

Social Protection for Informal Workers: Trends and Changes

A Regional Approach to Universal Social Protection: the case of the African Union Protocol

Introduction

The “Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Citizens to Social Protection and Social Security” (AU Protocol) is the culmination of a long process of struggle to extend universal social protection rights on the African continent. It recognizes social protection as an integral part of the development agenda. Civil society organizations, in particular the Africa Platform for Social Protection (APSP), played an important role in the formulation of and the effort to advocate for the adoption of the protocol by the African Union. The document was finally adopted by the ministers in 2019, and was passed by Heads of State and Government in February 2022, during the AU Summit in Addis Ababa. This brings to a conclusion the internal processes of the AU to develop a single binding instrument that addresses a broad range of social protection issues.

The importance of the AU Protocol

The document is an important instrument to achieve universal social protection, as it provides guiding principles for governments and sets the state’s obligations to guarantee the right to social protection and social security. Once it is ratified by a government, it is legally binding.

Previously, informal workers were either recognized partially through binding AU instruments that dealt with a limited range of social protection issues or specific groups of people (women, children, elderly), or were included in instruments that, although comprehensive, were not ratifiable and therefore not binding on member states.¹ In other words, the protocol provides a legal framework that allows citizens to hold their respective states to fulfil their obligations, so it is anchored in a rights-based approach. It also adopts the “life-cycle approach”. This means that it recognizes that, throughout their lifecycle, from early childhood through working age, and into older age, citizens are entitled to social protection as a right. The right applies to everyone in Africa, including all workers, thus reinforcing the universal approach to social protection.

The document

The Protocol was the product of the effort of many civil society and international organizations, which explains the different footprints of different agencies that have contributed to the text. This can be identified even in the title of the document: “Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Citizens to Social Protection and Social Security”. It stresses the term “social security”, even though it is part of

¹ Bamu, P. & Alferts, L. (2022, July 12th). Why an Enforceable Protocol on Social Protection is Essential in Africa. Available at: <https://www.wiego.org/blog/why-enforceable-protocol-social-protection-essential-africa>.

social protection. This is a key distinction that was made, as social security is the protection the state provides to people and households, and it is often used to refer to work-related social insurance designed around formal employment relationships. Social protection, on the other hand, refers to a broader set of policies and programmes, and includes both state-managed and private schemes that people rely on to protect their incomes throughout their lives.²

The protocol calls for States Parties to establish a minimum social protection package and commit to taking certain actions to ensure that informal workers have access to social protection through the following measures:

- Inclusion in and adaptation of general schemes
- Adaption of contribution modalities, qualifying criteria and benefits
- Systems for the inclusion of women in the informal economy, including maternity and health protection
- Representation of informal workers' organizations in decision-making structures and processes
- Access to markets, progressive formalization and the protection of informal workers' income

The document provides that each State Party shall develop an “integrated and comprehensive social protection system, which: 1) ensures meaningful coverage in terms of, among others, social insurance schemes, social assistance measures and social services (...) [and] protects against special and collective risks”.

The AU Protocol enshrines that every person residing in a territory of an African Union country has the right to social protection. In other words, it provides that the state has the obligation to ensure that “social protection is available, accessible, adequate, affordable and transparent”.

Another key aspect is that it mandates that countries shall “develop, maintain and expand an appropriate regulatory, institutional and operational framework for the provision of social protection and ensure good governance of social protection schemes and arrangements” and that they should “provide a minimum package of essential social protection, which should at least cover the basic needs of all”.

Article 24 of the protocol also provides for a progressive increase in coverage of social protection, an approach in line with the ILO social protection floors. “Progressive realization” means that countries should commit to take steps, to the maximum of their available resources, with view to achieving progressively the full realization of the rights recognized in the present.³ In other words, it acknowledges the fiscal constraints countries face, but sets the fulfilment of rights as the ultimate goal.

