



Women Enabled International

accountABILITY toolkit

African Regional Human Rights System

Advocacy Guide

accountABILITY:

African Regional Human Rights System Advocacy Guide



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International**

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Cover image depicts the current flag of the African Union, a dark green outline of the African continent with the Sinai Peninsula and offshore islands in white, centered on a stylized white sun with 53 pointed rays, all surrounded by a circle of 53 5-pointed gold (yellow) stars, on a dark green background. The background of the entire cover is the same dark green. For the cover of this document, a photo of a woman has been superimposed within the African continent outline. The photo is cropped to show the woman's head and shoulders. The woman appears to be middle-aged and has medium dark skin. She is smiling slightly. She is wearing a royal blue and scarlet pin-striped head wrap and silver ball earrings. Her dress is royal blue with full sleeves and an ornate v-neck bodice with scarlet and royal blue flowers appliqued on a field of metallic gold threads and gold sequins. In the background is a rustic home with a colorful flag hanging over the door. The photo can be viewed in full at: <https://pixabay.com/photos/african-woman-hut-home-house-face-214104/>

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Women Enabled International

Tel. 1.202.630.3818

info@womenenabled.org
www.womenenabled.org

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The *accountABILITY Toolkit* on the African Regional Human Rights System is dedicated to the millions of women and girls with disabilities in Africa and around the world who routinely encounter multiple and intersecting forms of discrimination. This Toolkit is a call to action, urging and empowering us to collectively raise our voices to demand that international and regional human rights standards protect the rights of all women and girls, including those with disabilities.

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Overview

Human rights are universal, inalienable, and indivisible. Yet, in the twenty-first century, women across the globe continue to experience gender-based discrimination that impedes the full realization of their human rights. Specifically, women constitute 70 per cent of the world's poor and two-thirds of the world's illiterate. Women are continually denied access to basic healthcare, housing, education, work, and social security. Women and girls with disabilities (who are approximately 19.2% of the world's women and girls and 21.6% of African women and girls between the age of 15 and 59¹) in particular encounter multiple and intersecting forms of discrimination on the basis of both gender and disability. High rates of gender-based violence, lack of access to justice, and denial of sexual and reproductive health information, goods, and services are particularly pernicious manifestations of the discrimination to which women and girls with disabilities are subjected. Women with disabilities across Africa face similar challenges to those experienced by women with disabilities around the world. Women with disabilities in Africa are more likely to be unemployed, live in poverty and lack access to education than men with disabilities or non-disabled women. Pervasive and widespread social and cultural stereotypes against women with disabilities have led to various forms of harmful practices, including ritual killings, as well as sexual and gender-based violence against them. In addition, they are less likely to be able to escape, speak up for their rights, be believed, or find services accessible to them in the context of violence.²

International and regional human rights law calls on governments to dismantle legal, structural, social, economic, and other barriers that women face in achieving equality and realizing their human rights. Human rights advocacy can be an effective tool for holding governments to account for their obligations under international and regional human rights law and pushing for effective implementation of human rights and gender equality to improve the situation on the ground for women and girls with disabilities. The African Regional Human Rights System of the African Union (AU) in particular has several different mechanisms for promoting and protecting the rights of women and girls with disabilities.

Historically, people with disabilities, and women with disabilities in particular, have made scarce use of international and regional human rights mechanisms to advance their rights. This is because information on the mechanisms—and the mechanisms themselves—has not been fully accessible for people with disabilities. There are very few members of the AU human rights system who identify as people with disabilities, and until the recent adoption of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa in 2018, the rights of people with disabilities were not a significant part of the African regional human rights agenda.

This Toolkit seeks to empower women with disabilities and organizations working on their behalf to make use of the available African human rights mechanisms to ensure that the human rights violations women with disabilities experience receive redress and to make sure that statements, recommendations, observations, and guidance from the African human rights system incorporate an intersectional gender and disability rights perspective. Volume 1 of this Toolkit provides an overview of the African human rights system. Including the mechanisms available to women with disabilities to input into this system. Volume 2 provides a summary of the jurisprudence of the African human rights system to date on issues that impact rights at the intersection of gender and disability.

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Chapter 1: Introduction to the African Human Rights System

The African human rights system includes several human rights treaties—or agreements between the African Union member states—and the mechanisms that monitor compliance with these treaties.

The African Union (AU, formerly the Organisation of African Unity (OAU)) is a union of African countries that promotes integration and development of the countries and people across the continent. The AU was established under the 2000 African Constitutive Act. One of the AU's objectives is to promote and protect human and peoples' rights. The AU currently has 55 member states. The Assembly of Heads of States and Governments adopts human rights treaties and protocols. For each document to be legally binding in a member state, the State needs to sign and ratify it, according to its domestic legal procedures for entering into an international agreement.

A list of member states can be found at: <https://au.int/en/memberstates>

African Regional Human Rights Treaties

There are several African human rights treaties, which African States can choose to ratify and eventually incorporate into their domestic law, or “domesticate” the treaty provisions.

■ African Charter on Human and Peoples' Rights (Banjul Charter) (June 27, 1981)*

The Banjul Charter protects both **civil and political rights and economic, social, and cultural rights**.

- ▶ It also recognizes “**peoples' rights**” such as the right to development and self-determination.
- ▶ *Article 2* guarantees that all individuals are entitled to rights and freedoms included in the Banjul Charter on an **equal basis and without discrimination**, including **on the basis of sex or “other status,”** which has been interpreted to include disability.³
- ▶ *Article 16* of the Banjul Charter provides that every individual including persons and women with disabilities shall have the right to enjoy the best attainable state of physical and mental health
- ▶ *Article 18(3) and (4)* of the Banjul Charter also provides **special protection to both women and persons with disabilities**.

The African Charter on Human and Peoples' Rights can be found online at <https://www.achpr.org/legalinstruments/detail?id=49>

Key Terms Relevant to Human Rights Treaties

Ratification

A formal consent to be bound by the terms of a treaty. When States ratify human rights treaties, they are consenting as well as committing to fulfilling the obligations in the treaty.

Domestication

Incorporating into domestic law. For dualist States, treaty provisions have to be incorporated into the State's domestic law usually through an Act of Parliament. For monist States, treaty provisions become law without incorporation.

* All African Union member states have now ratified the Banjul Charter, with the exception of Morocco which rejoined the African Union in January 2017.

■ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) (July 11, 2003)

- ▶ The Maputo Protocol complements the African Charter by providing explicit **definitions of women and of discrimination against women** while addressing **traditional values and practices** that can impede gender equality, including **forced marriage** and **female genital mutilation**.
- ▶ The Maputo Protocol was the first human rights agreement to explicitly protect a **right to sexual and reproductive health** (*Article 14*), recognizing women's right to control their fertility. This has a special impact on women with disabilities because they are more likely to experience violations of their reproductive freedom, for instance, through sterilization without informed consent.
- ▶ The Maputo Protocol is the first human rights agreement to explicitly provide women the right to live in a positive cultural context and to participate in the determination of cultural policies (*Article 17*). This is particularly significant for women with disabilities in Africa because they are more likely to experience violations of the right to life, for instance through harmful practices such as ritual killings rationalized under the guise of culture.
- ▶ In addition to general provisions that apply to all women and girls, the Maputo Protocol addresses **special protection of women with disabilities**, requiring States parties to facilitate their **access to employment, vocational training, and participation**, and to ensure that women with disabilities are free from violence, **sexual abuse and discrimination** (*Article 23*).

The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) can be found at <https://www.achpr.org/legalinstruments/detail?id=37>

■ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa (Disability Protocol) (January 29, 2018)

The Disability Protocol, the newest human rights treaty in the African system, is still awaiting enough ratifications to enter into force. Once 15 States have ratified this Protocol, it comes into force and is binding on those States that ratify it.

