

DRAFT (PROTOCOL ON THE ESTABLISHMENT OF) THE EAST AFRICAN COMMUNITY PROTOCOL ON GENDER EQUALITY

ARRANGEMENT OF ARTICLES

PREAMBLE

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PREAMBLE

The States Parties to the Treaty establishing the East African Community hereby subscribe to the Protocol hereinafter referred to as the East African Community Protocol on Gender Equality;

CONSIDERING that Article 151 of the Treaty for the Establishment of the East African Community provides for the conclusion of such Protocols as may be necessary in each area of cooperation, which shall spell out the objectives and scope of, and institutional mechanisms; and which Protocols shall, upon approval of the Summit on the recommendation of the Council, and after due ratification by the Member States, form an integral part of the Treaty for the Establishment of the East African Community;

NOTING that Partner States undertook, in Article 6(d) of the Treaty for the Establishment of the East African Community, not to discriminate against any person on the grounds of sex or gender as one of the cornerstones of good governance, in addition to the principles of democracy, the rule of law, accountability, transparency, social justice, equal opportunities, gender equality, as well as recognition, promotion and protection of human and people's rights in accordance with the provisions of the African Charter on Human and People's Rights;

AWARE that the Treaty for the Establishment of the East African Community in Article 121, recognizes the significant contribution that women make towards the process of socio-economic transformation and sustainable growth, and the

importance of the full participation of women in the economic and social development of the Member States;

RECOGNIZING that the Partner States of the East African Community are Parties to the African Charter on Human and Peoples' Rights, which in Articles 60 and 61 recognizes regional and international human rights instruments and African practices consistent with international norms on human and peoples' rights as being important reference points for the application and interpretation of the African Charter;

REAFFIRMING that all Partner States of the East African Community in signing and ratifying or acceding to the Universal Declaration on Human Rights, the African Charter on Human and Peoples' Rights and the United Nations Convention on the Elimination of All Forms of Discrimination Against Women, the Beijing Declaration and its Plan of Action (1995), the United Nations Resolution 1325,1820,1888,1889 and the Convention on the Rights of a Child (1989) demonstrated their commitment to gender equality, and their conviction that gender equality is a fundamental human right;

TAKING COGNISANCE of the decision on gender parity taken at the inaugural session of the African Union Assembly of Heads of State and Government in July 2002 in Durban, South Africa, and the adoption of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa during the Second Ordinary Session of the Assembly of the African Union in Maputo, Mozambique in 2003;

MINDFUL that women constitute a majority in the East African Community, only two of the Member States of the East African Community have ratified the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa;

RECALLING that the Partner States of the East African Community reaffirmed their commitment to the Nairobi Forward Looking Strategies, the Africa Platform of Action, the Beijing Declaration and its Platform for Action, and United Nations Resolution 1325 on Women, Peace and Security to ensure the elimination of all gender inequalities in the region and the promotion of the full and equal enjoyment of rights;

RECOGNIZING the significance of women's participation in the integration process, the obligations of the Partner States to their commitments under these instruments and the targets set under the said instruments, and that the emerging threats resulting from HIV and AIDS, globalization, and human trafficking of women and children in particular, the feminization of poverty, and violence against women amongst other things;

CONCERNED that socialization, cultural, political and religious practices, attitudes and mindsets and certain development practices continue to militate against the attainment of gender equality;

FIRMLY CONVINCED that the integration and mainstreaming of gender equality and equity, and human rights are key to attaining the objectives of the East African Community that include sustainable and inclusive development of the EAC region in the social, economic and political spheres;

DETERMINED to consolidate and harmonize the various commitments on gender equality that have been made at regional, continental and international levels in the context of the East African Community, so as to ensure that the rights of women are promoted, realized and protected in order to enable them to fully enjoy all their human rights on an equal basis with men;

Noting that while legal provisions relating to equality should provide legal certainty, those responsible should be willing to improve and interpret legislation in order to reflect the changing experiences of all people disadvantaged by inequality;

HEREBY AGREE as follows:

PART ONE
INTERPRETATION

Article 1

Interpretation

1. For the purposes of this Protocol, the terms and expressions defined in Article 1 of the Treaty for the Establishment of the East African Community shall bear the same meaning unless the context otherwise requires.

