The African Women's Development and Communication Network

# ECONOMIC EMPOWERMENT IS KEY TO ENDING HARMFUL PRACTICES AND PROTECTING WOMEN & GIRLS' RIGHTS

**Female genital mutilation | Early & child marriages | Access to safe abortion**

## TANZANIA

## POLICY BRIEF

NOVEMBER 2021

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# HIGHLIGHTS

## FEMALE GENITAL MUTILATION

- Female Genital Mutilation (FGM) is a practice closely related to marriage. It is prevalent across Tanzania (except in Kigoma).
- 10% of girls and women between the ages of 15-45 have undergone FGM.
- The law however does not protect FGM victims above the age of 18 years.
- It is estimated that 7.9 million women and girls in Tanzania have undergone FGM (UNICEF, 2013).
- Approximately 14.6% of women in Tanzania have undergone FGM and this rate has stayed consistent between 2004-05 and 2010 (Demographic Health Survey).
- The highest rates of FGM occur in Manyara, Dodoma, Arusha, Singida, Mara and Kilimanjaro at rates between 20-70%.
- Some of the ethnic groups most associated with practising FGM are the Nyaturu, Gogo, Maasai, Pare, Kuria, Hadza, Barabaig and Iraqw. There has recently been a trend in cutting young girls at an early age (many before their first birthday) and a rate of 31.7% in 2010 (Demographic Health Survey).

## EARLY AND CHILD MARRIAGE

- Minimum legal age of consent to marriage for women is 15.
- Minimum legal age of consent to marriage for men is 18.
- According to UNICEF statistics 18% of adolescents are currently married or living with a partner.
- 28% of women gave births before the age of 18 years.
- Over one third of all young women are married by the age of 18, however, this law in now under review.
- Under Tanzanian law, child marriage still has legal status. The Law of Marriage Act (1971) allows for boys to marry at 18 and girls to marry at 15.
- Girls under 18 need their parents' permission to marry, but that does not in any way protect a girl from an early marriage.

## ACCESS TO SAFE ABORTION

- The legal status of abortion is ambiguous in Tanzania: the Penal Code is broadly understood to authorize abortion to save a woman's life, but remains unclear on its legality to preserve the woman's physical or mental health[1].
- 43% of women aged between 15 - 49 use some form of contraception of those 47% are involved in the decision for contraceptive use.
- Tanzania experienced an estimated 405,000 induced abortions in 2013, equivalent to a national rate of 36 abortions per 1,000 women age 15-49 or a ratio of 21 abortions per 100 live births.
- Only one in seven women who underwent an abortion received care[2].
- There is lack of clarity which creates confusion amongst healthcare providers and women alike, and fear of prosecution on both sides pushes women to seek clandestine abortions that are often unsafe.
- Tanzania has the 17th highest adolescent fertility rate in Africa. The adolescent fertility rate increased from 116 to 132 between the 2010 and 2015/16 according to the Demographic Health Surveys (TDHS).
- 32% of rural teenagers have had a live birth or are pregnant, compared with 19% of urban teenagers.

# SYNOPSIS

*This policy brief builds on evidence from the review of key legal, policy and programmatic efforts for ending early child and forced marriages, Female Genital Mutilation (FGM) and promoting access to abortion services. In Tanzania, Gender Based Violence (GBV) is widespread. In the 2010 TDHS, over 20% of Tanzanian women aged 15-49 years reported having experienced sexual violence in their lifetime and nearly 40% reported having experienced physical violence. The same survey showed that 44% of every-married women had experienced physical and or sexual violence from an intimate partner in their lifetime. The issues focused on in this policy brief are serious common practices that violate women and girls' human rights.*

*To redress the three vices concerted policy reforms through strategic advocacy and community level social behaviour change communication efforts are critical for the promotion of comprehensive Sexual Reproductive Health Rights (SRHR). The impact of COVID-19 is explored to determine any impact on promoting or preventing the harmful practices, un/under reporting and subsequently propelling the continuation of child marriages, female genital mutilation prevention and limited access to safe abortion services in Tanzania. This paper will contribute to achieving major advocacy priorities in the Strategic Plan for the African Women's Development and Communication Network (FEMNET) Strategic Plan (2020-2029), and the priorities of the Swedish International Development Cooperation Agency (SIDA).*