- ▶ The Disability Protocol **prohibits discrimination** against persons with disabilities on all grounds (*Article 5*), including **denial of reasonable accommodations** (*Article 1*), and recognizes their **full legal capacity** (*Article 7*).
- ▶ The Disability Protocol recognises that every person with a disability has the right to life and integrity (*Article 8*).
- ▶ The Disability Protocol addresses **harmful practices** such as witchcraft, abandonment, concealment, ritual killings or the association of disability with omens, which infringe on the rights of persons with disabilities (*Article 11*).
- ▶ The Disability Protocol also recognizes **intersectional forms of discrimination** and includes separate articles specifically addressing rights of **women** (*Article 27*), **children** (*Article 28*), **youth** (*Article 29*) and **older persons with disabilities** (*Article 30*). It provides that **women with disabilities** should be ensured **full participation in society**, "protected" from **sexual and gender-based violence**, and guaranteed **sexual and reproductive rights**. It also requires **integration of gender perspectives** into all policies, legislation and programs (*Article 27*).

- ▶ The Disability Protocol was generally developed in line with the **United Nations (UN) Convention on the Rights of Persons with Disabilities (CRPD)**. The CRPD is an international human rights treaty that promotes and protects the human rights of persons with disabilities on an equal basis with others. The CRPD recognizes that women with disabilities often face multiple forms of discrimination on the basis not only of disability but also of gender and that States must undertake particular measures to ensure their enjoyment of human rights. (*Article 6 of the CRPD*).
- ▶ The Disability Protocol creates new rights and expands the normative standards for persons with disabilities in Africa including women with disabilities. The Disability Protocol explicitly provides that States parties ensure that the sexual and reproductive health rights particularly of women with disabilities are guaranteed (*Article 27(k)*).
- ▶ The Disability Protocol further goes beyond the CRPD, for instance, by explicitly providing the **right to legal aid** for persons with disabilities (*Article 13*) and dedicating a specific article on **self-representation of persons with disabilities** (*Article 22*).
- ▶ However, the Disability Protocol falls short of the CRPD in some aspects, for example, by failing to include specific articles on awareness-raising and freedom from exploitation, violence, and abuse.

The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa (Disability Protocol) can be found at <https://au.int/sites/default/files/treaties/36440-treaty-protocol-to-the-achpr-on-the-rights-of-persons-with-disabilities-in-africa-e.pdf>

■ **African Charter on the Rights and Welfare of the Child (ACRWC) (July 1, 1990)**

- ▶ The ACRWC requires States parties to ensure children's rights to **survival and development** (*Article 5*), **education** (*Article 11*), **health** (*Article 14*), and **family protection** (*Article 18*), among others, and to fulfill obligations to **protect children from abuse** (*Article 16*), **exploitation** (*Article 27*), **armed conflicts** (*Article 22*), and **harmful social and cultural practices (e.g., child marriage)** (*Article 21*).
- ▶ The ACRWC also calls on States to ensure "special measures of protection" for children with disabilities in terms of physical accessibility and access to training and recreation (*Article 13*).

The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa (Disability Protocol) can be found at <https://www.acerwc.africa/wp-content/uploads/2018/04/African-Children-Charter-Website-Version-English-2015.pdf>

African Regional Human Rights Monitoring Mechanisms

■ The African Commission on Human and Peoples' Rights

The African Commission on Human and Peoples' Rights (African Commission) ensures compliance with and effective implementation of the Banjul Charter and the supplementary protocols, including the Maputo Protocol and, when it goes into effect, the Disability Protocol. The African Commission is composed of eleven members serving in their personal and independent capacity and not as representatives of their countries or governments. The African Commission holds two ordinary sessions each year and holds extraordinary sessions as necessary. Dates of upcoming sessions are usually posted on the African Commission's homepage: www.achpr.org.

The main functions of the African Commission include:

1. Interpreting the provisions of the Banjul Charter and the supplementary protocols through issuing **General Comments, Thematic Resolutions, Guidelines, or Principles.**

Table 1: Soft Law Key Terms	
Resolutions	The African Commission has the authority to adopt resolutions. This authority exists by virtue of Article 45 of the African Charter. This article allows the African Commission to “formulate and lay down principles and rules aimed at solving legal problems relating to human and peoples’ rights.”
Types of Resolutions	
a. Thematic Resolutions	<p>As the name suggests thematic resolutions provide more information on specific human rights themes or on a particular substantive right outlined in the African Charter and its Protocols. These resolutions are drafted to address various human rights issues.</p> <p>The African Commission has passed a number of thematic resolutions, sometimes referred to as guidelines, covering a wide range of themes including death penalty, indigenous peoples, situation of women and children, socio-economic rights, HIV/AIDS, electoral process and good governance, prisons, freedom of association, and fair trial. For examples of thematic resolutions, see https://www.achpr.org/resources.</p>
b. Administrative Resolutions	Administrative Resolutions deal with the procedures, internal mechanisms between the African Commission and other organs of the AU, intergovernmental organizations, National Human Rights Institutions and Non-governmental Organizations.
c. Country-specific Resolutions	Country-specific Resolutions deal with specific human rights concerns in African countries.

General Comments	Similar to thematic resolutions, General Comments are designed to provide greater detail regarding the substantive and procedural obligations of States parties to certain rights in a treaty. General Comments go further to assist, interpret and clarify how States parties are to give effect to treaty and reporting obligations.
Guidelines	Similar to thematic resolutions and General Comments, Guidelines provide guidance and clarification on substantive and procedural obligations of States parties. Examples of Guidelines are the State Reporting Guidelines on the African Charter and the Maputo Protocol. These Guidelines provide clarity on how States parties should report on these treaties, for instance, what should be the format and contents of the reports.

To date, all General Comments adopted related to the Banjul Charter and the Maputo Protocol have made special reference to women and people with disabilities. These General Comments, Thematic Resolutions, Guidelines, or Principles can be found at: <https://www.achpr.org/resources>.

Example of General Comments

General Comment No. 2 on Article 14.1 (a), (b), (c) and (f) and Article 14. 2 (a) and (c) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa

53. *It is crucial to ensure availability, accessibility, acceptability and good quality reproductive health care, including family planning/contraception and safe abortion for women. States should ensure services that are comprehensive, integrated, rights-based, sensitive to the reality of women in all contexts, and adapted to women living with disabilities and the youth, free from any coercion, discrimination and violence.*
54. *They should integrate and/or link family planning/contraception and safe abortion services funded by public resources to other services relating to reproductive health, primary health care, HIV and other sexually transmitted infections.*

This General Comment can be found at: <https://www.achpr.org/legalinstruments/detail?id=13>.

2. Reviewing **State Reports** to monitor compliance with States' human rights obligations and issue **Concluding Observations**. States are required to submit a report to the African Commission every two years on the measures they have taken to implement the Banjul Charter and any additional protocols the State has ratified. The African Commission will review the report and adopt concluding observations that acknowledge the progress made, express concerns about possible human rights violations, and offer recommendations to improve compliance. Examples of Concluding Observations issued by the African Commission can be found at: <https://www.achpr.org/statereportsandconcludingobservations>

Example of Concluding Observations

Concluding Observation No. 2 on Article 14.1 (a), (b), (c) and (f) and Article 14. 2 (a) and (c) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa

IV. Areas of Concern

69. *The existence of customary discriminatory practices such as patriarchal attitudes and deep-rooted stereotypes regarding the roles, responsibilities and identities of women and men in all spheres of life, as well as traditional beliefs resulting in acts of torture and violence against elderly women on account of suspicion of practicing witchcraft;*

V. Recommendations to the Government of the Republic of Malawi

102. *Adopt a comprehensive strategy to modify or eliminate negative cultural practices and stereotypes which are harmful to and discriminate against women, and to promote women's full enjoyment of their human rights...*

These Concluding Observations can be found at:

<https://www.achpr.org/sessions/concludingobservation?id=95>

3. Hearing **Individual Complaints** (or **Communications**). **NGOs and individuals** can file individual complaints alleging violations of the rights protected in the Banjul Charter, as well as the Maputo Protocol and, when it comes into effect, the Disability Protocol. The African Commission will examine the facts and review arguments of parties to determine whether there has been a violation and, if so, will recommend what the State must do to remedy the violation.