2. In this Protocol, unless the context otherwise requires:

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

"Assembly" means the East African Legislative Assembly established by Article 9 of the Treaty for the Establishment of the East African Community;

"Affirmative Action" means policies programme or measure that take race, ethnicity, or sex into consideration in an attempt to promote equal opportunities;

"Child" means a boy or girl under the age of eighteen;

"Civil society" means a realm of organized social life that is voluntary self-generating, self-supporting, autonomous from the state, and bound by a legal set of shared rules;

"Community" means the East African Community established by Article 2 of the Treaty for the Establishment of the East African Community;

"Court" means the East African Court of Justice established by Article 9 of the Treaty for the Establishment of the East African Community;

"Discrimination against women" means any distinction, exclusion or restriction or any differential treatment based on sex and whose objectives or effects compromise or destroy the recognition, enjoyment or the exercise by women, regardless of their marital status, of human rights and fundamental freedoms in all spheres of life;

"Environment" means the natural resources of air, soil, flora, fauna, ecosystems, the man made physical features, cultural heritage and the social economic interactions between the said factors and any living and non-living organisms;

"Female Genital Mutilation" means any procedure involving the partial or total removal of the external female genitalia or other injury to the female organs whether for cultural, religious or other non-therapeutic reasons.

"Gender" means the roles, duties and responsibilities, which are culturally or socially ascribed to women and men, girls and boys;

“Gender based violence” means all acts perpetrated against women, men, girls and boys on the basis of their sex which cause or could cause them physical, sexual, psychological, or economic harm, including the threat to take such acts, or to undertake the imposition of arbitrary restrictions on, or deprivation of fundamental freedoms in private or public life in peace time and during situations of armed or other forms of conflict;

“Gender equality” means the equal enjoyment of rights with dignity and the access to opportunities and outcomes, including resources, by women, men, girls and boys in any area of economic, social political, cultural or civil life;

“Gender equity” means the just distribution of benefits, rewards and opportunities in which relations between women, men, girls and boys are based on respect for differences;

“Gender mainstreaming” means the process of identifying gender gaps and making women’s, men’s, girls’ and boys’ concerns and experiences integral to the design, implementation, monitoring and evaluation of policies and programmes in all spheres so that they benefit equally;

“Gender stereotypes” means the beliefs held about characteristics, traits and activity domains that are deemed appropriate for males and females based on the conventional roles of males and females both domestically and socially;

“Gender Sensitive” means acknowledging and taking into account the specific gender needs of both men and women at all levels of planning, implementation, monitoring and evaluation;

“Health” means a state of complete physical, mental, and social well-being and not merely the absence of disease or infirmity;

“Harmful Practices” means all behaviour, attitudes and/or practices which negatively affect the fundamental rights of women, men girls and boys, such as their right to life, health, dignity, education and physical integrity;

“HIV/AIDS” means Human Immunodeficiency Virus and its advanced stages the Acquired Immune Deficiency Syndrome;

“Human trafficking” means the recruitment, transportation, harbouring or receipt of persons, by means of threat, abuse of power, position of

vulnerability, force or other forms of coercion, abduction, fraud or deception to achieve the consent of a person having control over another person for the purpose of amongst other things, sexual and financial exploitation;

“Marginalized groups” means community groups that are negatively perceived as socially and or physically outside the larger community structure, and are prevented from, or are unable to, participate in, or interact with, the mainstream community groups;

“Partner States” means the Republic of Burundi, the Republic of Kenya, the Republic of Rwanda, The United Republic of Tanzania, the Republic of Uganda, and any other country granted membership to the Community under Article 3 of the Treaty;

“Partner State” means the Partner States that have signed, ratified or acceded to the East African Community Protocol on Gender Equality;

“Secretariat” means the Secretariat of the Community established by Article 9 of the Treaty;

“Secretary General” means the Secretary General of the Community provided for under Article 67 of the Treaty;

“Sex” means the biological differences between females and males;

“Sexual harassment” means any unwanted, unsolicited, or repeated verbal or sexual advance, sexually derogatory statement or sexually discriminatory remark;

“Sexual and reproductive rights” means the universal human rights relating to sexuality and reproduction , including the right to sexual autonomy, sexual integrity and safety of the person, the right to sexual privacy, the right to make free and responsible reproductive choices, the right to sexual information based on scientific enquiry, and the right to sexual and reproductive health care;

