



# General Assembly

Distr.: General  
12 September 2014

Original: English

---

## Human Rights Council

### Twenty-seventh session

#### Agenda item 3

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

## **Information presented by the Kenya National Commission on Human Rights\***

### **Note by the Secretariat**

The Secretariat of the Human Rights Council hereby transmits the communication submitted by the Kenya National Commission on Human Rights,\*\* reproduced below in accordance with rule 7(b) of the rules of procedures described in the annex to Council resolution 5/1, according to which participation of national human rights institutions is to be based on arrangements and practices agreed upon by the Commission on Human Rights, including resolution 2005/74 of 20 April 2005.

---

\* National human rights institution with “A”-status accreditation from the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights.

\*\* Reproduced in the annex as received, in the language of submission only.

GE.14-16060 (E)



\* 1 4 1 6 0 6 0 \*

Please recycle A universal recycling symbol consisting of three chasing arrows forming a triangle.



## Annex

[English only]

### Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction .....	1-2	3
1.1 Kenya National Commission on Human Rights .....	1-2	3
II. Legal and Policy Framework that guides the Rights of the Child .....	3-11	3
2.1 The Convention on the Rights of the Child (CRC) .....	6	4
2.2 African Charter on the Rights and Welfare of the Child 1990 .....	7	4
2.3 Definition .....	8-11	4
III. Forms of violence .....	12-21	5
3.1 Physical and psychological violence .....	12	5
3.2 Sexual abuse .....	13	5
3.3 Emotional and verbal harm .....	14	5
3.4 Neglect and abandonment .....	15	5
3.5 Child trafficking .....	16	5
3.6 Harmful traditional practices .....	17-18	6
3.7 Corporal punishment at home, school and juvenile institutions .....	19-21	6
IV. Types of child violence in Kenya .....	22-32	7
4.1 Sexual violence .....	22	7
4.2 Child trafficking .....	23-27	7
4.3 Female Genital Mutilation .....	28	8
4.4 Deprivation of liberty .....	29-32	9
V. Global efforts to end child violence .....	33-41	10
5.1 Enhancing the global efforts .....	36	10
5.2 States should criminalize all acts of violence .....	37	10
5.3 States to enhance child protection .....	38	10
5.4 Prohibit corporal punishment .....	39	10
5.5 Child protection monitoring .....	40	11
5.6 Female Genital Mutilation .....	41	11
VI. Conclusion .....	42	11

## I. Introduction

### 1.1 Kenya National Commission on Human Rights

1. The Kenya National Commission on Human Rights (KNCHR) is an independent National Human Rights Institution with 'A status' accreditation. The Commission was originally a statutory body established under the KNCHR Act of 2003. With the promulgation of the 2010 Constitution, the Commission was re-established under Article 59 (4) of the 2010 Constitution and for that reason, enjoys Constitutional protection as a Constitutional Commission.

2. Pursuant to the KNCHR Act (No.14 of 2011), the Commission is mandated to promote the protection and observance of human rights in public and private institutions. In line with the new constitutional dispensation and in keeping with the expansive Bill of Rights which entrenches economic and social rights.

## II. Legal and Policy Framework that guides the Rights of the Child

3. There exists varied international, regional and national legal provisions that provide for the rights of a child, protection and promotion of the same: these include; the UN Convention on the Rights of the Child, the International Labour Law, the African Charter on the Rights and Welfare of the Child, the Universal Declaration of the Rights of the Child, the Sexual Offence Act, the Children's Act among others.

4. Kenya ratified the United Nation Convention on the rights of the child on July 31<sup>st</sup> 1990<sup>1</sup>. The state submitted its initial report on Sep 1<sup>st</sup> 1992 and was reviewed on Jan 13<sup>th</sup> 2000<sup>2</sup> by the Committee on the rights of the child; Kenya domesticated the convention on 2001 by passing into law the Children's Act of 2001 which makes provision for the promotion and protection of the rights of the child.

5. In 2010, Kenya promulgated a new constitution with a progressive bill of rights; The constitution also makes provision under Article 2(5) and 2(6) that the conventions and treaties ratified by Kenya form part of the law in Kenya therefore making Kenya a monist state making the provisions of the treaties ratified by Kenya applicable without necessarily domesticating them.