In the context of individual complaints, the African Commission can:

- a. facilitate **friendly settlements** (negotiations between the victim and the State to reach an agreement);
- b. call on the State to take **provisional measures**, while the case is pending before the African Commission, to **prevent irreparable harm to the victim or victims of the alleged violation**;
- c. decide to treat the complaint as an Emergency, where there is evidence of “**serious or massive violations of human and peoples' rights**” or of a situation that presents the **danger of irreparable harm**. In such cases, the Commission may issue **Urgent Appeals** to communicate time-sensitive information requesting State authorities to take urgent interventions.

Example of Individual Complaints

[*Purohit and Moore v. The Gambia* \(Communication. No. 241/01 \(2003\)\)](#)

This case concerns the detention of people with mental disabilities in psychiatric hospitals. Mental health advocates, on behalf of patients detained in a psychiatric unit of a hospital and future mental health patients, complained that the Lunatics Detention Act (LDA) of the Republic of The Gambia, allows for automatic and indefinite institutionalization of any person described as a “lunatic” without due process. The African Commission found that the State party had violated the rights of people with mental disabilities to equality and non-discrimination, dignity, fair trial, liberty, and health under the Banjul Charter.

This Individual Complaint can be found at: <http://caselaw.ihrda.org/doc/241.01/>.

A list of individual complaints and decisions can be found at: <http://www.achpr.org/communications/>; and <http://caselaw.ihrda.org/>.

4. Conduct **Missions** in African Union (AU) member states to investigate and disseminate information. The African Commission conducts two types of missions:
- Protective missions**, which typically include **on-site visits**, for example to investigate specific facts relating to a pending individual complaint or allegations of **massive and serious human rights violations**; and
 - Promotional missions**, which are undertaken by the Commission or its Special Mechanisms to sensitize States about the role of the Banjul Charter, to encourage States to ratify the Banjul Charter or other human rights instruments, or to persuade non-reporting States to comply with their reporting obligations.

Example of Promotional Missions

[Report of the Human Rights Promotion Mission to the Gabonese Republic \(2014\)](#)

35. *With regard to women's rights, the concerns of the members of the delegation centred on the issue of the legal status of Gabonese women, domestic violence, gender-related violence, the persistence of certain traditions and customs considered as human rights violations and the representation of women in the decision-making positions.*

279. *Following the mission and taking into account the challenges identified, the Commission makes the following recommendations:*

Protecting Women's Rights

- *Take appropriate measures, including legislative ones, in order to change cultural and traditional customs and practices which affect the rights of women, particularly widowhood rites;...*

Special Mechanisms

<https://www.achpr.org/specialmechanisms>

Subsidiary special mechanisms, including **Special Rapporteurs**, **Committees** and **Working Groups**, are mandated by the African Commission to:

- ▶ collect information and research on specific human rights issues;
- ▶ investigate human rights violations through fact-finding missions;
- ▶ develop recommendations and strategies, engage in dialogues with States and raise awareness of human rights.

The Special Rapporteurs and Committees focus on monitoring and awareness-raising, while the Working Groups are tasked to develop principles, guidelines, and strategies on certain issues. These mechanisms report to the African Commission during its sessions.

Example of Special Mechanisms concerning Women and Girls with Disabilities

The [Special Rapporteur on the Rights of Women](#) works with States to ensure compliance with the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

The [Working Group on Rights of Older Persons and People with Disabilities](#) is charged with clarifying and defining the rights of older persons and people with disabilities, including by developing protocols on the rights of older persons and people with disabilities, such as the new Disability Protocol.

While the above two special mechanisms work explicitly on women and persons with disabilities, other thematic special mechanisms may also address rights of women with disabilities. A list of special mechanisms can be found here: <https://www.achpr.org/specialmechanisms>.

■ African Committee of Experts on the Rights and Welfare of the Child (ACERWC)

The African Committee of Experts on the Rights and Welfare of the Child (ACERWC) promotes and protects the rights and welfare of children and is currently the only regional treaty body worldwide focused solely on children's rights. The Committee's main mandates include:

- ▶ **collecting information** on the situation of children and **making recommendations** to States where necessary,
- ▶ **establishing principles** for protecting the rights of African children,
- ▶ **interpreting** and **monitoring compliance** with the Children's Charter.

Similar to but independent from the African Commission, the ACERWC performs several functions to achieve its mandate, including **holding regular sessions**, **monitoring State Reports**, and hearing **Individual Complaints** (or **Communications**). Dates of upcoming sessions are usually posted on the ACERWC's homepage: <https://www.acerwc.africa/>.

Example of Individual Complaints at the ACERWC

The Institute for Human Right and Development in Africa and Finders Group Initiative on behalf of TFA (a minor) V. The Government of Republic of Cameroon (Communication No.006/Com/002/2015)

The case concerns the multiple rape of a 10-year-old girl by a prominent and influential businessman. The Complainants submitted that the authorities in Cameroon had failed to adequately and effectively investigate the crime of rape perpetrated against a minor. The ACERWC found the State in violation of its obligations including non-discrimination and protecting children against abuse and torture. Its finding on a violation of the principle of non-discrimination adds value to the African human rights jurisprudence as it found that gender-based violence amounts to gender-based discrimination. The decision gives due recognition to the fact that gender-based violence is perpetrated as a result of discriminatory beliefs and stereotypes against women and hence perpetuates women's inferiority thereby violating the principle of non-discrimination on any ground, including gender. ACERWC recommends that the Republic of Cameroon immediately ensure that the perpetrator of rape is prosecuted and ensure effective remedy for the victim. It further requires that Cameroon enact and implement legislation eliminating all forms of violence, including sexual violence against children; train its police, prosecutors, and judiciary; establish a mechanism to support victims of sexual abuse; and work towards the elimination of practices, custom, and stereotypes that legitimize abuse of children.

This Individual Complaint can be found at: <https://acerwc.africa/wp-content/uploads/2018/13/Cameroon%20Rape%20Case.pdf>.

Other Individual Complaint decisions can be found at: <https://www.acerwc.africa/table-of-communications/>

■ The African Court on Human and Peoples' Rights (African Court)

The African Court was established and created under the Protocol to the African Charter on Human and Peoples Rights on the Establishment of an African Court on Human and Peoples Rights (African Court Protocol). In general, the African Court complements the mandate of the African Commission in promoting compliance with the Banjul Charter and its additional protocols, including the Maputo Protocol and, once it enters into force, the Disability Protocol. The African Court may:

- ▶ **hear cases and disputes** concerning the interpretation and application of the Banjul Charter and any other relevant human rights instruments ratified by the state concerned. After deciding a case on the merits, the African Court will make appropriate orders to remedy the violation, including the payment of fair compensation or reparation. Case decisions issued by the African Court can be found at: <http://en.african-court.org/index.php/cases/2016-10-17-16-18-21>.
- ▶ **facilitate friendly (or amicable) settlements** between parties and/or adopt **provisional measures** in cases of emergency, similar to what the African Commission can do.
- ▶ **issue advisory opinions** on legal matters relating to the treaties that it monitors, upon request of the AU or its organs, member states of the AU, and any African organization recognized by the AU (meaning an African organization which is granted Observer Status by the AU, not the African Commission, or has signed a Memorandum of Understanding with the AU). Advisory Opinions issued by the African Court can be found at: <http://en.african-court.org/index.php/cases/2016-10-17-16-19-35>.

