

**#AgewithRights**

**Roadmap to ratification:  
Protocol to the  
African Charter on Human  
and Peoples' Rights on the  
Rights of Older Persons**

**The Centre for Human Rights strongly urges member states of the African Union that have not ratified the Protocol on the Rights of Older Persons to do so without delay.**



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## **1. BACKGROUND TO THE PROTOCOL ON THE RIGHTS OF OLDER PERSONS**

On 31 January 2016, member states of the African Union (AU) adopted the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa (Protocol on the Rights of Older Persons). The magnitude of human rights violations against older persons in Africa continues to grow unabated and the rapid expansion of population ageing and people living longer will further exacerbate the human rights situation of older persons. The number of older persons aged 60 years and older is expected to increase from 69 million in 2017 to 226 million in 2050 (UNDESA World Population Ageing, 2017). Hence, there is an urgent need for a concerted effort by States to redress the current human rights violations against older persons through enforceable obligations. Older persons experience violations of their rights at family, community and institutional levels due to multiple forms of discrimination as a result of accumulated inequalities across their life and the intersectionality of age with disability, ethnic origin, literacy levels, gender and poverty.

Consequently, in most parts of Africa older persons experience high levels of poverty and violence as well as difficulties accessing information and education, financial services and employment. Other violations include the infringement of their right to property and inheritance, especially land, access to justice, the right to housing, privacy and access to adequate health care. Ageism is also widely tolerated, resulting in negative perceptions and attitudes towards older persons which are rarely challenged.

Experiences of ageing are not uniform. Older women are disproportionately affected by these inequalities as they live longer than older men and face a triple jeopardy of sexism, disempowerment and ageism. Older women are therefore more likely to be poor, widowed, without pension or health care, socially ostracized and abused, experience generational conflict and suffer violence in old age compared to their male counterparts. Accusations of witchcraft because of age and gender stereotypes are rife, wherein older women are sometimes forced out of their homes or even killed. In addition, older women are burdened with the care of grandchildren and sick family members (Doron *et al* 2016). These factors impact on their overall health and wellbeing in old age.

The Protocol on the Rights of Older Persons aims to ensure respect and protection of the rights of older persons. The Protocol on the Rights of Older Persons accelerates the progressive advancement of older persons' rights in many spheres of their lives.

The Protocol on the Rights of Older Persons is a transformative legal instrument providing norms and standards in protecting the rights of older persons in Africa. The Protocol provides an opportune moment to ensure that older persons enjoy their full rights and freedoms on equal basis with other population groups. When older persons' rights and entitlements related to social, economic, political and cultural spheres are protected, families and society are able to benefit from the potential and talents of older persons. Therefore, it enables the continent to fully realise its demographic dividends.

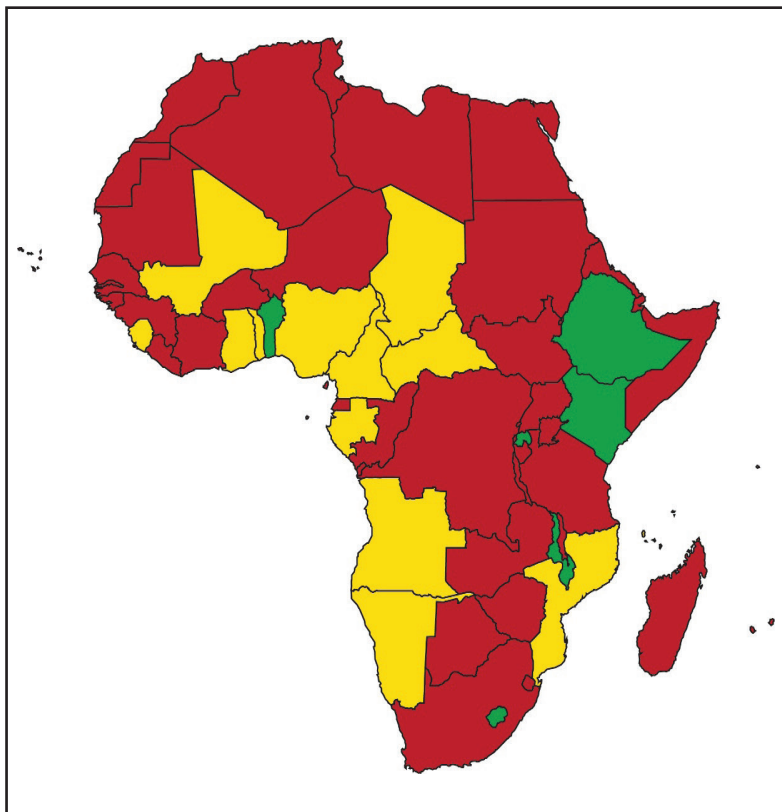
When this happens, it will be mandatory for every African Member State to design and implement action plans, policies, programmes and services that address the needs and vulnerabilities of older persons, and report on progress made in the implementation of the Protocol.