### 2.1 The Convention on the Rights of the Child (CRC)

6. The Convention on the Rights of the Child (CRC) not only addresses the granting and implementation of rights in peacetime, but also the treatment of children in situations of armed conflict. The CRC is primarily concerned with four aspects of children's rights: participation by children in decisions affecting them; protection of children against discrimination and all forms of neglect and exploitation; prevention of harm to them; and provision of assistance to children for their basic needs.

<sup>1</sup> <http://www.law.yale.edu/rcw/rcw/jurisdictions/afe/kenya/frontpage.htm>

<sup>2</sup> [http://www.bayefsky.com/pdf/kenya\\_t3\\_crc.pdf](http://www.bayefsky.com/pdf/kenya_t3_crc.pdf)

## 2.2 African Charter on the Rights and Welfare of the Child 1990

7. At the regional level Kenya has acceded to The African Charter on the Rights and Welfare of the Child (ACRWC), which builds on the 1979 Declaration on the Rights and Welfare of the African Child. The ACRWC sets forth the principles of non-discrimination and the best interests of the child and also provides that children have an inherent right to life, protected by law among others rights.

## 2.3 Definition

8. The Convention on the Rights of the Child (CRC)<sup>3</sup>: defines a child as “every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier.” The Worst Forms of Child Labour Convention (1999, No. 182), defines a child as a person under 18 years of age<sup>4</sup>. The African Charter on the Rights and Welfare of the child<sup>5</sup> defines a child as every human being below the age of 18 years<sup>6</sup>. In the Kenyan children’s Act 2001, a child is defined to be any human being under the age of eighteen years;

9. The CRC<sup>7</sup>: defines violence as “all forms of physical or mental injury and abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse.” The World Report on Violence and Health (2002): denotes violence as “the intentional use of physical force or power, threatened or actual, against a child, by an individual or group that either results in or has a high likelihood of resulting in actual or potential harm to the child’s health, survival, development or dignity.” The article further denotes that no violence against children is justifiable and all violence against children is preventable. CRC recognizes child rights and obligates the elimination of violence against children by all member states. The Article (19) obligates governments to ensure that children are protected from all forms of violence, abuse, neglect and mistreatment by their parents and anyone who looks after them<sup>8</sup>.

10. Articles 13(1), 14 and 18(1) of the Children’s Act in Kenya provide for the protection of the child from all forms of violence including physical and psychological abuse, neglect, trafficking, female circumcision, cultural rites, torture, cruel treatment, deprivation of liberty etc<sup>9</sup>. Article 53(d) of the Kenya constitution reaffirms that every child has the right to be protected from abuse, neglect, harmful cultural practices, all forms of violence, inhuman treatment and punishment, and hazardous or exploitative work<sup>10</sup>.

11. Violence against children exists in every State and cuts across boundaries of culture, class, education, income, ethnic origin and age. It occurs in various institutions like: in schools, the family, alternative care and justice institutions, detention facilities, places where children work and in the community<sup>11</sup>.

<sup>3</sup> See Article 1 of Convention on the Rights of the Child (CRC)

<sup>4</sup> <http://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/child-labour/lang--it/index.htm>

<sup>5</sup> Article 2 of The African Charter on the Rights and Welfare of the child

<sup>6</sup> <http://acerwc.org/the-african-charter-on-the-rights-and-welfare-of-the-child-acrwc/acrwc-charter-full-text/>

<sup>7</sup> Article 19 of Convention on the Rights of the Child (CRC)

<sup>8</sup> [http://www.unicef.org.uk/Documents/Publication-pdfs/UNCRC\\_summary.pdf](http://www.unicef.org.uk/Documents/Publication-pdfs/UNCRC_summary.pdf)

<sup>9</sup>

[http://www.icrc.org/applic/ihl/ihlnat.nsf/a24d1cf3344e99934125673e00508142/95bcf642e7784b63c1257b4a004f95e8/\\$FILE/Children%27s%20Act.pdf](http://www.icrc.org/applic/ihl/ihlnat.nsf/a24d1cf3344e99934125673e00508142/95bcf642e7784b63c1257b4a004f95e8/$FILE/Children%27s%20Act.pdf)