Example of Case before the African Court

The Institute for Human Rights and Development in Africa (IHRDA) v. Republic of Mali (Application No. 046/2016 (2018))

This is the first case in which the African Court found violations of the Maputo Protocol. The African Court held that the Family Code of Mali violates women's rights recognized in the Maputo Protocol and the ACRWC because it allows for child marriage and in some circumstances without consent of the marrying parties, as well as allowing application of Islamic Law which gives women only half of the inheritance that men receive.

This case can be found at: <http://en.african-court.org/index.php/55-finalised-cases-details/942-app-no-046-2016-apdf-ihrda-v-republic-of-mali-details>

Chapter 2: Opportunities for Civil Society Engagement

Civil society plays an important role in the African human rights system by providing essential information to the regional human rights mechanisms discussed above to ensure that the system is responsive to the human rights situation on the ground, including for women and girls with disabilities.

The African system is complex and offers multiple forums and opportunities for civil society to engage with it. While the process to engage with different bodies can be similar, it is important to check with those bodies separately regarding their requirements for civil society engagement. Advocates can also use these instruments and mechanisms in complementary ways to strengthen the efficacy of their advocacy strategies.

Participation in General Comments Drafting Process

When the African Commission or ACERWC draft new General Comments, they may call for public comments, with participation from anyone willing to take part in the consultative process. Usually the Call for Comments will be posted on the websites of the African Commission (<http://www.achpr.org/>) and ACERWC (<https://www.acerwc.africa>) and it will include information on who, what, when, and how to provide comments and contributions.

Participation in African Commission/ACERWC Sessions

Civil society can participate in the African Commission and the ACERWC sessions by **proposing agenda items, attending sessions and making statements** (where NGOs have observer status), advocating and networking at the **NGO Forum/CSO forum** held before the sessions, and organizing **side events**.

Applications for Observer Status

NGOs can apply for observer status before the African Commission and the ACERWC to better advocate for the rights of women and girls with disabilities. Please note that observer status before the African Commission and the ACERWC are granted separately.

Guidelines on how to apply for Observer Status before the African Commission:

<http://www.ijrcenter.org/wp-content/uploads/2016/11/Advocacy-before-the-African-Human-Rights-System.pdf>.

Guidelines on how to apply for Observer Status before the ACERWC,

https://archive.crin.org/en/docs/Advancing_Children_Rights_2nd_Edition.pdf.

Please also see the appendixes for instructions on applying for Observer Status before the two bodies and sample cover letters.

To participate in sessions of the African Commission, an NGO should submit the Preliminary Registration Form to the Secretariat of the African Commission not later than the date specified in the Invitation for NGOs. Information about the African Commission's sessions can be found at: <http://www.achpr.org/sessions/>, which includes Invitations to NGOs, the Preliminary Registration Form, and logistical information for participants.

NGOs can also propose agenda items for the African Commission’s Ordinary Sessions. A proposal to include items in the session’s provisional agenda should be communicated to the Secretary, accompanied by supporting documents, not later than 60 days before the opening of the session at which these items are to be discussed. If the request is accepted, the Secretary will include the item on the Provisional Agenda of the session and inform the requesting party of this decision within one month.

If NGOs would like to speak during a session, they need to inform the Secretariat of the African Commission and provide the text of the statement for the Chairperson for approval, with “sufficient lead-time.” Therefore, it is suggested that NGOs wishing to speak during the session send the request to make a statement as early as possible.

Participants may circulate their documents in the conference area of the African Commission but must seek written authorization from the Secretary to the African Commission for this.

Table 2:	General Procedures for Civil Society and NGO Participation in African Commission Sessions
How to be invited and participate in the African Commission’s Ordinary Session	<p>Submit the Preliminary Registration Form to the Secretariat of the African Commission. (Specified dates for submission would be indicated in NGO invitation).</p> <p>For more information: http://www.achpr.org/sessions/</p>
How to propose agenda items at the African Commission’s Ordinary Sessions	<p>Proposals on agenda items should be sent to the Secretariat of the African Commission with any supporting documents, not later than 60 days before the opening of the session at which these items are to be discussed. Accepted items will be included on the Session’s Provisional Agenda The requesting party would be duly informed of this decision within one month.</p>
How to speak /issue statements at the African Commission’s Ordinary Sessions	<p>First, inform the Secretariat of the African Commission during the first few days of the session. Then, provide the text of the statement to the Chairperson for approval, with “sufficient lead-time.” A register is usually provided that requires the NGO observer status number.</p> <p>Statements must be provided as early as possible. Written authorizations must be received from the Secretary to the African Commission for the distribution of their documents.</p>

There are currently no available formal instructions regarding procedures for NGOs to participate in the ACERWC’s sessions. It is recommended that NGOs contact ACERWC in advance of its sessions and request to participate. Dates of upcoming sessions of ACERWC can be found at <https://www.acerwc.africa>.

NGOs with Observer Status

Some engagement opportunities are reserved for NGOs with Observer Status, including:

- proposing agenda items to and speaking in African Commission/ACERWC public sessions;
- attending closed meetings during the sessions of the African Commission and the ACERWC; and
- bringing individual cases directly or indirectly to the African Court.

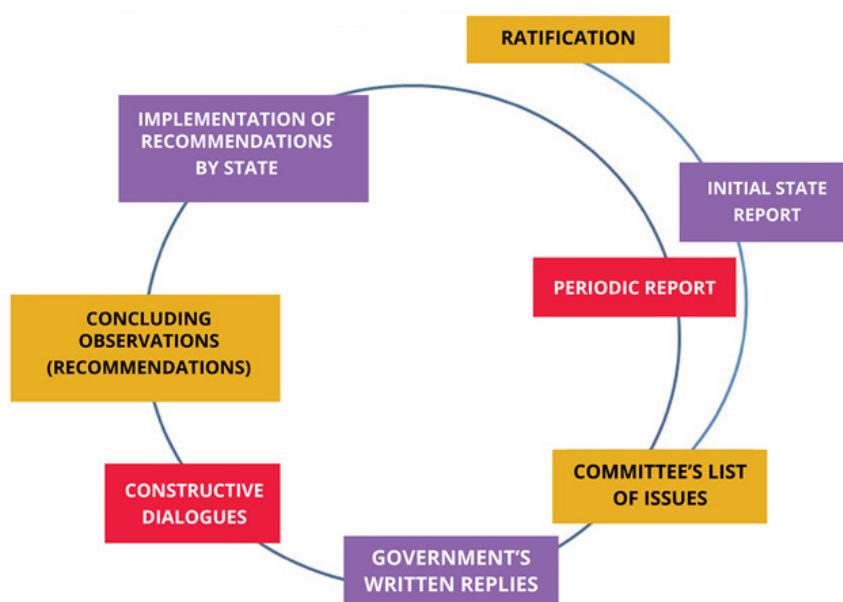
In accordance with the terms of Article 5(3) of the Protocol, the African Court only accepts direct applications from NGOs with observer status before the African Commission. Cases may be submitted by members of those NGOs in their individual capacity on behalf of the victims in question.

Participation in the State Reporting Process

Any person or group, regardless of whether they hold observer status, may submit a **Shadow Report** to the African Commission (**Complimentary Report** for the ACERWC) to complement the information in the State Report on the human rights situation, as well as to provide alternative perspectives on the human rights situation in a given country

Article 62 of the Banjul Charter requires States to submit periodic reports to the African Commission. *Article 26* of the Maputo Protocol also requires States parties to the Protocol to include in their periodic reports to the African Commission pursuant to article 62 of the Charter a report on legislative and other measures they have taken to implement the provisions of the Protocol. The report of States parties to both the Charter and the Maputo Protocol must consist of two parts: Part A, dealing with the rights in the Banjul Charter, and Part B, dealing with the rights in the Maputo Protocol.

