



ANTI -FGM BOARD
Pamoja Tukomeshe
Ukeketaji



Understanding the Kenya Prohibition of Female Genital Mutilation Act, 2011



Equality Now

A just world for women and girls.

Contents

Foreword	3
Preface	5
Introduction	7
Offences under the Prohibition of FGM Act 2011	11
Penalties for the offence of FGM	14
About Kenya's Anti-FGM Board	15
About Equality Now	17
Organizations and Centres where citizens can get help	18

PUBLISHED BY:

Equality Now Africa Regional Office

Published with the financial support from the Human Dignity Foundation.

Date of issue: 2014 and 2018

Equality Now and the Anti-FGM Board Kenya would appreciate information about the use of this material.

Second Edition

Foreword

The enactment of the Prohibition of Female Genital Mutilation (FGM) Act, 2011 is part of the long term efforts by the Government of Kenya to end FGM. The Act provides a legal framework for FGM eradication in the country and establishes the mandate for the Anti-FGM Board to design, supervise and coordinate campaigns for the eradication of the harmful cultural practice in Kenya.

In 2014, the Anti-FGM Board launched its strategic plan 2014-2018. Six strategic focus themes were identified: Policy formulation and coordination; Awareness creation; Designing and coordination of anti-FGM programmes; Resource mobilization and coordination; Monitoring and Evaluation; and Institutional strengthening in order to implement this Plan effectively.

The second edition of the abridged version of the Kenya Prohibition of FGM Act 2011 is part of the Anti-FGM Board's efforts to fulfill its mandate to inform and educate the public about Female Genital Mutilation under the strategic theme of awareness creation.

FGM is a deeply rooted cultural practice, although the reasons for practicing it vary from one ethnic group to another. It is a manifestation of gender inequality that is deeply entrenched in socio-economic and political

structures, and it represents the society's control over women and girls. Through a multi-sectorial approach, the Anti-FGM Board is engaging all actors to ensure that no woman or girl is subjected to FGM, because one girl or woman subjected to FGM, is one too many.

I sincerely thank Equality Now for the support towards the development of this simplified version of the Prohibition of FGM Act, 2011. This simplified version will increase awareness among stakeholders on the Prohibition of Female Genital Mutilation Act, 2011.

Bernadette Loloju

CEO, Anti-FGM Board

Preface

This second edition of the simplified version of Kenya's Prohibition of Female Genital Mutilation (FGM) Act of 2011 was developed with support from Equality Now and the Human Dignity foundation. FGM is a human rights violation and an extreme form of violence against women and girls. Kenya has recognized it as a crime punishable under the FGM Act.

The aim of this abridged booklet is to empower citizens including young girls with information, understanding the effects of female genital mutilation and how, when and where to seek assistance as a way of preventing FGM. The booklet is hence a resource and a tool for the Kenyan public to prevent and protect girls and women from FGM by reporting to the relevant authorities. We therefore encourage the public to use it as a guide and take appropriate action by reporting the practice to any of the several hotline phones provided in this booklet.

The second edition booklet comes in a unique flip design allowing readers to access Swahili and English versions at the same time. It is also available online on the Equality Now website - www.equalitynow.org and the Anti-FGM Board website - www.antifgmboard.go.ke.

Equality Now works in partnership with the Anti-FGM Board, the Office of the Director of Public Prosecutions, United Nations and civil society organizations to contribute to the elimination of female genital mutilation in Kenya. We hope our efforts will go a long way in protecting girls and women and preserving their human dignity.

Our appreciation goes to the staff of Equality Now and the Anti-FGM Board for their contribution towards the development of this booklet.

Faiza Jama Mohamed

Director, Africa Office

Introduction

What is Female Genital Mutilation?

Female Genital Mutilation (FGM) comprises all procedures involving partial or total removal of the female genitalia or other injury to the female genital organs, or any harmful procedure to the female genitalia, for non-medical reasons¹. As stated in the Prohibition of FGM Act 2011, this includes:

1. **Clitoridectomy** which is the partial or total removal of the clitoris or the prepuce;
2. **Excision** which is the partial or total removal of the clitoris and the Labia minora, with or without excision of the labia majora;
3. **Infibulation** which is the narrowing of the vaginal orifice with the creation of a covering seal by cutting and appositioning the labia.

FGM is a reproductive health concern and a human rights violation that has devastating short and long-term impacts on the lives of women and girls. These effects include severe pain, shock, infections and complications during childbirth (affecting both the mother and the child), long-term

¹ http://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/ProhibitionofFemaleGenitalMutilationAct_No32of2011.pdf

gynecological problems (such as fistula), psychological effects, and death. FGM occurs in a variety of cultural contexts, with significant differences in terms of the age at cutting, the extent of cutting, the setting in which the practice takes place and the rituals associated with it.

National, Regional and International legal frameworks and commitments

The Constitution of Kenya (2010) Article 28 stipulates that, *“the dignity of every person should be respected and protected”*. While Article 44 (1) of the Constitution gives every person *“the right to participate in the culture of his/her choice”*, the same Article 44 (3) prohibits *any person from forcing another to undergo any cultural practice or rite*.