<sup>10</sup> Constitution of Kenya; 2010

<sup>11</sup> <http://www.unicef.org/violencestudy/reports.html>

### III. Forms of violence

#### 3.1. Physical and psychological violence

12. This includes: shaking, slapping, hitting, kicking, burning, choking, pinching, paddling, shoving, whipping, biting, pulling hair, throwing things at a child, and stabbing and shooting of children.<sup>12</sup> Physical and psychological violence mostly occurs in the form of punishment. According to Save the Children Alliance, "Physical and psychological punishment is the use of physical force or degrading treatment causing some degree of pain or discomfort, in order to discipline, correct, control, change behavior or in the belief of educating/bringing up the child. Physical punishment can take many. Psychological punishment takes various forms such as humiliation, threat, neglect, degradation, demeaning and ridicule<sup>13</sup>.

#### 3.2. Sexual abuse

13. This occurs when a child become a sexual partner for an adult. Anyone under the age of 18 who is used by an adult for sexual gratification is being Sexually Abused. Sexual abuse is fondling, exhibitionism, and intercourse. Sexual abuse in a child can be noticed when there are sudden changes in the child's behavior: bedwetting, fears and phobia, significant changes in school performance, hesitancy to be alone with a certain person, age inappropriate sexual knowledge, promiscuity and language; sore, red, bleeding, itching, burning genital areas, discharge and unusual odors, pain on urination, stained underpants, sexually transmitted diseases, self-destructive behavior, acting more immature and infantile, running away<sup>14</sup>.

#### 3.3. Emotional and verbal harm

14. Calling a child names, yelling, screaming, threats, bullying, comparing kids negatively to others, public and private humiliation and shaming, unrealistic and extreme demands made on a child, intentional withholding of a parent's love and affection, and telling them "they're no good, worthless, bad or a mistake, undermines a child's foundation, spirit, and psychological and social development. This is extremely harmful to kids. Their self-esteem is shattered -possibly throughout their adulthood, and can affect their whole lives.

#### 3.4. Neglect and abandonment

15. Is a deliberate refusal and failure of parents to provide their children with ample food, ample and appropriate clothing, inappropriate and/or no shelter, guidance and supervision, inadequate hygiene, and the proper medical and dental health care. A refusal and failure to provide nurturing, and -- physical and emotional affection and abandoning children -- are all acts of neglect and abandonment and, undermine a child's foundation, spirit, and psychological and social development.

#### 3.5. Child trafficking

16. Children are internally and internationally taken away to work as house maids and for sexual exploitation in tourist dominated cities and urban areas of most countries. Children are also trafficked for purpose of forced labour in the agricultural sector particularly in tea plantations and flower farms. Young girls are lured on the pretext that they will be sent to school once they get to town. In many countries, internationally

<sup>12</sup> [http://www.loveourchildrenusa.org/ca\\_forms.php](http://www.loveourchildrenusa.org/ca_forms.php)

<sup>13</sup> [http://www.anppcan.org/files/File/08\\_ChildViolence.pdf](http://www.anppcan.org/files/File/08_ChildViolence.pdf)

<sup>14</sup> [http://www.loveourchildrenusa.org/ca\\_forms.php](http://www.loveourchildrenusa.org/ca_forms.php)

trafficking is carried out in the form of illegal adoptions of children for purposes of removal of organs, religious rituals or witchcraft<sup>15</sup>.

### 3.6. Harmful traditional practices

17. Female genital mutilation is still practiced in some countries: WHO estimates that between 100 million and 140 million women and girls worldwide have been subjected to FGM. Three million girls and women a year are at risk of mutilation - approximately 8000 girls per day. It has been documented mainly in Africa (in 28 countries), and in a few countries in the Middle East (e.g. Yemen, Kurdish communities, Saudi Arabia), Asia and among certain ethnic groups in Central and South America<sup>16</sup>. UNICEF estimates that in sub-Saharan Africa, Egypt, Djibouti, Eritrea, Ethiopia and Sudan, 3 million girls are subjected to FGM every year<sup>17</sup>.