Figure 1: State Reporting Process in Brief



Action	Description	Actor
Step 1: Ratification	States give formal consent to be bound by the provisions of the treaty.	State governments
Step 2: Submission of Initial or Subsequent / Periodic Reports	After ratification, States parties are expected to submit a report. The first report is usually called the Initial Report. Reports submitted after the initial report are called Subsequent/Periodic Reports.	The process of drafting and compiling the report is usually done by representatives of State governments in consultation with and with the involvement of relevant stakeholders in the country such as NGOs and NHRIs.
Step 3: Submission of Shadow Reports	As governments submit State Reports, NGOs can draft and compile shadow reports to complement or “shadow” the information provided in the State Report.	The process of drafting and compiling the shadow report is usually done by NGOs.
Step 4: African Commission’s list of issues and questions	After submission of the State Report, the African Commission’s experts develop a list of issues and questions to be sent to the State before the formal examination of the report.	This list of issues is developed by the African Commission experts but with input from NGOs and information drawn from shadow reports compiled by NGOs.
Step 5: Constructive Dialogue with States parties and African Commission experts	During the formal examination of the State Report at the African Commission’s Session, there is dialogue and conversations between the African Commission’s experts and representatives of State governments.	The dialogue is usually informed by information in the State Report and other alternative sources such as information drawn from shadow reports compiled by NGOs.
Step 6: Issuing Concluding Observations and Recommendations	After the formal examination of the State Report at the African Commission’s Session, the Commission issues concluding observations and recommendations to the State party.	These concluding observations and recommendations are developed by the African Commission experts. The Concluding Observations are informed by information drawn from the State Report and other alternative sources such as information drawn from shadow reports compiled by NGOs.
Step 7: Publicizing Concluding Observations and Recommendations	After the concluding observations and recommendations have been issued by the African Commission, these documents have to be publicized to the citizens of the state party.	Publicizing and popularizing of the concluding observations are usually done by the state party and NGOs.
Step 8: Implementation of Concluding Observations and Recommendations	After the concluding observations and recommendations have been issued by the African Commission, these recommendations should be implemented in the State.	The implementation of concluding observations is usually done by the State governments, together with NGOs who also monitor implementation.
The state reporting process then begins again at Step 2! The Banjul Charter requires States to submit two types of reports: and initial report and periodic reports. States are required to submit initial reports within two years after ratification or accession to the Charter. Periodic reports are required to be submitted every two years after the initial report.		

Source: [State Reporting Website](#)

State reporting information before the **African Commission** can be found on the website of the African Commission at <http://www.achpr.org/states/>. One has access to State Reports submitted by States parties and concluding observations issued by the African Commission as well as the dates on which the African Commission is going to consider a State party's report (dates are usually only available if the State is going to be reviewed in an upcoming session). Shadow reports should be sent to the Secretary at least 60 days prior to the examination of the report. The African Commission does not set a format for shadow reports.

The Advocates for Human Rights has provided a template for shadow reports to the African Commission which is available here: https://www.theadvocatesforhumanrights.org/uploads/app_p.pdf.

It also provides a guide on "10 Steps to Writing a Shadow Report":
https://www.theadvocatesforhumanrights.org/uploads/app_m.pdf.

The ACERWC provides detailed **guidelines for the complementary reports**, available at:
https://acerwc.africa/wp-content/uploads/2018/08/Guidelines_for_Civil_Societies_Organisations_Complementary_Report_Eng.pdf.

State reporting agendas for the **ACERWC** can be found at <https://reporting.acerwc.africa/>.

Engaging with Special Mechanisms and African Commission Missions

Civil society organizations can encourage special mechanisms to conduct fact-finding missions and country visits by addressing requests to the Chairperson or Secretary of the African Commission or directly to the special rapporteur or working group that would be likely to conduct such a mission. If the special mechanism decides to undertake a mission, NGOs can assist with this work by providing information, reports, and advice on places to visit and stakeholders to contact ahead of the visit.

Civil society can actively communicate with the Special Mechanisms and the Commissioners of the African Commission by providing independent information in person or in writing on specific human rights topics, as well as encouraging recommendations and reports on the situation of women and girls with disabilities regarding their rights.

NGOs are encouraged to contact Special Rapporteurs and Commissioners to introduce their work, provide information, and request meetings as well as visits by them to specific countries. Information regarding special mechanisms can be found at <https://www.achpr.org/specialmechanisms>

Requesting an Advisory Opinion from the African Court

NGOs with observer status before the African Commission can request **advisory opinions** from the African Court. Since advisory opinions are interpretations of regional law, rather than judgments on an individual case, they apply equally to all States that have ratified the relevant treaty. As a result, advisory opinions can be a powerful tool for clarifying what States must do to protect the rights of women and girls with disabilities.

The request for an advisory opinion should be on legal matters and should state with precision the specific questions on which the opinion of the African Court is being sought. Any request for an advisory opinion should specify the provisions of the Banjul Charter or of any other international human rights instrument in respect of which the advisory opinion is being sought, the circumstances giving rise to the request, and the names and addresses of the representatives of the entities making the request. The subject matter of the request for an advisory opinion should not relate to an application pending before the African Commission.

The request should be directed to the Registrar of the African Court on Human and Peoples' Rights. (Mwalimu Julius Nyerere Conservation Centre, Dodoma Road, P.O. Box 6274 Arusha, Tanzania; Phone: +255-27 2970430; Email: registrar@african-court.org) Once the Registrar receives a request for an advisory opinion, it sends copies of the request to member states, the African Commission, and any other interested entity. Within the time limit set by the African Court, States parties can file written submissions. Other interested entities, for example NGOs, can do the same if authorized by the African Court. After considering the written submissions, the African Court has the option to set a date for oral proceedings to take place. Once the African Court has finalized the advisory opinion, it will deliver the opinion in open court, unless it decides otherwise.

Advisory opinions issued by the Court can be found at: <http://www.african-court.org/en/index.php/cases/2016-10-17-16-19-35#finalised-opinions>. In the “Pending Opinions” section, one can access requests that are under consideration and can participate by filing written submissions.

Bringing Individual Complaints to African Regional Human Rights Bodies

NGOs can bring individual complaints before the African Commission, the African Court, and ACERWC. Each body has its own criteria and procedures for accepting and hearing a complaint. For example:

- ▶ any individual or NGO can bring a complaint before the African Commission;
- ▶ ACERWC can only hear complaints initiated by individuals (including children) or NGOs legally recognized in AU member states;
- ▶ Only NGOs or individuals with observer status before the African Commission can initiate cases directly with the African Court, and even then, only if the State in question has made a declaration accepting the competence of the African Court to receive cases from NGOs and individuals. As of March 2020, only seven of the thirty States parties had made this declaration, including Burkina Faso, Côte d'Ivoire, Ghana, Malawi, Benin, Tunisia, Gambia and Mali. Rwanda withdrew its declaration providing the right of individuals and NGOs to directly access the Court in 2016, Tanzania did so in 2019 and Benin in 2020.⁴

When it appears from a complaint that there exist **serious or massive violations of human or peoples' rights**, or a situation that presents the **danger of irreparable harm**, NGOs that have brought the complaint can ask for **Provisional Measures to prevent irreparable harm to the victim or victims of the alleged violation**. Since the main requirement for requesting provisional measures is that they must be necessary to prevent irreparable harm, NGOs should explain clearly the danger and imminence of irreparable harm to the victim in the request. NGOs should also submit the request as soon as possible in order to obtain a timely decision.

When a communication is under consideration, NGOs can submit **amicus curiae briefs** to the hearing body. Amicus curiae briefs are submissions by individuals or organizations who are not parties to a case but who would like to offer additional information or arguments before the hearing body to help it decide.

A sample complaint can be found at:

https://d3n8a8pro7vnm.cloudfront.net/equalitynow/pages/303/attachments/original/1527598602/Manual_on_Protocol_on_Women_Rights_in_Africa_EN.pdf on pages 42-46.