2022 policy brief

# BACKGROUND

## FEMALE GENITAL MUTILATION

In Tanzania, Female Genital Mutilation (FGM) is prevalent across Tanzania (except in Kigoma). FGM refers to a range of procedures involving the total or partial removal of the female genital organs. Four types of FGM have been classified by the World Health Organisation (WHO), although unskilled 'cutters' may carry out procedures that do not always fit into these categories (Children's Dignity Forum 2010). Type 1 has been found to be practised in Tarime district.

**1. Clitoridectomy - Excision of the prepuce, with or without excision of part or the entire clitoris**

**2. Excision - the partial or total removal of the clitoris and the labia minora (the inner folds of the vulva), with or without excision of the labia majora (the outer folds of skin of the vulva).**

**3. Infibulation - the narrowing of the vaginal opening through the creation of a covering seal. The seal is formed by cutting and repositioning the labia minora, or labia majora, sometimes through stitching, with or without removal of the clitoris.**

**4. All other harmful procedures to the female genitalia for no medical purposes, for example: pricking, piercing, incising, scraping and cauterisation**

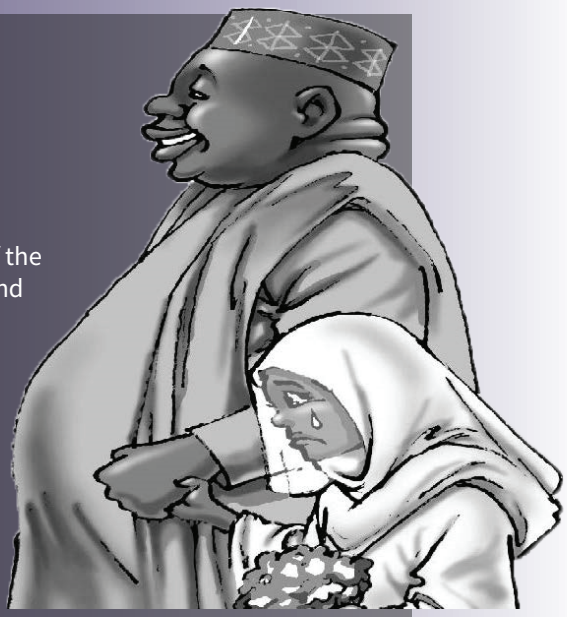
In Tarime FGM is used as a rite of passage into adulthood, and signals that a girl is ready to marry and thus that her family can get bride price. The incentive of bride price is one reason why FGM is now practised on younger girls (aged 10-16 years). According to CDF (2010) "...mostly girls go through FGM when they are 10 years and circumcision for boys when they are 12 years, they do so at an early age so that girls and boys can get married early." Traditionally, FGM in Tarime is practised every two years in a ritual that lasts a full day. Girls 'rest' for a month afterwards, then if not in school they are married off. The research highlighted that FGM was primarily practised in order to be able to marry off girls. "Most of the times after FGM, children are married off. Taking children early through FGM results in child marriages."

Tanzania is characterised as having "discrimination embedded in customary laws, social norms and practices and inadequate legal protections against gender discrimination in all dimensions of social institutions." While female genital mutilation (FGM) is on the decline in the country, the practice remains widespread in some rural areas. In Maasai communities such as Lingate in the northern Arusha region, dozens of women are turned away in marriage because they would have refused to be cut. Despite efforts to end the practice, some Maasai tribal elders embrace the tradition and want their daughters circumcised. Most women are still being cut in several regions, including two regions just south of Arusha - Manyara, where 81% of women have undergone some form of genital mutilation, followed by Dodoma, where approximately 68% of women[3] have undergone the procedure.