Article 14 of the Children’s Act 2001 provides that, *“No person shall subject a child to female circumcision, early marriage or other cultural rites, customs or traditional practices that are likely to negatively affect the child’s life, health, social welfare, dignity or physical or psychological development”*.

Article 27 of the Prohibition of FGM Act 2011 clearly spell out the obligations of the state to end FGM by stipulating *“The Government shall take necessary steps within its available resources to— (a) protect women and girls from female genital mutilation; (b) provide support services to*

victims of female genital mutilation; and (c) undertake public education and sensitize the people of Kenya on the dangers and adverse effects of female genital mutilation”.

The Kenya Prohibition of Female Genital Mutilation Act (2011) was put into place to eradicate FGM and to protect the mental and physical integrity of women and girls in Kenya. To enforce the provisions of the Act, the Anti-FGM Board was established in 2013.

The Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (Maputo Protocol) which Kenya has ratified, in Article 5 calls on all states to, “*prohibit and condemn all forms of harmful practices which negatively affect the human rights of women and which are contrary to recognised international standards*”. The Maputo Protocol is a legally binding human rights instrument applicable in Kenya.

The African Charter on the Rights and Welfare of the Child Article 20 calls on States to “*take all appropriate measures to eliminate harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child.*”

FGM is internationally recognized as a violation of the human rights of girls and women, particularly their rights to health, physical integrity and life. The United Nations passed a Resolution [A/RES/67/146] in

December 2012, also referred to as the worldwide ban on Female Genital Mutilation.

In September 2015, the international community adopted the 2030 Agenda for Sustainable Development which has 17 goals. Gender equality by 2030 requires urgent action to eliminate the many root causes of discrimination that still curtail women's rights. Goal 5.3 calls on states to eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation.

Offences under the Prohibition of FGM Act, 2011

1 Performance of FGM by any medical personnel

Articles 19-20 outlaw performance and medicalization of FGM in Kenya. Article 19 (1) of the Act provides that, “A person, including a person undergoing a course of training while under supervision by a medical practitioner or midwife with a view to becoming a medical practitioner or midwife, who performs female genital mutilation on another person commits an offence”.

Article 19 (6) provides that, “it is no defense to a charge under this section that the person on whom the act involving female genital mutilation was performed consented to that act, or that the person charged believed that such consent had been given”.

Article (20) provides that, “A person who aids, abets, counsels or procures— (a) a person to commit an offence under section 19; or (b) another person to perform female genital mutilation on that other person, commits an offence”.

2 Cross-border FGM

Article (21) provides that, “A person commits an offence if the person takes another person from Kenya to another country, or arranges for another person to be brought into Kenya from another country, with

the intention of having that other person subjected to female genital mutilation”.

3 Allowing use of a place or premise for FGM

Article (22) provides that, “A person who knowingly allows any premises, for which that person is in control of, or responsible for, to be used for purposes of performing female genital mutilation commits an offence”. Article (26) provides that, “A law enforcement officer may, without a warrant, enter any premises for the purposes of ascertaining whether there is or has been, on or in connection with such premises any contravention of this Act”.

4 Being in possession of tools or equipment used to perform FGM

Article (23) provides that, “A person who is found in possession of a tool or equipment for a purpose connected with the performance of female genital mutilation, commits an offence”.

5 Failure to report the offence of FGM whether planned, ongoing or committed

Article (24) provides that, “A person commits an offence if the person, being aware that an offence of female genital mutilation has been, is

in the process of being, or intends to be, committed, fails to report accordingly to a law enforcement officer”.

6 Use of abusive language against people who have not undergone FGM

Article (25) provides that, “Any person who uses derogatory or abusive language that is intended to ridicule, embarrass or otherwise harm a woman for having not undergone female genital mutilation, or a man for marrying or otherwise supporting a woman who has not undergone female genital mutilation, commits an offence....”

7 Performance of FGM outside Kenya’s borders by any persons who are Kenyan citizens or permanently residents in Kenya

Article 28 (1) “A person who, while being a citizen of, or permanently residing in Kenya, commits an act outside Kenya which act would constitute an offence under section 19 had it been committed in Kenya, is guilty of such an offence under this Act”.

Penalties for the offence of FGM

1 Article (29) provides that, “A person who commits an offence under this Act is liable, on conviction, to imprisonment for a term of not less than three years, or to a fine of not less than two hundred thousand shillings, or both”.

2 On Performance of FGM by Medical Personnel or Trainees. Article 19 (2) provides that: If in the process of committing an offence under subsection 19 (1) a person causes the death of another, that person shall, on conviction, be liable to imprisonment for life.

3 Article 25 provides that “any person who uses derogatory or abusive language that is intended to ridicule, embarrass or otherwise harm a woman for having not undergone female genital mutilation, or a man for marrying or otherwise supporting a woman who has not undergone female genital mutilation, commits an offence and shall be liable, upon conviction, to imprisonment for a term not less than six months, or to a fine of not less than fifty thousand shillings, or both”.