“Summit” means the Summit established by Article 9 of the Treaty for the Establishment of the East African Community;

“Violence against women” means all acts perpetrated against women which cause or could cause them physical, sexual, psychological, and

economic harm, including the threat to take such acts; or to undertake the imposition of arbitrary restrictions on or deprivation of fundamental freedoms in private or public life in peace time and during situations of armed conflicts or of war;

“Vulnerable groups” means population groups which, as a result of having the least access to public, economic and other resources, or as a result of their sex, physical ability, migrant status or age, are the least capable of maintaining subsistence, and easily fall prey to violations of their human rights;

“Women” mean persons of the female sex.

2. In this Protocol, a reference to a law or protocol shall be construed as a reference to the law or protocol as from time to time amended, added to or repealed.

Article 2

Establishment of the Protocol on Gender Equality

1. In order to promote the objectives of the Community provided for under Article 5 of the Treaty and in accordance with the Provisions of this Protocol, the Partner States hereby establish the EAC Protocol on Gender Equality as an integral part of the Treaty;
2. The Gender Protocol established under paragraph 1 shall be called the East African Community Protocol on Gender Equality (herein referred to as the “EAC Gender Protocol”).

Article 3

Principles of Gender Equality

1. The Parties States recognize that the principles of gender equality and gender equity are prerequisites to attaining sustainable and inclusive development and important elements of the regional integration processes and governance structures of the Community as enshrined in Articles 6 and 7 of the Treaty;

2. The Parties States recognize the importance of nationality and citizenship as fundamental components of the regional integration processes and shall accord such rights to the women and men of the Community on the basis of equality and non-discrimination;

3. The Partner States condemn discrimination and violence on the basis of gender in all its forms and agree to pursue by all appropriate means and without delay, a policy of eliminating gender based discrimination and to this end, undertake to:

(a) embody the principle of the equality of men and women in their national constitutions and other appropriate legislation if not yet incorporated therein, and to ensure, through law and other appropriate means, the practical realization of this principle in precedence over sectarian laws;

(b) adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting gender based discrimination and violence and in particular protecting the reproductive rights of women and the rights of women in marriage;

(c) establish legal protection of rights and access to justice for women on an equal basis with men and to ensure, through competent national tribunals and other public institutions, the effective protection of women against any act of discrimination;

(d) maintain the age of majority at eighteen and to accord such corresponding rights to girls and boys; and to women and men on the basis of equality and non discrimination;

(e) take all appropriate measures to harmonize national, regional and international policies, strategies and programmes aimed at ensuring gender equality, equity and the empowerment of women and girls in the areas dealt with in this Protocol through the modification or abolition of existing laws, regulations, customs and practices that go against the principles set forth in this Protocol in order to eliminate discrimination against women by any person, organization or enterprise;

4. Partner States undertake to take decisions on all matters relating to the implementation of this Protocol by consensus;

5. Partner States undertake to cooperate through the adoption of necessary strategies and programmes, and the development of human, technical and financial capacity, for the implementation of this Protocol;

6. Partner States undertake to put in place the principle of affirmative action with particular reference to women and girls, marginalized, and vulnerable and socially excluded groups in order to eliminate all barriers which prevent them from participating meaningfully in all spheres;

7. Partner States undertake to respect the sanctity of human life and the interdependence between socio-economic development and the security of peoples and States;

8. Partner States shall ensure the sharing of information for the implementation of this Protocol.

Article 4

Objectives of the EAC Protocol on Gender Equality

1. The overall objective of this Protocol is to advance gender equality across the Partner States in the economic, political, social and cultural aspects for the benefit of the Partner States by consolidating into one legal and binding

document, the various instruments on gender equality, to which the EAC Partner States are party to or signatory, at the regional and international levels;

2. The specific objectives of the EAC Protocol on Gender Equality are to:

- (a) harmonize all the national laws of the Member States of the Community with the regional and international standards of protection and promotion of human rights, on the basis of the principles provided for in Article 2 of this Protocol, and in accordance with the commitments of the Partner States to these standards through the ratification and signature of the various human rights instruments;
- (b) enhance the level of implementation of these instruments through the incorporation of emerging issues and concerns on gender;
- (c) promote non discrimination and gender equality in the processes of governance as a means of strengthening regional integration and sustainable development of the East African Community;
- (d) provide a participatory framework for strengthening, monitoring and evaluating the level of adherence to international standards of human rights protection through a reporting mechanism based on realistic, measurable targets, time frames and indicators supported by the allocation of the necessary resources for achieving these.

