support survivors of rape and sexual abuse and harassment;

9. Reduce morbidity and end preventable mortality from communicable and non-communicable diseases and other health conditions in Africa;

10. Facilitate access to free medical and rehabilitative services for persons with disabilities;

11. Facilitate access to free detoxification services, including rehabilitation services, for persons in need of treatment for drug and alcohol dependence;

12. Put in place a legislative policy and institutional framework for the development and provision of safe traditional and other medicines.

ARTICLE 15
OCCUPATIONAL HEALTH, SAFETY AND EMPLOYMENT INJURY

States Parties shall:

1. Take measures towards achieving progressively a safe, secure and healthy working environment;

2. Ensure that the organisation of occupational safety and health shall be on the basis of cooperation involving all stakeholders at the national level;

3. Ensure that all workers are covered by employment injury benefit schemes and arrangements;

4. Adopt measures in accordance with international labour standards to ensure that workers shall be entitled to work-related illness and injury prevention, detection and rehabilitation services, adequate health care, as well as reasonable job security after illness and injury, and shall be entitled to reasonable compensation.

ARTICLE 16
DEATH AND SURVIVOR'S BENEFITS

States Parties shall, in accordance with their capacities and national laws, ensure that social protection schemes provide protection in the event of death of a breadwinner so that non-discriminatory benefits become payable to beneficiaries and survivors, including a death grant, funeral costs and – subject to qualifying conditions – survivors' benefits, which should be in the form of periodical payments, aimed at the upkeep of survivors.

ARTICLE 17
CARE AND SUPPORT IN OTHER CONTEXTS

States Parties shall, in accordance with their capacities and national laws:

1. Adopt social protection measures including special care services for children and women exposed to violence and exploitation, in all its forms and aftercare services to ex-prisoners as well as drug users and substance abusers for their social reintegration;

2. Collectively and individually ensure that their social protection systems adequately provide appropriate individual and collective preventive measures within and across the borders of States Parties, and shall also provide for effective measures of relief, rehabilitation, reconstruction, reintegration and revival for communities so affected;

3. Adopt measures, at regional and national levels, to provide prevention, relief, reconstruction and rehabilitation in crisis and natural disaster contexts;

4. Develop a framework for training and support of caregivers;

5. Develop and implement a framework to plan, develop and support the workforce in the social service system.

ARTICLE 18
EDUCATION

States Parties shall, in accordance with their capacities and national laws:

1. Adopt measures to progressively provide free and equitable access to quality inclusive education;

2. Support access to free adult education for marginalised groups, including indigenous persons, women, older persons and persons with disabilities;

3. Ensure an education, training, life-long learning and skills development system, supported by technology, that is sensitive to the objective of rationalising admission requirements to education and training institutions and accreditation of qualifications, and which simultaneously addresses the needs for employability and sustainable human development;

4. Where appropriate, provide age appropriate and culturally sensitive comprehensive education on rights to sexual and reproductive health for adolescents and youth while involving parents and communities;

5. Encourage the introduction of special training programmes for teachers and instructors of persons with disabilities;

6. Develop and implement programmes that extend and expand:

   (i) Early childhood education;

   (ii) Primary health care to all school children; and

   (iii) School feeding programmes to all primary school children.

7. Ensure the provision of education on the History of Africa focusing on its past greatness and prosperity as an inspiration for social protection.

ARTICLE 19
FOOD AND NUTRITION

States Parties shall, in accordance with their capacities and national laws:

1. Provide social protection programmes that contribute to improved nutrition;

2. Establish mechanisms for developing and retaining adequate technical capacity in nutrition to implement effective nutrition programmes;

3. Support social protection programmes that boost agricultural productivity such as input subsidy schemes and crop insurance schemes;

4. Enact and implement legislation to preserve land for food crops and promote production of drought resistant crops, protection of intellectual property in traditional food crops; commercial farming; crop diversification for long-term food security; and marketing services;

5. Enhance the production, storage, transportation, availability, accessibility, utilisation, safety and quality of food;

6. Improve the productivity of smallholder agriculture and livestock through extension of technological support, small-scale irrigation schemes, agri-business development, rural infrastructure, credit, subsidies and tax exemptions;

7. Provide support to female farmers and improve women's access to credit, including microfinance, and invest in training to ensure their empowerment, including in their financial literacy;

8. Enhance food and nutrition information dissemination including information on genetically modified foods through education and communication activities with the participation of the public.