Example of Provisional Measures

On February 24, 2011, the Egyptian Initiative for Personal Rights (EIPR), Human Rights Watch, and INTERIGHTS – all NGOs – jointly submitted a request for provisional measures to the African Commission. They requested the African Commission to ask Libya to “stop the human rights violations, including the unlawful killings, and to ensure that those responsible for crimes are held accountable.” The following day, the African Commission called on Libya to “immediately end the violence against civilians and take necessary steps to ensure that the human rights of its citizens and all its inhabitants are respected.”

On March 3, 2011, the African Commission instituted proceedings against Libya before the African Court for “serious and massive violations of human rights.” The African Court, of its own accord, issued provisional measures, requesting Libya to “refrain from any action that would result in loss of life or violation of physical integrity of persons” and to report to the Court on the measures taken to implement the order within 15 days.

More about provisional measures can be found at: International Justice Resource Center, Advocacy before the African Human Rights System: A Manual for Attorneys and Advocates,

<http://www.ijrcenter.org/wp-content/uploads/2016/11/Advocacy-before-the-African-Human-Rights-System.pdf>, 122-124.

Chapter 3: Advocacy Strategies

Several questions can help advocates identify what advocacy opportunities are available to them and which forums and actions would be most strategic:

- ▶ What African human rights system documents has the country in question ratified?
- ▶ Does the country have any reservations or declarations to any of the provisions of the African human rights instruments to which it is a party?

Reservations or declarations are statements made by States to exclude or to modify the legal effect of certain provisions of the African human rights instrument in their application to the reserving states.

Example of Reservations to the Banjul Charter

EGYPT

Having considered the African Charter on Human and Peoples' Rights, the Arab Republic of Egypt signed the said Charter on 16 November 1981 and attached hereto is the following instrument of ratification:

Having accepted all the provisions of the African Charter on Human and Peoples' Rights with the approval of the People's Assembly and with the reservation that article 8 [right to freedom of conscience] and paragraph 3 of article 8 and paragraph 3 of article 18 [elimination of discrimination against women] be implemented in accordance with the Islamic Law....

- ▶ Does the country recognize the competency of the African human rights bodies to hear individual complaints?
- ▶ Which African human rights system mechanism(s) can best address the issue on which you are working, given the benefits and challenges for different mechanisms? For example, the African Court has the broadest jurisdiction to hear complaints about all human rights instruments, but only a few AU member states have authorized it to accept cases directly from NGOs with observer status, while any individuals and NGOs can submit complaints to the African Commission.
- ▶ Are there any upcoming African human rights system activities such as sessions or country reviews? It is helpful to examine the calendars of different mechanisms to prepare in advance. With this information in mind, NGOs can engage multi-level and multi-forum advocacy as opportunities arise, on their own or in partnership or coalition with other organizations, with the aim to exert maximum influence on states to improve their policies and practices.
- ▶ Are there other groups or organizations sharing similar goals with which you can work? Working with others can bring together various areas of expertise and skill sets. In addition, joint initiatives, such as submitting joint submissions with other organizations, can amplify the voices of an organization and increase the quality and credibility of advocacy. However, on the other hand, joint submissions with other groups may limit the issues you can raise regarding women with disabilities due to space constraints on submissions.
- ▶ Do you have an effective media strategy in place to help raise public awareness of the issue you are working on and for putting pressure on or mobilizing key decision-makers around the issue?
- ▶ Do you have adequate organizational resources, including staff, time and relevant expertise to develop the submission? And do you have resources to go to the session of the relevant AU body in person to present your submission? This is not always necessary but can enhance your effectiveness.

Glossary

Acronyms and Abbreviations

AU	African Union
OAU	Organisation of African Unity
CRPD	Convention on the Rights of Persons with Disabilities
NGO	Non-governmental organization
Banjul Charter	African Charter on Human and Peoples' Rights
Maputo Protocol	Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa
African Disability Protocol	Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa
ACRWC	African Charter on the Rights and Welfare of the Child
African Commission	The African Commission on Human and People's Rights
ACERWC	African Committee of Experts on the Rights and Welfare of the Child
African Court	The African Court on Human and Peoples' Rights
WEI	Women Enabled International

Terminology

Advisory Opinion: An opinion issued by a court (here the African Court) that does not have the effect of adjudicating a specific legal case, but merely advises on the interpretation of a legal document.

Amicable Settlement: An alternate outcome to an individual communication where an agreement can be reached that is satisfactory to both parties rather than having a case dismissed or decided in favor of one of the parties.

Amicus Curiae Briefs: Submissions by individuals or organizations who are not parties to an individual communication but who would like to offer additional information or arguments before a human rights body to help it make a decision.

Concluding Observations: An assessment of the degree to which a State has implemented a human rights treaty/charter. The African Commission issues concluding observations at the end of a State reporting cycle acknowledging progress made toward implementation of the African Charter and relevant instruments, expressing concern about situations where the State is not in compliance with the Charter, and offering recommendations on how the State can improve implementation.

Harmful Practices: Behavior, attitudes and practices based on tradition, culture, religion, superstition or other reasons, which negatively affect the human rights and fundamental freedoms of a certain group of people or perpetuate discrimination against them.

Gender-Based Violence: Violence based on gender that results in, or is likely to result in, physical, sexual, or mental harm or suffering, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.

General Comments/Recommendations: Authoritative interpretations of treaty/charter rights and obligations, typically seeking to clarify the normative content of the rights protected by the treaty/charter and/or State's obligations under the treaty/charter, published by human rights bodies.

Individual Communication (or Complaint): Claim filed on behalf of an individual who claims that her or his rights under a treaty/charter have been violated by a State party.

Intersectionality: Identifying characteristics—such as sex, disability, age, race or ethnicity, national origin, or social status—overlap or intersect to expose an individual (or groups of individuals) to heightened risk or unique forms of discrimination.

Legal Capacity: The ability to hold rights and duties and to exercise those rights and duties.

Non-State Actor: A private individual, corporation, or organization who is not acting on behalf of any governmental body.

Observer Status: A privileged status granted by African regional human rights bodies to non-members to give them an ability to participate in these bodies' activities. Observers generally have a limited ability to participate, lacking the ability to vote.

Protocol: A treaty that is supplementary to the primary treaty/charter. In the context of the African regional human rights system, protocols so far are used to supplement the African Charter's articles concerning rights of specific groups of people and to improve its functioning procedures.

Person(s) with Disabilities: The generally preferred term to refer to an individual with a disability, recognizing that the individual is a person first and foremost.

Person(s) without Disabilities or Non-disabled Persons: The appropriate terms to refer to persons who do not have any disabilities as a comparison to the experience of those who do have disabilities. NOTE: Do not use the term “normal” to refer to individuals who do not have any disabilities.

Provisional Measures: Measures that aim to prevent irreparable harm to the victim or victims of an alleged human rights violation. The African Commission or African Court may request a State party to an individual communication to take such measures in the process of resolving a communication.

Ratify: A legal term to describe when a State consents to be bound by the terms of a treaty/charter.

Reasonable Accommodation: Necessary and appropriate modifications and adjustments where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human and people’s rights.

Reservations and Declarations: Statements made by a ratifying State party (usually at the time of ratification) that seek to exclude or modify the legal effect of a treaty/charter provision.

Secretariat (of a regional human rights body): The executive arm of a regional human rights body responsible for carrying out the body’s day-to-day work.

Shadow (Complementary or Alternative) Report: A report prepared by civil society to supplement the information provided by the government during a periodic State review by an international or regional human rights body.

State Actor: An individual or entity acting on behalf of a governmental body.

State Party: A State that has ratified a treaty/charter and is therefore legally bound by the obligations under the treaty/charter.

State Report: The report a State party to a human rights treaty/charter prepares every few years detailing what steps it is taking to implement the treaty/charter.

Traditional or Customary Law: Laws, practices, and customs of indigenous, religious, or local communities that may operate alongside of national laws and policies.

Treaty (Charter): An international legal agreement between two or more States where the parties agree to be bound by the terms of the written agreement.