On the positive side, the inclusion of a progressive realization clause means that more countries would be likely to ratify a binding instrument with this caveat. However, there are also risks. Sometimes, decision-makers misinterpret this concept to mean that they do not have to protect economic, social and cultural rights until they have sufficient resources. In other words, the lack of resources is used to justify inaction or indefinite postponement of measures to implement social protection policies or programmes.⁴

² WIEGO (2021). Social Protection Glossary, WIEGO. Available at: https://www.wiego.org/sites/default/files/resources/file/WIEGO_SocialProtection_Glossary_EN_10Aug2021.pdf

³ Office of the United Nations High Commissioner for Human Rights. (2008). Frequently asked questions on economic, social and cultural rights: Fact sheet no. 33. Available at: https://www.ohchr.org/sites/default/files/Documents/Issues/ESCR/FAQ_on_ESCR-en.pdf

⁴ Ibidem

The document contains a dedicated section for informal workers, who are explicitly recognized as “important pillars of social and economic development”. It provides that the AU countries shall ensure the participation of representatives of the informal economy in the design, development and implementation of social protection policies and programmes.

The document also recognizes the diversity of schemes in the continent, and calls for the adoption of a regulatory framework that promotes “appropriate and adequate social security of informal and rural workers, through the inclusion of these workers in general social security schemes adapted to suit the context of these workers as well as the provision or recognition of appropriate formal and informal social insurance and micro-insurance mechanisms, universal schemes, social assistance measures, and dedicated savings instruments”, among other provisions.

The protocol contains some mechanisms to ensure the implementation and monitoring of its provisions. It calls on the countries to indicate in their periodic reports submitted to the African Commission the legislative and other measures undertaken for the full realization of the rights recognized in the document, and it also calls on the AU countries to establish national mechanisms, including independent national institutions, to monitor the implementation of the rights enshrined in the protocol.

Next steps

The protocol was officially adopted by the African Union, but it will only enter into force after 15 member states sign on to the document. Civil society organizations and workers’ movements will now enter a new stage of mobilization to encourage member states to sign on.

There are some promising countries that might lead the way. Senegal, as the chair of the AU can be one of these countries. Others might include Cape Verde, Ethiopia, Nigeria, South Africa, Rwanda, Kenya, Tanzania and Mozambique.⁵ These countries have been making significant progress in social protection in the national level over the past decade and have either a vibrant civil society, strong workers’ movement or/and sympathetic governments to the agenda of expanding social protection to informal workers.

Once the Protocol comes into force, countries may then ratify it and implement nationally appropriate processes to consider the implications for their own legal frameworks. [WIEGO’s recent study on legal frameworks in Africa](#) shows how much an enforceable legal framework is needed. The study, which surveyed 38 African countries, found that constitutional commitments in many countries are not comprehensive enough to recognize the full ambit of the right to social protection. Moreover, non-contributory social protection is embedded in policy rather than law and often excludes informal workers through eligibility criteria.⁶ These shortcomings of national legal systems highlight the importance of having, at the regional level, a broader and enforceable framework that is able to address these gaps.

“It is therefore imperative that steps towards the adoption of the draft African protocol on social protection be sustained and accelerated. It is also important for African countries to make constitutional commitments to social protection that encompass all of its forms and apply to everyone, making special reference to all marginalized groups, including self-employed workers.”⁷

⁵ Interview with Gabriel Fernandez (APSP).

⁶ Bamu, P. and L. Alfery. (2022). Why an Enforceable Protocol on Social Protection is Essential in Africa. WIEGO. Available at: <https://www.wiego.org/blog/why-enforceable-protocol-social-protection-essential-africa>

⁷ Ibidem.

Over the next year WIEGO will be working with allies such as the APSP and the Friedrich Ebert Stiftung to share the results of our study and raise awareness of the Protocol's existence. Indeed, ensuring the active inclusion of organizations of informal workers in regional alliances calling for ratification of the African Union Protocol on Social Protection is one of WIEGO's strategic goals for the next five years. The ratification of the AU Protocol would represent a significant and positive shift in social protection and public services policy at regional levels.

About WIEGO

Women in Informal Employment: Globalizing and Organizing (WIEGO) is a global network focused on empowering the working poor, especially women, in the informal economy to secure their livelihoods. We believe all workers should have equal economic opportunities, rights, protection and voice. WIEGO promotes change by improving statistics and expanding knowledge on the informal economy, building networks and capacity among informal worker organizations and, jointly with the networks and organizations, influencing local, national and international policies. Visit www.wiego.org.