18. In Kenya, in spite of the enactment of the Children Act 2001, which prohibits FGM<sup>18</sup>, the practice continues in some areas of the country<sup>19</sup>. In 2009, the practice of FGM in Kenya was at 27.1% which was a reduction from 32.2% in 2003: with the Kisii standing at 96.1%, the Somalis at 97.7% and the Maasai at 73.2%<sup>20</sup>. In 2011, the statistics were still at the high notch with Somali practicing FGM at 98%, 96% for the Kisii and 73% for the Maasai. Statistics report on FGM by Kenyan's inspector general (2014) shows that between 2011 and 2014, a total of 71 cases on FGM were taken to court; only 16 resulted in convictions, 18 acquittals, four withdrawals and 33 were pending<sup>21</sup>.

### 3.7. Corporal punishment at home, school and juvenile institutions

19. Canning and manual labour are forms of punishment given to children in these institutions, which are believed to be the most efficient and appropriate way. In situations where the child is hurt, no reporting or redress because the child lack the capacity to seek justice measures and if justice is sought in court, the culprits are either acquitted or fined a minimal fine amounts as the act is treated like as a simple offence. Corporal punishment is still practiced in Kenya despite its prohibition by the constitution: Article 29 of the Constitution (2010) states that every person "*has the right to freedom and security of the person, which includes the right not to be – ... (c) subjected to any form of violence from either public or private sources; (d) subjected to torture in any manner, whether physical or psychological; (e) subjected to corporal punishment; or (f) treated or punished in a cruel, inhuman or degrading manner.*" Article 20(1) states: "The Bill of Rights applies to all law and binds all State organs and all persons." Article 53(1) re-affirms that every child "*has the right ... (d) to be protected from abuse, neglect, harmful cultural practices, all forms of violence, inhuman treatment and punishment, and hazardous or exploitative labour*". Article 2(4) of the Constitution states: "Any law, including customary law that is inconsistent with this Constitution is void to the extent of the inconsistency, and any act or omission in contravention of this Constitution is invalid."<sup>22</sup> Corporal punishment is unlawful in schools; under the Constitution {article 2(4)}, thus Article 11 of the Education (School

<sup>15</sup> World Organization Against Torture: Violence against women and children in Kenya: implementation of the UN convention against torture and other cruel, inhuman or degrading treatment or punishment: An alternative report to the Committee Against Torture (November 2009)

<sup>16</sup> <http://www.endfgm.eu/en/female-genital-mutilation/what-is-fgm/where-is-it-practised/>

<sup>17</sup> <http://www.unicef.org/violencestudy/reports.html>

<sup>18</sup> Article 14 of the children's Act "No person shall subject a child to female circumcision....."

<sup>19</sup> Situation of violence against women and children in Kenya

<sup>20</sup> [http://28toomany.org/media/uploads/final\\_kenya\\_country\\_profile\\_may\\_2013.pdf](http://28toomany.org/media/uploads/final_kenya_country_profile_may_2013.pdf)

<sup>21</sup> <http://iwpr.net/report-news/kenya-battles-female-genital-mutilation>

<sup>22</sup> Peter Newell : Briefing From Global Initiative To End All Corporal Punishment Of Children: *Briefing On Kenya For The Human Rights Committee Country Report Task Force (Adoption Of LOI) – October/November 2011*

Discipline) Regulations, which allowed corporal punishment in certain circumstances, is now void. A Basic Education Bill Act provides in article 35 (Prohibition against physical punishment and mental harassment to the child): it states that *“(1) No pupil shall be subjected to torture and cruel, inhuman or degrading treatment or punishment, in any manner whether physical or psychological; (2) A person who contravenes the provisions of subsection (1) commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment not exceeding six months or both.* Corporal punishment is also prohibited as a sentence for crime under section 191 of the Children Act and in the Constitution and is unlawful as a disciplinary measure in juvenile detention centres.

20. In all incidences of violence that occur to many children in different countries, only a small proportion of acts of violence are reported and investigated, and few perpetrators held to account. In many parts of the world there are no systems responsible for recording, or thoroughly investigating, reports of violence against children. Where official statistics based on reports of violence in the home and other settings exist, they dramatically underestimate the true magnitude of the problem. There are various reasons for this lack of reporting. Very young children who suffer violence in their homes lack the capacity to report. Many children are afraid to report incidents of violence against them for fear of reprisals by perpetrators, or of interventions by authorities which may worsen their overall situation. In many cases parents, who should protect their children, are silent if the violence is perpetrated by a spouse or other family member, or a more powerful member of society such as an employer, a police officer, or community leader.