Article 5

Scope of the EAC Protocol on Gender Equality

1. The provisions of this Protocol shall apply to any activity undertaken in co-operation by the Partner States to achieve gender equality and human rights within the Community;
2. For purposes of paragraph 1, and in pursuant to Article 4 paragraph 2 of this Protocol, the Partner States agree to cooperate in the following areas:
 - (a) eliminate discrimination based on gender;
 - (b) respect for human rights;
 - (c) respect of gender disparity levels in the Partner States by 50-50.
3. For purposes of facilitating the implementation of this Protocol, the Partner States further agree to;
 - (a) co-operate to harmonize existing legislations, policies and programmes;
 - (b) co-operate to ensure the availability of gender desegregated data for the advancement and implementation of this Protocol.

PART TWO

LEGAL RIGHTS AND STATE OBLIGATIONS

Article 6

Gender based Violence

1. Partner States hereby guarantee to protect and uphold the right of every woman to life, integrity and security of her person;
2. States Parties hereby guarantee to prohibit all forms of exploitation, cruel, inhuman or degrading punishment and treatment of women at all levels.

3. Partner States hereby guarantee to take appropriate and effective measures to establish or reform the legislative framework in addressing violence against women, and in particular to: -
 - a. prohibit all forms of sexual and gender based violence, as issues of public health, including harmful traditional practices such as Female Genital Mutilation, early and forced marriages, dangerous dietary practices, widow inheritance and child sacrifices;
 - b. enact laws and develop policies to prohibit trafficking in persons within national, and across regional and international borders;
 - c. enact or amend laws to prohibit pornography and sexual exploitation, for commercial or other gain by third parties;
 - d. enact or amend their penal laws to criminalize rape during war or armed conflict or political upheaval as a crime against humanity;
 - e. harmonize the penal laws in the Partner States to provide a uniform punishment for sexual and gender based violence;
4. Partner States shall ensure that all measures are taken for the ratification and domestication of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa;
5. Partner States undertake to take appropriate and effective measures to protect women from sexual and gender based violence and in particular shall:-
 - a. create public awareness in all sectors of society across the community regarding sexual and gender based violence through information, formal and informal education and outreach programmes;

- b. provide adequate and accessible law enforcement services, including information, education and communication programmes to women, especially those in rural areas;
 - c. provide or enhance the knowledge of law enforcement agents on human rights and gender, to enable them promote human rights and provide protection against sexual and gender based violence;
 - d. provide effective access by women to judicial and legal services, including legal aid;
 - e. establish mechanisms for research aimed at eradicating sexual and gender based violence.
6. Partner States undertake to take appropriate and effective measures to provide necessary support to victims of sexual and gender based violence through basic services such as health services, including those linked to HIV and AIDS, legal and judicial support, emotional and psychological counseling as well as vocational training, to make them self-supporting;
 7. Partner States shall ensure the adoption of all necessary measures including budgetary and other resources, to cover the cost of promoting the rights of women and preventing violations of the same, as well as protecting women from sexual and gender based violence.

Article 7

Gender and the media

1. Partner States hereby guarantee to take all appropriate measures to ensure that gender is mainstreamed in all communication, information, media policies and programmes and laws and have agreed to: -

- a) eliminate all forms of discrimination against women and guarantee equal opportunity and access to women in decision making processes in the media;
- b) eliminate stereotypes in all the forms of contemporary and traditional media in use in the Partner States of the Community;
- c) protect women and children, especially the girl-child, through legislation, from all forms of abuse, including sexual harassment and pornography in advertising;
- d) promote education and training for journalists ,editors and lawyers on human rights and gender to facilitate investigative journalism ;
- e) establish and strengthen the information, communication and technology infrastructure, and training, and set up tele-centers at the local levels to encourage the use of the media in the promotion and protection of human rights and gender equality;
- f) develop mechanisms for the collection and analysis of disaggregated data on the basis of sex and gender.