Many live in fear of their ancestors and will often times attribute misfortunes as a punishment from ancestors. This is also the basis of female genital mutilation (FGM) practiced by some in the area. Some people in the district secretly engage in Female Genital Mutilation in an attempt to 'appease' their ancestors and to avoid punishment from government. Although the act has serious health effects and sometimes leads to death, people still practice the tradition and believe that failure to do so leads to natural disasters such as drought. FGM is also widely practiced as a passage rite into adulthood. Those who do not go through the ceremony, risk facing discrimination and are regarded as people who bring misfortune into the community.[4]

Female Genital Mutilation (FGM) is a serious form of harmful cultural practice. The World Health Organisation (WHO) estimates that about 200 million girls and women between the ages of 15-49 have undergone FGM in the world[5]. In Tanzania, 10% of girls and women between the ages of 15-45 have undergone FGM. The law however does not protect FGM victims above the age of 18 years. Similarly, Article 11 (1) (c) and Article 11 (2) of the SADC Protocol on Gender and Development seek to protect the girl and boy child from harmful cultural practices including FGM. This protection is not extended to adults.

# EARLY AND CHILD MARRIAGES



Child marriage' refers to a formal or informal union in which at least one of the parties is under 18 years of age (UNFPA 2012). The conflict between legal and customary laws, poverty, gender inequality, low education attainment and teenage pregnancies are the most perpetrators contributing to child marriages in Tanzania (TDHS 2015/16). Under Tanzanian law, child marriage still has legal status. The Law of Marriage Act (1971) allows for boys to marry at 18 and girls to marry at 15. They can marry at 14 if the courts approve their request. Girls under 18 need their parents' permission to marry, but that does not in any way protect a girl from an early marriage. The current legality of child marriages makes the challenge of ending such marriages particularly difficult.

Child marriage denies girls their right to make vital decisions about their sexual health and well-being. It forces them out of education and into a life of poor prospects, with an increased risk of violence, abuse, ill health or early death. Child marriage perpetuates poverty, inequality and insecurity and is an obstacle to global development Prevalence of child marriage is high. According to data from the Tanzania Demographic Health Survey (TDHS) 2015/16, one in three women in Tanzania marry before their 18th birthday. The same survey shows a 5 per cent increase in the marriage of adolescent girls in the 15-19 age bracket since the previous survey in 2010[6].

Advocate for legislation that provides a framework for legal protection and guidance and legitimacy for policymakers and activists to tackle the financial, social and cultural drivers behind child marriage. Ensure that adolescent girls and boys have access to safe and age-appropriate sexual and reproductive health information and services, including voluntary family planning that will allow them to make a safe transition from childhood into adolescence and adulthood. Undertake culturally sensitive engagement at all levels, including with gatekeepers – parents, teachers, community members and others to change social norms to create an environment where both boys and girls are able to complete their education and to make informed choices and decisions on marriage and childbearing[7].

In Tanzania over one third of all young women are married by the age of 18, however, this law in now under review. Child brides are neither physically nor emotionally ready to become wives and mothers. Isolated and with limited freedom, married girls often feel disempowered. They are deprived of their fundamental rights to health, education and safety. They face more risks of experiencing dangerous complications in pregnancy and childbirth, contracting HIV/AIDS and suffering domestic violence. With little access to education and economic opportunities, they and their families are more likely to live in poverty.[8]

## ACCESS TO SAFE ABORTION

The legal status of abortion is ambiguous in Tanzania: the Penal Code is broadly understood to authorize abortion to save a woman's life, but remains unclear on its legality to preserve the woman's physical or mental health. Although Tanzania ratified the 2007 African Charter's Protocol on the Rights of Women in Africa allowing abortion in cases of rape, incest or if the pregnancy endangers the woman's life, mental or physical health or the life of the foetus. The government has not incorporated these provisions into its national law[9]. There is also ambiguity over whether authorization is needed from more than one provider before performing an abortion. This lack of clarity creates confusion amongst healthcare providers and women alike, and fear of prosecution on both sides pushes women to seek clandestine abortions that are often unsafe[10].

