



PERMANENT MISSION OF  
THE REPUBLIC OF KENYA  
TO THE UNITED NATIONS  
AND OTHER INTERNATIONAL ORGANIZATIONS  
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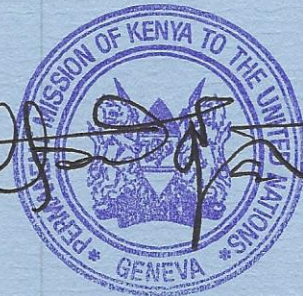
The Permanent Mission of the Republic of Kenya to the United Nations Office in Geneva and other International Organizations in Switzerland presents its compliments to the Office of the High Commissioner for Human Rights and with reference to the latter's Note Ref OHCHR/RRDD/FGM dated 21<sup>st</sup> October, 2014, has the honour to convey Kenya's responses to the Questionnaire on good practices and major challenges in preventing and eliminating female genital mutilation.

The Permanent Mission of Kenya regrets the delay in transmitting the said responses.

The Permanent Mission of the Republic of Kenya to the United Nations Office in Geneva and other International Organizations in Switzerland avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

GENEVA, 21<sup>ST</sup> APRIL, 2015

Office of the High Commissioner for Human Rights  
Palais des Nations  
1211 GENEVA 10





**REPUBLIC OF KENYA**



**OFFICE OF THE ATTORNEY GENERAL AND DEPARTMENT OF JUSTICE**

**RESPONSE TO THE QUESTIONNAIRE FOR MEMBER STATES**

**HUMAN RIGHTS COUNCIL RESOLUTION 27/22**

**1. Can the Member State provide information on what it considers to be good practices in preventing and eliminating FGM?**

**a. Enacting Legislation**

The Constitution of Kenya guarantees women and children the right to be free from all forms of discrimination; the right to dignity and physical integrity including freedom from violence, the right to health and the right for children to be protected from abuse and harmful cultural practices.

The Prohibition of Female Genital Mutilation Act of 2011 is an Act of Parliament which was enacted to prohibit the practice of female genital mutilation (FGM) and to safeguard against violation of a person's mental or physical integrity through the practice of female genital mutilation. The Act provides for eight main offences namely; The general offence of FGM, the offence of aggravated FGM, the offence of aiding and abetting FGM, the offence of procuring a person to perform female genital mutilation in another country, the offence of use of premises to perform FGM, the offence of being in possession of tools or equipment connected with FGM, the offence of failure to report commission of FGM and the offence of use of abusive language. The Act also establishes the Anti- Female Genital Mutilation Board.

The Children's Act, 2001 provides for protection of children from harmful cultural practices such as female circumcision and calls for respect of the rights of women and girl children against this vice.

**b. The Anti Female Genital Mutilation Board**

In 2013, the Anti FGM Board was established with the mandate to design, supervise and coordinate public awareness programmes against the practice of female genital mutilation and to generally advise the Government on matters relating to female genital mutilation and the implementation of the Act. The board also provides technical and other support to institutions, agencies and other bodies engaged in the programmes aimed at eradication of FGM and designs programs aimed at eradicating FGM.

#### **c. Criminal Prosecution**

The Office of the Director of Public Prosecutions has established a specialized anti-FGM Prosecution Unit to prosecute FGM cases and sensitize communities on the Anti-FGM legislation. To date, the office of the Director of Public Prosecutions has commenced 99 prosecutions to enforce the law.

The courts in Kenya have also been quite instrumental in ensuring the operationalization of the provisions of the Prohibition of Genital Mutilation Act of 2011. For example in the case of *Pauline Roba Ngariba v Republic (2014)eKLR*, the appellant was sentenced to serve 7 years in prison. Although Section 29 of the Prohibition of Female Genital Mutilation Act provides for a minimum sentence of 3 years, the trial magistrate in sentencing noted that it was well within public knowledge that FGM was widely practiced within that court's jurisdiction and agreed with the prosecution that stern action needs to be taken to stem this vice. The victim in this case was a minor.

#### **d. Government Policies**

A National Action Plan for Accelerating the Abandonment of FGM/C in Kenya (2008-2012) was launched by the then Ministry of Gender, Children and Social Development. The National Policy called on the government to take concrete steps to promote the abandonment of FGM through legislation, public education and outreach programmes, advocacy, media coverage, the empowerment of women and access to reproductive health and other support services. The Ministry of Health has also published a Reference Manual for Health Service Providers on the management of complications of FGM.

### **2. Can the Member State provide information on what it considers to be major challenges in preventing and eliminating FGM?**

There are various challenges in the prevention and elimination of FGM in Kenya. They include;



- a. Resistance to change due to deeply rooted cultural beliefs
  - b. Low literacy levels in some of the practicing communities. The lack of basic education is a root cause for perpetuating social stigmas surrounding FGM as they relate to health, sexuality and women's rights. FGM hinders girls' ability to obtain basic education and prevents them from pursuing higher education and employment opportunities. This lack of education directly relates to issues surrounding child marriage.
  - c. Medicalization of FGM where health care providers are secretly performing FGM.
  - d. Inadequate resources allocated to government institutions set up to address FGM.
  - e. Lack of Government owned rescue centers.
  - f. Remoteness of some areas hindering accessibility.
3. **Where applicable, has the member State identified good practices in building the capacity through promoting self-learning, training and mentoring of key persons and professionals from the health, social, education, judicial, law-enforcement, migration and asylum sectors in responding to the specific needs of girls and women at risk of FGM or affected by FGM?**

The Anti Female Genital Mutilation Board has employed various strategies in the campaign against FGM. They include;

- a. The use of awareness raising and education campaigns. The media has played a critical role in highlighting and creating awareness on the dangers of FGM. The board in collaboration with implementing partners has so far conducted sensitization campaigns aimed at protecting the girl child and women from FGM in the following counties; Tharaka Nithi, Narok, Kajiado, West Pokot, Baringo, Nakuru, Kisii, Nyamira, Migori (Kuria), Bungoma (Mt. Elgon), Samburu, Isiolo, Elgeyo Marakwet and Marsabit
- b. Encouraging the use of alternative rites of passage which seek to adopt non harmful rites of passage specific to communities that value coming of age ceremonies. The board is working closely with communities through their opinion leaders to change the approach of the cultural practice of FGM as a rite of passage.
- c. Encouraging non-confrontational inter-generational dialogue.

4. Where applicable, has the Member State identified good practices in providing assistance by means of technical cooperation and the exchange of information concerning administrative, legislative and judicial and non-judicial measures to address FGM, as well as experiences and best practices regarding data collection to map prevalence and incidence rates among various groups inside the country?

There are many successful anti-FGM programmes currently in place in Kenya with much of the progress beginning at the grassroots level. These initiatives would be more effective if programmes communicate their efforts to each other more publicly and collaboration at a project level. A coalition against FGM will be a stronger voice in terms of lobbying and will be more effective in obtaining sustainable funding and achieving programme success.