21. Fear is closely related to the stigma frequently attached to reporting violence. In societies where patriarchal notions of family ‘honour’ are valued above girls’ human rights and wellbeing, an incident of rape or sexual violence can lead to ostracism of the victim, further violence and even death at the hands of her family.

## IV. Types of child violence in Kenya

### 4.1 Sexual violence

22. In Kenya, cases of children violence are rampant with sexual violence being the lead form of violence against children committed by police officers and other individuals to children especially street children and those who dwell in IDP camps<sup>23</sup>. Street children are the most vulnerable to harassment, physical and sexual abuse because they are seen as offenders, criminalized and frequently arbitrarily arrested, beaten and ill-treated by police officers<sup>24</sup>. Rape regularly occurs in Kenya but is hardly reported, no effective system is foreseen to investigate allegations of sexual violence and consequently most cases are not referred to justice. In December 2012, UNICEF reported that 10% of girls and 5% of boys suffer sexual violence in Kenya<sup>25</sup>.

### 4.2 Child trafficking

23. Cases of trafficking are in the increase in Kenya, within and outside its borders; due to porous borders, weak immigration laws and corruption, with women and children commonly identified as victims and occurring primarily from rural areas to urban centres, particularly Kisumu, Malindi, Mombasa and Nairobi. Internally, the offence of trafficking

<sup>23</sup> <http://www.irinnews.org/report/76465/kenya-idp-children-falling-through-protection-cracks>

<sup>24</sup> <http://www.hrw.org/reports/1997/kenya/>

<sup>25</sup> <http://www.voanews.com/content/kenyan-girls-at-risk-of-sexual-violence/1571132.html>

is meted out on young, needy girls especially from the rural areas who are taken to urban centres to work as housemaids, usually at a fee or no fee at all.

24. The young girls are usually lured with the pretext that they will be sent to school once they arrive in the towns. The main purpose of trafficking to Nairobi is domestic labour while trafficking to coastal region is predominantly for purposes of sexual exploitation because of the tourism sector. Internal trafficking also happens for purposes of forced labour in the agricultural sector, particularly on tea plantations and flower farms. A report by the CRADLE 2006, reported that International trafficking usually takes the form of illegal adoption for young children who may be trafficked for purposes such as removal of organs, religious rituals or witchcraft, gender criteria appear to be immaterial. It further revealed that children are at increased risk of trafficking especially through poor birth registration.

25. A report by International Peace Institute holds that these girls were mainly from Somalia who were trafficked for the purpose of provision of forced labour and prostitution. Up to 20,000 Somalis and Ethiopians are smuggled into the country heading to South Africa every year<sup>26</sup>.

26. A recent report by CRADLE (28<sup>th</sup> Aug 2014) state that Kenya is still leading in child trafficking incidents and week-old babies are sold for as little Kshs. 2,000, in most cases, the price is based on gender and race while other perpetrators ferry young girls, offer them accommodation and food and recover the expenses by sending them to the streets for sexual exploitation. According to the latest report by Cradle, Kenya remains a big transit point and destination of trafficked children in East Africa.

27. The report reveals that Nairobi, Kericho and Malindi counties lead in child trafficking incidents in the country. Major hotspot areas notorious for child trafficking include Kibera slum in Nairobi, Garissa, Kilifi, and Tononoka in Mombasa, Kisumu, Rongo and Nyahururu. Being a major tourist destination, the report says Kenya has a disproportionate share of child sex tourism, especially at coastal towns. The report estimates 41 per cent of children aged 10-14 are exploited for cheap labour, while pregnant women are reportedly involved in baby trafficking, in which babies who are days old are sold by mothers and their accomplices. Children trafficked within the country are forced to labour on domestic service, agriculture, fishing, cattle herding, street vending and begging. This presents itself through child sex tourism and prostitution in coastal area, child labour in areas where there is prevalent cultivation of miraa, coffee and tea farms and near Nyanza's gold mines<sup>27</sup>.