Kenya's Anti-FGM Board

The Anti-Female Genital Mutilation Board is a semi-autonomous government agency that was established in December 2013 following the enactment of the Prohibition of Female Genital Mutilation Act, 2011.

Functions of the Anti-FGM Board

The Prohibition of Female Genital Mutilation Act establishes the Anti-Female Genital Mutilation Board whose functions are as follows:

- To supervise and coordinate public awareness programs against the practice of female genital mutilation.
- To advise the Government on matters relating to the practice of female genital mutilation.
- To formulate a policy on planning, financing and coordinating activities relating to female genital mutilation.
- To design programs aimed at eradicating female genital mutilation.

- To mobilize resources for programs and activities aimed at eradicating female genital mutilation.
- To perform any other duties assigned by any written law.



ANTI -FGM BOARD
Pamoja Tukomeshe
Ukeketaji

The Kenya Anti-FGM Board

Kenya Railways Staff Retirement Benefit Scheme Building
Southern Wing, Block D, 2nd Floor Haile Selassie Avenue

P. O. Box 57760 Nairobi

Email: ceoantifgmboard@gmail.com

Tel +254-770442022

About Equality Now

Founded in 1992, Equality Now is an international human rights organization that works to protect and promote the rights of women and girls around the world in the areas of ending Female Genital Mutilation (FGM), Discrimination in Law, Sexual Violence, and Sex Trafficking. Equality Now combines grassroots activism with international, regional and national legal advocacy to achieve legal and systemic change to benefit women and girls, and works to ensure that governments enact and enforce laws and policies that uphold their rights. The organization's Equality Action Network is comprised of groups and individuals in more than 190 countries. www.equalitynow.org



Equality Now Africa Regional Office,

1st Floor, Bishops Garden Towers, Bishops Road,
PO Box 2018 00202 Nairobi Kenya

Email: equalitynownairobi@equalitynow.org

Phone: +254-20-271-9913/9832 Fax: +254-20-271-9868

Facebook: [equalitynoworg](https://www.facebook.com/equalitynoworg/) / EndFgmCampaign

Twitter: @endingFGM

Organizations and Centres where citizens can report cases of FGM and get help

Organization	Location/contact
Office of Director of Public Prosecution	Nairobi County Head Office, NSSF Building, Block 'A' 19 th Floor Nairobi Tel: +254 2732090/2732240 Email: info@odpp.go.ke
Cana Rescue Centre	Baringo County P.O Box 36, Nginyang Tel: 0721462055
Tasaru Ntomonok Initiative	Narok County Head Office: Narok County aptas2015@yahoo.com Mkereto5@gmail.com
POKOT Girl Child Centre Rescue Centre	West Pokot County Head Office Kapenguria: Tel: +254726403909
Pokot Girls foundation	West Pokot County Head Office: Kapenguria Tel: + 254 739 450503
Samburu Girls Foundation	Samburu County P.O Box 20600 Maralal Tel: +254700634458 info@samburugirls.foundation
Morpus primary school and Rescue center	West Pokot County Head Office :Pokot South Constituency Tel:+254 719 820 072, +254 736 000 234

Organization	Location/contact
Morpheus Girls Secondary School and Rescue Center	West Pokot County Head Office: Pokot South Constituency Tel:+254 724 578 225
Naramam Primary School and Rescue center	West Pokot County Head Office: Pokot South Constituency Tel: +254 723 465 027
Kodich Rescue Center	West Pokot County Head Office : Pokot North Constituency Tel:+254714151975
Kauriong rescue Center	West Pokot County Head Office, Pokot North Constituency Tel: +254724365415
Alale Girls Secondary school	West Pokot County Head Office Pokot North Constituency Tel: +254729256523
Alale Girls Primary School	West Pokot County Head Office Pokot North Constituency:
Kameris Mix Boarding Primary School	West Pokot County Head Office Pokot North Constituency: Tel: +254729098689
Kongelai Mix Primary School	West Pokot County Head Office West Pokot Constituency. Tel: +254706414853
Maasai Girls Centre	Narok County Head Office, Narok County

Organization	Location/contact
CARA Girls Rescue Centre	Nairobi County Head Office Kibiko, Nairobi Tel: 0868210569
KOMESI Women's Network	West Pokot County Head Office, West Pokot Tel: +254 (020) 425 0500, +254 722518220, Email: info.kenya@actionaid.org
Divinity FGM Rescue Centre	Kajiado County Head Office Oloitoktok Constituency
Soila Maasai Girls Rescue Centre	Narok County Head Office, Suswa, Rift Valley
Helga Primary School and Rescue Centre	Kajiado County Head Office, Kajiado County. Tel: +254716567003
Kajiado Rescue and Rehabilitation Centre	Kajiado County Head Office Kajiado County Email: rachel.holt1@gmail.com
Compassion Rescue Center	Tharaka Nithi County Head Office Tharaka Nithi South Email: info@compassion-cbo.orgvanson@compassioncbo.org
Womankind Kenya	Garissa County Head Office Garissa County P.O BOX 627 - 70100 Garissa, +254 726 993895 Email: info@womankindkenya.org