2. Partner States hereby guarantee to take positive measures to regulate the use of the media and in particular discourage the media from:-

- a) promoting pornography, sexual exploitation and violence against all persons, especially women and children;
- b) depicting women as helpless victims of violence and abuse;
- c) degrading or exploiting women, especially in the area of entertainment and advertising and undermining their role and position in society; and
- d) reinforcing gender oppressions and stereotypes.

Article 8

Gender and Education

1. Partner States undertake to recognize the right of the child to quality education and with a view to achieving this right shall progressively and on the basis of equal opportunity, shall in particular:
 - (a) make primary and secondary education compulsory and available for free to all;
 - (b) encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and the offering of financial assistance to all those in need;
 - (c) make higher education accessible to all on the basis of capacity by all appropriate means;
 - (d) make educational and vocational information and guidance available and accessible to all children;
 - (e) take measures to encourage regular attendance at schools and the reduction of drop-out rates especially for the girl child.
 - (f) Incorporate in the educational curriculum lessons on gender and rights at all levels.

2. Partner States hereby guarantee to take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity.
3. Partner States hereby undertake to promote and encourage international cooperation in matters relating to education, with a view of contributing to the elimination of ignorance and illiteracy and facilitating access to scientific and technical knowledge and modern teaching methods.

Article 9

Health

1. Partner States hereby guarantee to take every step necessary to incorporate the full extent of the standards of protection set out in the 1994 Programme of Action of the International Conference on Population and Development, and other regional and international instruments on issues relating to health, which the Partner States have ratified; amend and implement legislative frameworks, policies and services to enhance gender sensitive, appropriate and affordable quality healthcare, and in particular undertake to:-
 - a) reduce maternal mortality ratios to 75% by 2017;
 - b) develop and implement policies and programmes to address the primary health needs of women and men including mental, sexual and reproductive health;

- c) adopt or strengthen existing legislation on mental health, taking into account the gender considerations of the care of patients with mental disabilities;
- d) adopt adequate budgetary allocations, with appropriate gender considerations, at the national level for health care, and in particular invest in information for the prevention and care of illnesses such as cancer;
- e) ensure the provision of hygiene and sanitary facilities and nutritional needs of women , including women in prisons, women with disabilities, girls of school going age and women in conflict situations;
- f) ensure, through the establishment of appropriate facilities and infrastructure, the provision of health care services especially in remote and rural areas, in conformity with the World Health Organization recommendation of access to health facilities within a radius of 10kilometres; and in this regard collaborate with the private sector and development partners to enlarge the geographical reach of health services;
- g) provide training for health personnel including traditional birth attendants.

2. Partner States undertake to take all necessary steps including the adoption of a common regional policy to facilitate the domestication of the International Conference on Population and Development Programme of Action referred to in sub article 1 that shall take into account the particular vulnerability of women and the emerging issues in the area of the right to health;

3. Partner States hereby guarantee to take every step necessary to adopt and implement gender sensitive policies and programmes and enact legislation that will

address prevention, treatment, care and support of persons with HIV and AIDS, while taking into account the conditions, practices and biological factors that predispose women and girls to HIV and AIDS and in particular: -

- a) develop gender sensitive strategies to prevent new infections of HIV and AIDS as well as other sexually transmitted diseases;
- b) ensure universal access to appropriate and quality health care, information, treatment and related services for HIV and AIDS for women, men, girls and boys infected with the virus;
- c) develop and implement policies and programmes to ensure the appropriate recognition of the work carried out by care givers, the majority of whom are women, the allocation of resources and the psychosocial support for care givers; and to promote the involvement of men in the care and support of people living with HIV and AIDS;
- d) establish appropriate and effective mechanisms to ensure community responsibility for orphans.
- e) encourage national budgetary allocation to reproductive health and ensure women's access to the health services at all levels.