Additional Resources

■ Main African Human Rights Bodies

- ▶ African Union, <https://au.int/en>
- ▶ African Commission on Human and People's Rights, <http://www.achpr.org/>
- ▶ African Court on Human and People's Rights, <http://en.african-court.org/>
- ▶ African Committee of Experts on the Rights and Welfare of the Child, <https://www.acerwc.africa>
- ▶ Special Rapporteur on Rights of Women, <https://www.achpr.org/specialmechanisms/detail?id=6>
- ▶ Working Group on Rights of Older Persons and People with Disabilities, <https://www.achpr.org/specialmechanisms/detail?id=12>

■ Documents of the African Human Rights Bodies

- ▶ The status of ratifications for human rights documents by AU member states: <https://au.int/en/treaties>
- ▶ Main regional human rights documents including **treaties, general comments and resolutions**: <https://www.achpr.org/resources> including African Charter on Human and Peoples' Rights and Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.
- ▶ Draft Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa: <https://au.int/sites/default/files/treaties/36440-treaty-protocol-to-the-achpr-on-the-rights-of-persons-with-disabilities-in-africa-e.pdf>

■ African Human Rights Mechanisms

- ▶ **State reporting information** before the African Commission: <http://www.achpr.org/states/>.
On this webpage, one has access to **state reports** submitted by States parties and **concluding observations** issued by the Commission, as well as **decisions on individual complaints** against the state and **mission reports** about the state.
- ▶ **NGO reporting** guideline for the ACERWC: https://acerwc.africa/wp-content/uploads/2018/08/Guidelines_for_Civil_Societies_Organisations_Complementary_Report_Eng.pdf
This document provides guidance on submission of complimentary reports by NGOs, including contents and format of the complimentary reports, timeline of submission etc.
- ▶ International Justice Resource Center, *Advocacy before the African Human Rights System: A Manual for Attorneys and Advocates*, <http://www.ijrcenter.org/wp-content/uploads/2016/11/Advocacy-before-the-African-Human-Rights-System.pdf>.
This manual provides a detailed introduction to the African human rights system, including how NGOs can **apply for observer status**, how to **bring individual communications** to the African Commission and the African Court etc.

- ▶ Save the Children and Plan, *Advancing Children's Rights: A Guide for Civil Society Organisations on How to Engage with the African Committee of Experts on the Rights and Welfare of the Child (2nd Edition)*, https://www.crin.org/en/docs/Advancing_Children_Rights_2nd_Edition.pdf.

This manual provides a detailed introduction to the ACERWC including how NGOs can **apply for observer status** and engage with the Committee.

- ▶ Equality Now, *A Guide to Using the Protocol on the Rights of Women in Africa for Legal Action*, https://d3n8a8pro7vhmx.cloudfront.net/equalitynow/pages/303/attachments/original/1527598602/Manual_on_Protocol_on_Women_Rights_in_Africa_EN.pdf?1527598602.

This manual provides a detailed introduction to the Maputo Protocol and how to this protocol at domestic and regional levels, including how to submit complaints to the African Commission and the African Court, as well as strategies to promote the Maputo Protocol through ratification campaigns, awareness raising and training etc.

■ Cases

- ▶ Case Law Analyser: <http://caselaw.ihrda.org/>.

This is a free collection of the human rights decisions of African regional mechanisms. It offers regional legal documents as well as case law in English, French and Portuguese. The decisions are categorized by adjudicating bodies, keywords (issues), countries and articles of instruments that are relevant. Among the keywords (issues), 'women's rights' is included, but there is no listing for 'disability rights'.

Appendix: Instructions and Sample Cover Letters for Applying for Observer Status before the African Commission and ACERWC

■ Applying for Observer Status before the African Commission on Human and People's Rights (African Commission)

Eligibility for NGOs:

Your organization must:

- ▶ Have objectives and activities in line with the fundamental principles and objectives enunciated in the (AU) Constitutive Act, the preamble to the African Charter on Human and Peoples' Rights, and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. While not yet stated, explicitly, it is safe to assume eligible NGOs will also need to be aligned with the principles and objectives in the Protocol to the African Charter on Human and People's Rights on the Rights of Persons with Disabilities.
- ▶ Be an NGO working in the field of human rights in Africa; and
- ▶ Declare your financial resources.
- ▶ **Recent change:** In June 2018, the Executive Council of AU adopted a decision directing ACHPR to align its guidelines for granting observer status to NGOs with "the already existing criteria on the accreditation of NGOs to the AU," which place overly restrictive requirements on prospective applicants including minimum 3-year registration in a member state, an established headquarters, a management with a majority of African citizens or Africans in the Diaspora, and at least two-thirds basic resources derived from contributions of its members. This decision hinders the independence of the African Commission and will keep many NGOs from engaging with it. As of the writing of this document, these changes have not gone into effect thus we encourage you to register as soon as possible.

Documents Required:

- ▶ A letter of application addressed to the Secretariat requesting Observer Status with the African Commission;
- ▶ A list of the Board of Members, and other members of the NGO;
- ▶ The signed and authenticated Constitutive Statute of the NGO;
- ▶ The Certificate of Legal Status of the NGO issued by the relevant government authority, in the country in which the NGO is based;
- ▶ The sources of funding of the NGO;
- ▶ The latest independently audited financial statement of the NGO;
- ▶ The latest Annual Activity Report of the NGO; and
- ▶ A current comprehensive Plan of Action or Strategic Plan for the NGO, signed or approved by the relevant members of the NGO, which covers a minimum of two years, and which contains the objectives of the NGO during the specified period, the list of activities to be carried out, the timeline for their realization, the places of implementation, the strategies to implement them and the target groups.

Procedure:

- ▶ Submit required documents to the Secretariat, at least three months prior to the next upcoming Ordinary Session (dates of upcoming sessions can be found here: <http://www.achpr.org/>);
- ▶ The application will be forwarded to the Commission's Bureau (Chairperson and Vice Chairperson) who shall designate a rapporteur to examine the dossier.
- ▶ The decision of the commission shall be notified to the applicant NGO without delay.
- ▶ If there is need for more information such will be communicated.

Where to Submit Applications:

The Secretariat of the African Commission: 31 Bijilo Annex Layout, Kombo North District, Western Region P.O. Box 673 Banjul, The Gambia; Tel: (220) 441 05 05, 441 05 06; Fax: (220) 441 05 04; E-mail: au-banjul@africa-union.org.

Terms and Conditions:

- ▶ The NGOs with observer status should closely engage in regular consultations with the African Commission;
- ▶ The NGOs with observer status should present activity reports to the African Commission every two years;
- ▶ In case that NGOs are not compliant with their obligations, the African Commission may deny their participation in sessions, their access to documents and information, their opportunity to propose agenda and may suspend or withdraw their observer status.

Additional Resources:

- ▶ List of NGOs granted observer status: <http://www.achpr.org/network/>;
- ▶ Resolution on the Criteria for Granting and Maintaining Observer Status to Non-Governmental Organizations working on Human and Peoples' Rights in Africa: <http://www.achpr.org/sessions/resolutions?id=373>.
- ▶ Draft Criteria for Granting Observer Status and for a System of Accreditation within the AU, <http://www.peaceau.org/uploads/ex-cl-195-vii-e.pdf>, adopted by Executive Council Decision EX.CL/Dec. 230 (VII), https://au.int/sites/default/files/decisions/9629-council_en_28_june_2_july_2005_council_executive_council_seventh_ordinary_session.pdf.

■ Sample Cover Letter for Applying for Observer Status before the African Commission

[Insert your name, contact information and organizations address]

The Secretariat
African Commission on Human and People's Rights
31 Bijilo Annex Layout
Kombo North District
Western Region
P.O. Box 673
Banjul, The Gambia

Re: Request for Observer Status with the African Commission on Human and People's Rights.