ARTICLE 20
WATER, SANITATION AND HYGIENE

States Parties shall, in accordance with their capacities and national laws:

1. Ensure universal, affordable and reliable access to clean and safe drinking water in a sustainable manner;

2. Establish efficient and effective water management systems;

3. Put in place measures to ensure adequate and inclusive sanitation and hygiene in all human dwellings.

ARTICLE 21
HOUSING, SHELTER AND PROPERTY

States Parties shall, in accordance with their capacities and national laws:

1. Facilitate social protection measures that contribute to the affordability of and access to adequate and inclusive housing and shelter;

2. Take all necessary legislative, administrative and other measures to prohibit the evictions that are not in conformity with regional and international human rights treaties ratified by States Parties;

3. Ensure that the rights of any person to property are protected;

4. Ensure that adequate and effective legal or other appropriate remedies are available to any person whose property rights have been violated.

ARTICLE 22
ENVIRONMENT AND CLIMATE CHANGE

States Parties shall, in accordance with their capacities and national laws:

1. Support measures to mitigate the effects of climate change and environmental degradation through social protection schemes;

2. Enhance investments for resilience building initiatives, including social protection for rural workers and other vulnerable social groups, as well as vulnerable ecosystems, including the blue economy;

3. Support initiatives to grow crops that adapt to climate change in order to enhance food security.

ARTICLE 23
GOVERNANCE AND ADMINISTRATION OF NATIONAL SOCIAL PROTECTION SYSTEMS

States Parties shall, in accordance with their capacities and national laws:

1. Take steps to include provisions in their constitutions and other national laws, in accordance with this Protocol, to ensure that an adequate framework for social protection is provided for;

2. Ensure inclusive and democratic governance of social protection institutions;

3. Improve management and coordination of social protection at all levels through a variety of methods, including the establishment of social registries and other social protection management information systems and frameworks;

4. Enhance the technical, infrastructural and institutional capacities of Ministries responsible for social protection;

5. Create sound governance structures for all social protection programmes, at local and national levels, as appropriate, to guarantee the protection of beneficiaries;

6. Create appropriate legal and institutional frameworks for sound investment, auditing and risk management;

7. Put in place mechanisms to ensure that delivery and payment systems are efficient and effective;

8. Ensure the active participation of all stakeholders in the formulation of social protection policies, programme design, implementation, and monitoring and impact evaluation.

ARTICLE 24
FINANCING

States Parties shall, in accordance with their capacities and national laws:

1. Conduct periodic actuarial assessments to ensure the adequate funding of social protection systems through domestic financing by allocating specific and transparent budget lines and taking into account contributory capacities of different population groups;

2. Develop and operationalise costed national plans for social protection to guarantee the provision of services and benefits;

3. Develop flexible feasibility, costing and sustainable funding strategies, combining contributory and non-contributory funding modalities for nationally defined programmes, to ensure sufficient funding for social protection programmes;

4. Commit themselves to progressively allocate a minimum percentage of public resources to social protection expenditure, in particular expenditure that will ensure universal access;

5. Ensure coordination and strengthening of development partner support for sustainable financing of social protection;

6. Take measures to avoid excessive administrative costs, and prevent fraud, illicit financial flows, tax evasion, non-payment of contributions and misuse of social protection funds.

ARTICLE 25
DATA MANAGEMENT

States Parties shall:

1. Adopt and implement mechanisms to collect, analyse, compile and publish social protection disaggregated data, statistics and indicators, with due regard to the need for data protection and individuals' right to privacy;

2. Ensure that social protection information/data is appropriately disaggregated (also with reference to sex, age, disability and migration status), collected and reported to facilitate planning and implementation.

ARTICLE 26
COMPLAINT AND APPEAL MECHANISMS

States Parties shall:

1. Ensure that every claimant has the right to complain to the institution that took a decision affecting the claimant and, should the claimant be dissatisfied with the outcome of the complaint, the right to appeal to an independent institution, with regard to any violations of the rights established in this Protocol;

2. Develop and implement complaints and appeal mechanisms which accommodate both individual and collective complaints, in all social protection programmes;

3. Ensure that complaint and appeal mechanisms provide procedural guarantees for a fair hearing, are impartial, transparent, effective, simple, rapid, accessible and inexpensive, are completed within reasonable time limits, and ensure timely feedback to affected parties;

4. Ensure access to internal review, and independent adjudication institutions that have the power to finally determine social protection disputes;

5. Ensure that domestic remedies are exhausted;

6. Ensure that final resolutions of disputes are binding and shall be complied with;

7. Ensure that legal aid is available to any person whose rights have been violated.

ARTICLE 27
DUTIES

Individuals have responsibilities towards their families, their communities, the wider society and the state. In this regard they shall:

1. Participate in social protection schemes that are designed to protect them and their families against risks;

2. Use the benefits derived as a result of this Protocol in a responsible manner;

3. Provide support and protection to family members as required by the State Party's legal system.

ARTICLE 28
IMPLEMENTATION AND MONITORING

States Parties shall:

1. Ensure the implementation of this Protocol, and shall indicate in their periodic reports submitted to the African Commission in accordance with Article 62 of the African Charter, the legislative and other measures undertaken for the full realisation of the rights recognised in this Protocol;

2. Establish or designate national mechanisms, including independent national institutions, to monitor the implementation of the rights enshrined in this Protocol;

3. Monitor and review the uptake, design and impact of social protection programmes for all vulnerable persons.

ARTICLE 29
INTERPRETATION

1. The African Commission, shall be seized with matters of interpretation arising from the implementation of this Protocol;

2. The African Court, shall be seized with matters of interpretation and application of this Protocol only for the States Parties to the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights.

ARTICLE 30
POPULARISATION OF THE PROTOCOL

States Parties shall take all appropriate measures to ensure the widest possible popularization of this Protocol in accordance with the relevant national laws.

ARTICLE 31
SAFEGUARD CLAUSE

1. No provision in this Protocol shall be interpreted as derogating from the principles and values contained in other relevant instruments for the realisation of the rights of persons covered under this Protocol;

2. In the event of seemingly contradictory provisions of this Protocol, the interpretation which favours the rights of citizens and protects their legitimate interests shall prevail.

ARTICLE 32
SIGNATURE, RATIFICATION AND ACCESSION

1. This Protocol shall be open to Member States for signature, ratification and accession;

2. The instruments of ratification or accession to the present Protocol shall be deposited with the Chairperson of the Commission who shall notify all Member States of the dates of the deposit of the instruments of ratification or accession.

ARTICLE 33
ENTRY INTO FORCE

1. This Protocol shall enter into force thirty (30) days after the deposit of the fifteenth (15^{th}) instrument of ratification or accession by a Member State;

2. The Chairperson of the African Union Commission shall notify all Member States of the entry into force of the present Protocol;

3. For any Member State ratifying or acceding to the present Protocol after its entry into force the Protocol shall come into force in respect of that State on the date of the deposit of its instrument of ratification or accession.

ARTICLE 34
RESERVATIONS

1. A State Party may, when, ratifying or acceding to this Protocol, submit in writing a reservation with respect to any of the provisions of this Protocol;

2. Reservations should not be incompatible with the object of the present Protocol;

3. Unless otherwise provided, a reservation may be withdrawn at any time;

4. The withdrawal of a reservation must be submitted in writing to the Chairperson of the Commission who shall notify other States Parties of the withdrawal accordingly.

ARTICLE 35
DEPOSITARY

This Protocol shall be deposited with the Chairperson of the Commission, who shall transmit a certified true copy of the Protocol to the Government of each Member State.

ARTICLE 36
REGISTRATION

The Chairperson of the Commission upon the entry into force of this Protocol shall register this Protocol with the United Nations Secretary General in conformity with Article 102 of the Charter of the United Nations.

ARTICLE 37
WITHDRAWAL

1. At any time after three (3) years from the date of entry into force of this Protocol, a State Party may withdraw at any time by giving written notification to the Custodian;

2. Withdrawal shall be effective one (1) year after receipt of notification by the Depositary, or on such later date as may be specified in the notification;

3. Withdrawal shall not affect any obligation of the withdrawing State Party prior to the withdrawal.

ARTICLE 38
AMENDMENT OR REVISION

1. Any State Party may submit proposal(s) for the amendment or revision of this Protocol. Such proposal(s) shall be adopted by the Assembly;

2. Proposals for amendment or revision shall be submitted, in writing, to the Chairperson of the Commission who shall transmit such proposals to the Assembly at least six (6) months before the meeting at which they shall be considered for adoption;

3. Amendments or revisions shall be adopted by consensus or, failing which, by a two-thirds majority;

4. The amendment or revision shall enter into force in accordance with the procedures outlined in Article 33 and 34 of this Protocol.

ARTICLE 39
AUTHENTIC TEXTS

This Protocol is drawn up in five (5) original texts, in Arabic, English, French, Portuguese, and Spanish languages, and all five (5) texts being equally authentic.

IN WITNESS WHEREOF the undersigned, being duly authorised to that effect, has signed this Protocol.

Adopted by the Thirty-Fifth Ordinary Session of the Assembly, held in Addis-Ababa (Ethiopia), on 6th February 2022.