Article 10

Gender in power and decision making

1. Partner States undertake to protect and uphold the right of every woman and man to equal access to public service, and to take part in the government of his or her country, directly or through freely chosen representatives, and in public life;
2. Partner States hereby guarantee to take appropriate and effective measures to enhance the capacity and resources of women to influence policies for their

advancement, and put in place measures for affirmative action in order to eliminate all barriers which prevent women from participating meaningfully in all spheres of life and to create a conducive environment for such participation, and in particular shall:-

- (a) build the capacity of women to participate effectively through leadership and gender sensitive training, and mentorship;
- (b) provide support structures for women in decision making positions;
- (c) establish and strengthen structures to enhance gender mainstreaming;
- (d) include men in all gender related activities including training and community mobilization.

Article 11

Economic empowerment and food security

1. Partner States hereby undertake to promote and protect the right of every person to employment and a standard of living adequate for the health and well-being of every woman and man and their families, including access to food and necessary social services, the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond their control, and shall in particular:-

- a) identify the gaps in, and barriers to, the economic empowerment of women and take appropriate and effective measures to enhance the economic capacity and resources available to women;
- b) recognize the role and contribution of women to the determination of the Gross Domestic Product of the member states including trade and agriculture; and incorporate such contributions as an integral part of budgetary, planning and governance processes in the member states on the basis of equality;

- c) enact or amend laws on land tenure and use, so as to provide for equality between men and women and enable beneficial use of land by women;
- d) develop gender inclusive policies and laws on trade to include components such as customs, in order to encourage the participation of women in regional trade;
- e) include macro economic policies that are pro-gender, pro poor and equitable addressing the horizontal and vertical poverty gender relations as a fundamental concept in the national budgetary processes.

2. Partner States shall incorporate gender considerations to the overall objectives of the EAC of achieving food security and rational agricultural production within the Community as outlined in Articles 105 and 110 of the Treaty and in particular:-

- (a) harmonize the agricultural policies of the Partner States to recognize and strengthen the role of women in agriculture, as a major component in the development processes of the region;
- (b) establish a mechanism for exchange of information on demand and supply, surpluses and deficits, trade, forecasting, state of food nutrition and market prices, taking into consideration the varied levels of educational attainment of all the women engaging in trade in the region ;
- (c) harmonize the quality and standards of inputs and products including food additives and their effects on men and women;
- (d) initiate and maintain strategic food reserves in consultation with the women in the communities of the region as a means of harnessing the traditional knowledge of women, who have been engaged in ensuring food security for their local communities; and

- (e) develop alternative sources of food production taking into consideration the role and knowledge of the men and women in the different communities in the region.
 - (f) ensure women's access to ownership and control of land and to eliminate any cultural barriers that have traditionally inhibited women from the ownership of land.
3. The Partner States herein agree that access to and use of land shall be governed by the national laws and policies of each Partner State.

Article 12

Peace and security

1. Partner States recognize that peace and security are pre-requisites to social and economic development within the East African Community and vital to the achievement of the objectives of the Community.
2. Partner States shall promote peace, security and stability in East Africa, in order to guarantee the protection and preservation of life and property, the well-being of the peoples of the Community and their environment, as well as the creation of conditions conducive to sustainable development, and in particular shall through co-operation and consultations for prevention, better management and resolution of disputes and conflicts within and between the Partner States: -
- (a) promote and encourage democratic practices, good governance , the rule of law, protection of human rights and fundamental freedoms, respect for the sanctity of human life and international humanitarian law, as part of efforts for anticipating and preventing conflicts;
 - (b) in circumstances where conflicts have occurred, and in times of armed and other conflict, take such steps as are necessary to prevent and eliminate incidences of human rights abuses especially of women and children, and ensure that:-

- (i) the rights of women to justice for violations suffered are protected in the judicial and reconciliation processes through the provision of psychosocial support;
- (ii) those affected by the conflict, especially women and children are reinstated to their pre conflict situations in the shortest time possible and protected from human rights abuses in the camps for refugees and the internally displaced persons pending resettlement and repatriation;
- (c) put in place measures to ensure that women have equal representation and participation in key decision making levels in conflict resolution and peace building processes;
- (d) renounce the use of force in resolving conflict in order to protect women and girls from participating in conflict, forceful recruitment into conflict and sexual slavery.