#### **4.3 Female Genital Mutilation**

28. Female Genital Mutilation is still widely practiced, especially with the Maasai, Kisii, and Somali communities in Kenya; in spite of the enactment of the Children's Act (2001) which prohibits female genital mutilation. In addition, women over 18 years of age are usually pressured or forced into undergoing the practice, especially the Maasai community which holds that FGM brings chastity and honour to women. They believe that FGM limits sexual desires and promiscuity among women; a way of ensuring marriage. Uncut women are perceived to have sexual feelings for every man thus are highly likely to spread

---

<sup>26</sup> <http://safariafricaradio.com/index.php/news/91-news/1470-alarming-statistics-on-human-trafficking-in-kenya>

<sup>27</sup> [https://www.standardmedia.co.ke/m/story.php?articleID=2000133041&story\\_title=Kenyans-selling-babies-for-Sh2-000-says-MP](https://www.standardmedia.co.ke/m/story.php?articleID=2000133041&story_title=Kenyans-selling-babies-for-Sh2-000-says-MP)



HIV/AIDs. When a girl is cut, she remains pure and faithful accepted by peers and the community and saves her marriage<sup>28</sup>.

#### 4.4 Deprivation of liberty

29. Juvenile justice systems in Kenya also instigate child violence by depriving liberty to the children hence exposing them to violence. There is need to reduce this risk by having genuine juvenile systems that comply with relevant UN standards: e.g. to have the minimum age of criminal responsibility increased from at eight years.

30. In Kenya, many children are considered and treated as child offenders because they come from deprived socio-economic backgrounds. Thus, many of them (including street children) are committed to the same settings as children in conflict with the law. Although, section 119 (2) of the Children Act states that children in need of care and protection should “*be placed in separate facilities from a child offenders’ facility*”, children are mixed sometimes<sup>29</sup>. In this regard, there is an urgent need to separate the social welfare and criminal justice systems. Most police stations do not separate children in conflict with the law from those in need of care and protection. This increases the stigmatization of children in need, who are treated as suspects by the police after arrest. For example, many street children are often beaten by police officers during the arrest and while in police custody. There are cases where children who are temporarily held in custody have reported being subjected to violence from adult inmates in mixed populations. It would appear the wardens and police officers are generally aware of these violations but do little to prevent abuse of children by adult inmates. This problem is exacerbated by the fact that often due to lack of vehicles to transport children to court for trial, many end up staying longer thereby increasing their likelihood of being abused and ill-treated<sup>30</sup>.

31. To deal with rape and sexual abuse, the government came up with the Sexual Offences Act; the only statute that deal with child trafficking. However Children living with disabilities especially the deaf and blind require special provisions, since the sexual offences act remains silent on their treatment when they are victims of sexual offences<sup>31</sup>. The government has also outlawed the practice of FGM under the Children’s Act (2001); section 14 which provides that *No person shall subject a child to female circumcision, early marriage or 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*.

32. The government has also prohibited corporal punishment under the Children’s Act and the review of the Education Act .Section 19 of the prohibition of female genital mutilation Act 2011 provides for the prohibition of the practice, aiding and training of surgical practitioners on FGM and section 29 provides for penalty measures for those who commit or aid such offence<sup>32</sup>. Although the Children’s Act prohibits FGM, it does not set

<sup>28</sup> <http://www.irinnews.org/indepthmain.aspx?InDepthId=15&ReportId=62470>

<sup>29</sup> World Organization Against Torture: Violence against women and children in Kenya: implementation of the UN convention against torture and other cruel, inhuman or degrading treatment or punishment: An alternative report to the Committee Against Torture November 2009( pg29-30)

<sup>30</sup> World Organization Against Torture: Violence against women and children in Kenya: implementation of the UN convention against torture and other cruel, inhuman or degrading treatment or punishment: An alternative report to the Committee Against Torture (November 2009)

<sup>31</sup> Coalition of child rights NGOs for UPR-Kenya: 5/30/2014

<sup>32</sup>

[http://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/ProhibitionofFemaleGenitalMutilationAct\\_No32of2011.pdf](http://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/ProhibitionofFemaleGenitalMutilationAct_No32of2011.pdf)

out clearly that the practice is prohibited for people of all age: the cut is enforced to older females because the act does not apply to them<sup>33</sup>.

## V. Global efforts to end child violence

33. Child violence has been for years a global problem occurring in both developed and developing countries. The adoption and ratification of the CRC by member states and the realization of children rights in State's legal provisions has seen the reduction and elimination of child abuse in some of the countries.