## **2. STATUS OF RATIFICATION OF THE PROTOCOL ON THE RIGHTS OF OLDER PERSONS**

The Protocol on the Rights of Older Persons will only come into force as a legal instrument when 15 of the 55 AU Member States have ratified it. As of 25 March 2022, only 6 countries have ratified the Protocol: Benin (2019), Ethiopia (2020), Kenya (2021), Lesotho (2018), Malawi (2021) and Rwanda (2022).

Eighteen countries have signed the Protocol. They are Angola, Benin, Cameroon, Central African Republic, Chad, Comoros, Gabon, Ghana, Guinea, Lesotho, Mali, Mozambique, Mauritius, Nigeria, Rwanda, Sierra Leone, Togo and Zambia.

**Map: States that have signed and ratified the  
Protocol on the Rights of Older Persons**



Green-countries that have ratified the Protocol on the Rights of Older Persons

Yellow- Countries that have signed the Protocol on the Rights of Older Persons

Red-Countries that have neither signed nor ratified the Protocol on the Rights of Older Persons

### **3. REASONS FOR RATIFYING THE PROTOCOL ON THE RIGHTS OF OLDER PERSONS**

- The Protocol on the Rights of Older Persons promotes equal participation of older persons in decision-making processes, ensuring that their potential and talents are utilised and their needs and concerns are addressed to ensure the wellbeing of millions of older persons across Africa.
- The Protocol on the Rights of Older Persons serves as a tool for the development of age-friendly policies, laws, programmes and services that address the challenges faced by older persons in order to fully exercise their human rights in Africa's increasingly ageing societies.
- The Protocol on the Rights of Older Persons provides standards and guidelines to help remove the stigma associated with ageing, while perpetuating more positive images of ageing and creating awareness of the contribution of older persons to the society.
- The Protocol on the Rights of Older Persons helps hold governments to account for their actions towards the protection of the rights of older people and to bring all countries to a similar level and standard of protection of older persons.

The Protocol on the Rights of Older Persons enjoins AU member states to enact legislation and take other measures that provides for:

- the elimination of discrimination against older persons,
- access to justice and equal protection before the law,
- access to employment without discrimination,
- social protection,
- access to health care services,
- access to education, information and communication technology, as well as
- accessibility to infrastructure for older persons.

#### **4. PROCESS OF RATIFICATION**

1. The procedures through which states become bound to international human rights treaties, such as the Protocol on the Rights of Older Persons, has internal and external dimensions.
2. At the external level, the state may sign, ratify or accede to the treaty.
3. Often, immediately after a treaty has been adopted, states that are present may sign the treaty. States may however also sign the treaty at a later stage. Signature does not bind a state to apply the treaty provisions. It merely indicates that they state has taken note of the treaty and sets out its intention at a later stage to be bound by the treaty by ratifying it.
4. States may then at any state ratify the treaty. Ratification has to follow the prescribed internal (domestic) process. Once this process has been completed, it is of crucial importance that the state prepares an 'instrument of ratification' and deposits this with the office of the AU Legal Counsel in Addis Ababa. Without the deposit, the state's ratification does not take effect.
5. Sometimes a state may also 'accede' to a treaty. Accession takes place when a state has not signed a treaty, but decided to become bound. Put very simply, accession is when signature and ratification coincides. Accession has the same legal effect as ratification. In other words, a state that has not yet signed, need not first sign and later ratify the Protocol, but can do it 'all at once' by acceding to the Protocol.
6. At the internal level, the process through which the state become bound to a treaty depends on the relevant constitutional and other legal requirements.
7. In most states, it is standard that the text of the instrument is submitted to the line ministry/department responsible for Justice and Constitutional affairs for scrutiny to ensure that it is consistent with domestic law. It is also standard that the text of the Agreement is submitted to the Department/ministry responsible for International Relations and Cooperation for scrutiny to ensure that it is consistent with international law. A cabinet memorandum is often prepared by the line ministry/department responsible, and submitted to the cabinet secretariat. The process then mostly proceeds to parliament.

8. Once the domestic process has been completed, the relevant department/ministry develops the ratification instrument.
9. The relevant department then ensures that the Instrument of Ratification or Accession is deposited with the AU Legal Counsel.