Article 13

Gender and the Environment

1. Partner States undertake to take appropriate and effective measures to reverse the effects of climate change on the environment through the enactment of laws and policies that enable the promotion and protection of the rights of men and women to a standard of living adequate for their health and well-being and of their families, that entail water and energy sources;
2. Partner States undertake to take appropriate and effective measures to promote sustainable use of the environment taking into consideration the appropriate gender dimensions of access to alternative energy sources in order to

reduce dependence on wood-fuel and access to clean and safe water, and in particular shall:-

- (a) promote research and investment in new and renewable energy sources and appropriate technologies, including information technologies, and facilitate women's access to, and participation in their control;
- (b) establish mechanisms to reduce the time spent by women and girls in search of water and firewood at the expense of their security, welfare, and development related activities such as education and training opportunities;
- (c) protect and enable the development of women's indigenous knowledge systems;
- d) ensure the protection of women from exposure to hazardous waste through the establishment of proper standards for the management, processing, storage, transportation and disposal of toxic waste including domestic waste.

Article 14

Marginalized groups

1. Partner States undertake to protect and uphold the right of persons in situations of vulnerability due to geographical, physical or mental reasons, including persons with disabilities, socially excluded groups, the girl child, widows, widowers, elderly women and men and in particular shall:-

- (a) protect persons with disabilities against all forms of violation of their rights including sexual abuse and discrimination; ensure that persons with disabilities have access, commensurate with their disabilities, to all the civil, political, social, economic and cultural rights available to all persons;
- (b) develop appropriate policies, strategies and programmes to ensure that socially excluded groups such as pastoralist communities, minorities and indigenous peoples are protected against discrimination;

- (c) adopt laws, policies and programmes to ensure the development and protection of the girl child by eliminating all forms of discrimination against the girl child; ensuring that girls enjoy the same rights as boys and are protected from violation and availed access to the full range of rights available to all persons;
- (d) enact and enforce legislation to ensure that widows and widowers are not subjected to inhuman, humiliating or degrading treatment and in particular that :-
 - (i) a widow or a widower automatically becomes the guardian and custodian of the children upon the death of the other spouse;
 - (ii) a widow or a widower shall have the right to continue to live in the matrimonial house after the death of the other spouse;
 - (iii) a widow or a widower shall have access to employment and other opportunities to enable her or him to make a meaningful contribution to society;
 - (iv) a widow or a widower shall have the right to inheritance of the property in a joint estate within a marriage;
 - (v) a widow or widower may remarry any person of her or his choice after the death of the other spouse; and
 - (vi) a widow or a widower shall have protection against all forms of violence and discrimination based on their status;
- (e) enact and enforce legislative measures to ensure that elderly women and men are treated with dignity; protected against violence and discrimination based on their age; have access to employment and professional training commensurate with their physical, economic and social needs; have access to financial and other resources and assistance to enable them to live in dignity; have access to medical

care and services commensurate with their needs; and have access to essential social services.

PART THREE
REMEDIES AND IMPLEMENTATION MECHANISMS

Article 15

Remedies

All human beings are equal before the law and have the right to equal protection and benefit of the law. Partner States have a duty to respect, protect, promote and fulfill the right to equality for all persons present within their territory or subject to their jurisdiction. Partner States shall:-

- (a) provide for appropriate remedies and measures to any person whose rights or freedoms, as herein recognized, have been violated without any discrimination whatsoever;
 - (b) ensure that such remedies are determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by law.
2. For purposes of implementing this Protocol, the Partner States shall honour the instruments that have been ratified by the Partner States.
 3. The Partner States may also in future ratify other instruments and undertake to honour the commitments and obligations emanating from international instruments that advance gender equality.

Article 16

Implementation and Monitoring

1. Partner States undertake to ensure the implementation of this Protocol at national level, and in their periodic reports submitted in accordance with Article 62 of the African Charter, indicate the legislative and other measures undertaken for the full realization of the rights herein recognized.
2. Partner States shall ensure, through appropriate national and regional structures that national and regional action plans with measurable time frames and setting specific targets are put in place, and that appropriate monitoring and evaluation mechanisms are developed and implemented by the EAC.
3. Partner States shall adopt all necessary measures to ensure the provision and allocation of human, technical, budgetary and other resources for the full and effective implementation of the rights herein recognized.
4. A body shall be established as a mechanism that will work towards gender equality tasked with the sole responsibility of harnessing legislations, coordinating efforts undertaken and promoting the active participation of women and men in the economic and political integration of the Community. The body shall often undertake gender audits to inform the regional perspective of the trends in advancing gender equality.
5. The Partner States shall co-operate to ensure the availability of relevant, timely and reliable statistical data for monitoring and evaluating the gender dimensions of the integration processes.