Dear Dr. Mary Maboreke,

[Name of the application organization] is a non-governmental organization working in the field of human rights in Africa. In order to align our activities with the mission and objectives of the African Commission on Human and People's Rights ("African Commission") and promote protection and realization of human rights in Africa, we hereby seek Observer Status with the African Commission. We are placing this before the Executive Secretary for onward consideration by the Commissioners.

The objectives of [name of the applicant organization] are: [insert objectives, see instruction document for additional guidance].

The activities of [name of the applicant organization] include: [insert activities, see instruction document for additional guidance].

[Name of the applicant organization]'s objectives and activities are in line with the fundamental principles and objectives enunciated in the African Union Constitutive Act, the preamble to the African Charter on Human and Peoples' Rights, and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, and the Protocol to the African Charter on Human and People's Rights on the Rights of Persons with Disabilities.

Please find enclosed the required supporting documents for our application, which includes:

- A list of the board of members, and other members of the organization;
- The signed and authenticated Constitutive Statute;
- The Certificate of Legal Status issued by [name of the relevant government authority];
- Proof of sources of funding;
- The latest independently audited financial statement;
- The latest annual activity report;
- The statement on plan of action (or strategic plan).

Thank you for your consideration and please kindly let us know should there be any questions.

Sincerely,

[Insert name and signature]

■ Applying for Observer Status before the African Committee of Experts on Rights and Welfare of the Child (ACERWC)

Eligibility for NGOs:

Your organization must:

- ▶ Share the aim and objectives enunciated in the AU Constitutive Act, The African Charter on the Rights and Welfare of the Child (ACRWC) and ACERWC;
- ▶ Support the work of AU and the ACERWC;
- ▶ Have a recognized reputation in the field;
- ▶ Be registered in a state party to the ACRWC for at least three years before requesting observer status and with permission to work in the protection and promotion of children's rights;
- ▶ Provide proof of official recognition and activities of the organization;
- ▶ Have a recognized head office and an executive organ;
- ▶ Have democratically adopted statutes;
- ▶ Have a representative structure and democratic and transparent decision-making processes;
- ▶ Have an administration with a majority of African citizens or Africans from the diaspora and an elected children's representative whenever possible. This does **NOT** apply to international NGOs;
- ▶ **Note:** ACERWC encourages NGOs with similar interests to apply as a coalition.

Documents Required:

- ▶ A letter of application, in both English and French and enough copies for all of the ACERWC members (at least 12 copies);
- ▶ The organization's Statute or Charter;
- ▶ An updated list of members of the organization;
- ▶ Information about sources of financing including voluntary contributions from external sources (accurately indicating the amounts and names of donors);
- ▶ Copies of recent financial statements which include financial support or contributions granted directly or indirectly by a state; and
- ▶ A memorandum of activities outlining past and present activities and links in and outside of Africa.
- ▶ **Note:** Diaspora organizations must also submit the names of two AU member states or civil society organizations recognized by the AU who can attest to its authenticity.

Procedure:

- ▶ Submit required documents to ACERWC, at least three months prior to the next upcoming session; Upcoming session dates can be found there: <http://www.acerwc.org/>
- ▶ ACERWC considers the applicant NGO's application at its session;
- ▶ ACERWC notifies the applicant NGO of its decision.

Where to Submit Applications

African Committee of Experts on the Rights and Welfare of the Child: African Union Commission - Department of Social Affairs, P.O. Box 3243, Roosevelt Street (Old Airport Area), W21K19, Addis Ababa, Ethiopia; Tel: (251) 11 551 77 00; Fax:(251) 11 551 78 44; Email: info@acerwc.org

Terms and Conditions:

- ▶ The NGOs with observer status should closely engage in regular consultations with ACERWC;
- ▶ The NGOs with observer status should present analytic reports to ACERWC every two years;
- ▶ In case that NGOs are not compliant with their obligations, ACERWC may suspend or withdraw their observer status.

Additional Resources:

- ▶ List of NGOs granted observer status before ACERWC: <https://www.acerwc.africa/cso-engagements/>;
- ▶ ACERWC-CSO Engagement-Appl for Observer Status, Criteria for Granting Observer Status, https://acerwc.africa/wp-content/uploads/2018/08/ACERW_Criteria_for_Observer_Status_English-1.pdf

■ Sample Cover Letter for Applying for Observer Status before ACERWC

[Insert your name, contact information and organizations address]

African Committee of Experts on the Rights and Welfare of the Child

P.O. Box 3243, Roosevelt Street, W21K19

Addis Ababa, Ethiopia

Request for Observer Status with the African Committee of Experts on the Rights and Welfare of the Child

Dear Committee Experts,

[Name of the applicant organization] is a non-government organization working in the field of objection and promotion of children's rights in Africa for [number of years]. In order to align our activities with the mission and objectives with the Committee and promote protection and realization of children's rights in Africa, we hereby seek the Observer Status with the African Committee of Experts on the Rights and Welfare of the Child.

The objectives of [name of the applicant organization] are: [insert objectives, see instruction document for additional guidance].

The activities of [name of the applicant organization] include: [insert activities, see instruction document for additional guidance].

[Name of the applicant organization]'s objectives and activities are in consonance with the fundamental principles and objectives enunciated in the AU Constitutive Act, the African Charter on the Rights and Welfare of the Child and the African Committee of Experts on the Rights and Welfare of the Child.

Please find enclosed the required supporting documents for our application, which includes:

- [Name of the applicant organization]'s Statute or Charter;
- List of its members;
- The statement on sources of funding;
- Recent financial statements;
- A memorandum of activities;
- List of reference AU member states (or civil society organizations). *This point is only required for Diaspora organizations.*

Thank you for your consideration and please kindly let us know should there be any questions.

Sincerely,

[Insert name and signature]

End Notes

- ¹ World Health Organization (WHO) & World Bank, World report on disability 28, 30 (2011). The prevalence of disability among African girls between the ages of 0 and 14 is 6.4% and 54.3% for African women over the age of 60.
- ² See Serges Alain Djoyou Kamga, The Rights of Women With Disabilities in Africa: Does the Protocol on the Rights of Women in Africa Offer Any Hope?, Ctr. for Women Pol’y Stud. (2011), https://www.peacewomen.org/assets/file/Resources/Academic/therightsofwomenwithdisabilitiesinafrica_doestheprotocolontherightsofwomeninafric.pdf; Nigeria Stability & Reconciliation Programme, What Violence Means to Us: Women with Disabilities Speak (Aug. 2015), <http://www.nsrp-nigeria.org/wp-content/uploads/2015/09/What-Violence-Means-to-us-Women-with-Disabilities-Speak.pdf>; Ereshnee Naidu, et al., On the Margins: Violence Against Women with Disabilities, Ctr Stud. Violence & Reconciliation (2005), <http://www.csvr.org.za/docs/gender/onthemargins.pdf>.
- ³ The African Commission uses a “non-exhaustive list of grounds of discrimination” in one of its general comments and explicitly include the ground of disability. See General Comment No. 4 on the African Charter on Human and Peoples’ Rights: The Right to Redress for Victims of Torture and Other Cruel, Inhuman or Degrading Punishment or Treatment (Article 5), ¶ 20 (Feb. 23 – Mar. 4, 2017), https://www.achpr.org/public/Document/file/English/achpr_general_comment_no.4_english.pdf.
- ⁴ See, e.g., Amnesty International “Benin: Withdrawal of individuals right to refer cases to the African Court a dangerous setback in the protection of human rights” April 24, 2020. Available here: <https://www.amnesty.org/en/latest/news/2020/04/benin-le-retrait-aux-individus-du-droit-de-saisir-la-cour-africaine-est-un-recul-dangereux/>



Women Enabled International

womenenabled.org

info@womenenabled.org

Women Enabled international advances human rights at the intersection of gender and disability to: respond to the lived experiences of women and girls with disabilities; promote inclusion and participation; and achieve transformative equality.

We envision a world where women and girls with disabilities claim human rights, act in solidarity, and lead self-determined lives.