34. There have been global campaigns to end FGM, child trafficking and corporal punishment through raising awareness of the impacts of such practices and the introduction of serious punitive measures for perpetrators of child violence.<sup>34</sup>

35. CRC sets out key principles which are minimum standards for child protection which seek to protect the children right to life in regard to: child survival and development, non-discrimination and prioritizing the best interest of the child<sup>35</sup>. The principles advocates for assisting children to claim their rights, through information documentation and assistance in seeking remedies; support children appropriately in recovering from the physical, psychological and social effects of violence and other abuse.

### 5.1 Enhancing the global efforts.

36. States should also sign and ratify the Optional Protocols to the CRC on Sex Trafficking, Armed Conflict. These include: the optional protocol on the sale of children, child prostitution, and child trafficking (sex trafficking) and the optional protocol on the involvement of children in armed conflicts (armed conflict).<sup>36</sup>

### 5.2 States should criminalize all acts of violence

37. States to have severe punitive measures including legislative and administrative systems, through which perpetrators will be reported, convicted and charged. State should facilitate access to justice and enact relevant legislation including the Anti-Trafficking in person's bill. To provide the necessary specific training to all law enforcement personnel on violence against the children.

### 5.3 States to enhance child protection

38. States should work together with humanitarian organizations and religious institution to create and promote awareness through education and advocacy at the community and national level to promote non-violent child rearing. This will enhance elimination of all forms of violence against children.

### 5.4 Prohibit corporal punishment

39. States should enact laws that outlaw corporal punishment both at the family, learning institutions and private alternative care and employment settings. States should also conduct public education and awareness raising campaigns on children's rights to protection from all forms of violence and promotion of alternative, participatory, non-violent forms of discipline; improve the effectiveness of the monitoring system in order to

<sup>33</sup> [https://www.unfpa.org/gender/docs/fgmc\\_kit/Kenya-1.pdf](https://www.unfpa.org/gender/docs/fgmc_kit/Kenya-1.pdf)

<sup>34</sup> Kenya for example has legal provisions on FGM, Child trafficking and child labour.

<sup>35</sup> Child protection group: Minimum standards for child protection in humanitarian action(CPWG) 2012

<sup>36</sup> <http://www.loc.gov/law/help/child-rights/international-law.php>

ensure that abuse of power by teachers or other professionals working with and for children does not take place in schools and other institutions.<sup>37</sup>

### **5.5 Child protection monitoring**

40. States, humanitarian organizations and religious institutions should have a focal point for collection of information indicating levels and patterns of violence, exploitation, abuse and neglect; information on child abduction, arbitrary detention, hazardous labour, sexual exploitation and trafficking. States should have inspection committees to visit detention places, raise the age of criminal responsibility; and Ensure that all minors, including those who have committed serious offences, are treated under the rules of juvenile justice and not in adult criminal courts.

### **5.6 Female Genital Mutilation**

41. The state party should take all necessary steps to eradicate the practice including through intensification of nationwide awareness raising campaigns, and to punish the perpetrators of such acts.

## **VI. Conclusion**

42. **There have been efforts worldwide towards eradicating child violence by states government through the adoption, signing and ratification of international legal institutions and optional protocols that provides for the promotion and protection of children rights together with domestication of the provisions in their local legislative and administrative frameworks. However, to ensure elimination of all forms of violence against the child, States should:**

- **Strengthen measures to combat child violence in children detention institutions, alternative care institutions through reform and monitoring programs, this would ensure that people conform to the provisions of the law.**
- **Create awareness against harmful cultural practices and FGM worldwide, since there are still number of countries that practice FGM in spite of prohibition in local laws. States thus should strengthen measures regarding FGM, early marriage and ensure that the prohibition is strictly enforced.**
- **Enhance access to justice and justice institutions to children who face violation and ensure that justice is accorded to the child.**
- **Ensure their borders are well monitored and have competent immigration officers to curb child trafficking.**
- **Jointly work with humanitarian organizations, religious leaders and members of the civil society to ensure sensitization of people on child violence, child rights and child protection.**

---

<sup>37</sup> <http://www.endcorporalpunishment.org/pages/progress/reports/kenya.html>