6. The Partner States undertake to annually review the specific commitments in this Protocol and to make measurements to ensure that Partner States adhere to their commitments.

Article 17

Financial provisions

1. Partner States undertake to ensure the incorporation of gender considerations into the planning and allocation of resources and shall: -

- (a) include specific initiatives to empower women and girls;
- (b) ensure equality in employment; and
- (c) be gender sensitive within and between all sectors, spheres and levels

of government. All Ministries shall state in their budgetary submissions their efforts in achieving gender equality and include budgets that contain an annex on gender awareness in the allocation of resources;

2. Partner States shall allocate the necessary financial resources to ensure the implementation and sustainability of the programmes set out in this Protocol.

Article 18

Institutional arrangements

1. Partner States hereby guarantee to take appropriate and effective measures to strengthen the Regional Gender Machinery of the Community and the National Gender Machineries.

2. The institutional mechanisms for the implementation of this Protocol shall comprise of -

- (a) the Summit of the Heads of State or Government;
- (b) the Council of Ministers;

- (b) the Ambassadors accredited to the East African Community by the States Parties ;
- (c) the Committee of Ministers Responsible for Gender/Women's Affairs;
- (d) National ministries and committees of the EAC
- (e) The officials responsible for gender at the EAC pending the creation of a Gender Directorate within the EAC;
- (f) Secretariat of the East African Community.

Article 19

Signature, Ratification and Accession

1. This Protocol shall be open for signature, ratification and accession by the States Parties, in accordance with their respective constitutional procedures.
2. The instruments of ratification or accession shall be deposited with the Executive Secretary of the East African Community.

ARTICLE 20

Entry into Force

1. This Protocol shall enter into force thirty (30) days after the deposit of the third (3) instrument of ratification.
2. For each Partner State that accedes to this Protocol after its coming into force, the Protocol shall come into force on the date of deposit of the instrument of accession with the Secretary General.

3. The Executive Secretary of the Community shall notify all Partner States of the coming into force of this Protocol.

Article 21

Amendment and Revision

1. The Protocol may be amended by the Partner States in accordance with the provisions of Article 150 of the Treaty. Any Partner State may submit proposals for the amendment or revision of this Protocol.

2. Proposals for amendment or revision shall be submitted, in writing, to the Secretary General who shall transmit the same to the States Parties within thirty (30) days of receipt thereof.

3. The Summit, upon advice of the Secretariat, shall examine these proposals within a period of one (1) year following notification of States Parties, in accordance with the provisions of paragraph 2 of this article.

Article 22

Status of the Present Protocol

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

Article 23

Transitional Provisions

1. Pending the establishment a Court on Human and Peoples' Rights within the Community, the East African Court of Justice shall be the seized with matters of interpretation arising from the application and implementation of this Protocol.
2. Upon the establishment of the Court on Human and Peoples Rights within the Community, the East African Court of Justice shall be ceased of powers relating to matters of interpretation arising from the application and implementation of this Protocol.

Article 24

Depository and Registration

1. This Protocol and all instruments of ratification shall be deposited with the Secretary General who shall transmit certified true copies of the Protocol and instruments of ratification to all the Partner States.
2. The Secretary general shall register this Protocol with the African Union, the United Nations and such other organizations as the Council may determine.

DONE at Arusha, Tanzania, on theday of 20

IN FAITH WHEREOF the undersigned have appended their signatures hereto:

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For The Republic of Burundi

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For The Republic of Kenya

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For The Republic of Rwanda

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For The United Republic of Tanzania

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For The Republic of Uganda

DRAFT

**This instrument is still in a draft form not ready for circulation, for further inquires,
Contact**

Ms. Marren Akatsa-Bukchi

Executive Director

The Eastern African Sub-Regional Support Initiative for the Advancement of Women (EASSI)

Plot 87 Bukoto – Ntinda Road

P.O Box 24965, Kampala Uganda

Tel: 256-41-285163/ 285194

Fax: 256-41-285306

Email: eassi@eassi.org

www.eassi.org

DRAFT