There are just under eight facilities providing PAC per 100,000 women in Tanzania[11]. Accessibility of PAC varies across the country: Zanzibar is the best served with over 10 facilities per 100,000 women, while the Eastern zone had the lowest density, with under 6 facilities per 100,000 women. Consultant and regional hospitals treat the majority of Tanzania's post-abortion care cases. In 2013, on average, each consultant and regional hospital treated about 1,140 and 710 PAC cases, respectively, compared to average annual caseloads of about 250 at each sub-regional hospital, 70 at each health centre, and less than 30 at each dispensary. Overall, about 66,640 women were treated in facilities for complications from induced abortions, at a rate of 5.9 per 1,000 women age 15–49. This rate varied considerably by zone, from a low of 2.9 induced abortion cases treated per 1,000 women in the Eastern zone to a high of 7.9 per 1,000 in the Southern Highlands[12]. Women obtained approximately 405,000 induced abortions in Tanzania in 2013, for a national rate of 36 abortions per 1,000 women age 15–49 and a ratio of 21 abortions per 100 live births. The national multiplier is 6.08, meaning that for each woman treated in a facility for induced abortion complications, 6 times as many women had an abortion but did not receive PAC–either because they did not experience complications, or because their complications went untreated.

# POLICY & LEGAL FRAMEWORK

The following conventions which Tanzania has ratified promote children's rights and welfare, stand against child marriage as a form of gender discrimination, and highlight that child marriage is a public, not private matter:

- African Charter on Human and Peoples' Rights (also known as the Banjul Charter) - Ratified 18/02/1984.
- United Nations Convention on the Rights of the Child (UNCRC) - Ratified 10/07/1991.
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) -Ratified 19/09/1985.
- The African Charter on Human and Peoples' Rights on The Rights of Women in Africa - Ratified 03/03/2007.
- The Organisation of African Unity Charter on the Right and Welfare of the Child (d) The International Conference on Population and Development (ICPD), Programme of Action (UN, 1994).
- The fourth World Conference on Women UN 1995 Platform for Action and Beijing Declaration
- The SADC Protocol Article 17 on Child and Adolescent Health

Despite ratifying these conventions, Tanzania (like many other African countries) has not domesticated them into national law. Inevitably, therefore, child rights violations, such as child marriage, FGM, persist across the country. Given that children constitute approximately 50% of the Tanzanian population, such violations present a significant problem.

## FGM

A number of measures have been used to combat FGM in Tanzania. The Parliament of Tanzania passed an amendment to the Penal Code to specifically prohibit FGM, but this only applies to minors. The government also has a National Plan of Action to Combat FGM 2001-2015. There have been prosecutions of persons found carrying out FGM. However, evidence suggests that the fear of prosecution is driving the practice under-ground in some regions and in some areas such as Mara, mass FGM still takes place with little or no law enforcement. There are a number of Civil Society Organizations working to combat FGM and undertaking a variety of strategies, including the health risk approach, human rights approach, women's empowerment and providing alternative sources of income for traditional cutters, and providing safe refuges for girls fleeing FGM. There is a need for further research and up-to-date data on FGM that includes infants and girls under 15 years old, so as to capture recent trends, especially given the trend of cutting infants.

## EARLY AND CHILD MARRIAGES

Article 5 of the Protocol on the Rights of Women in Africa to the African Charter on Human and Peoples' Rights (known as 'The Maputo Protocol') prohibits and condemns all forms of harmful practices which negatively affect the human rights of women. The African Charter on the Rights and the Welfare of the Child mandates the protection of the girl child from harmful cultural practices such as child marriage.

The Law of Marriage Act, 1971 allows for boys to marry at 18 and for girls to marry at 15 with parental consent and permits both girls and boys to marry at 14 with a court's permission. The Local Customary Law (Declaration) Order, GN 279 of 1963 allows each ethnic group to follow and make decisions based on its customs and traditions. This law is particularly relevant to child marriage, since communities have the power to apply their own traditions in regard to the minimum age at marriage without breaking Statutory Law.

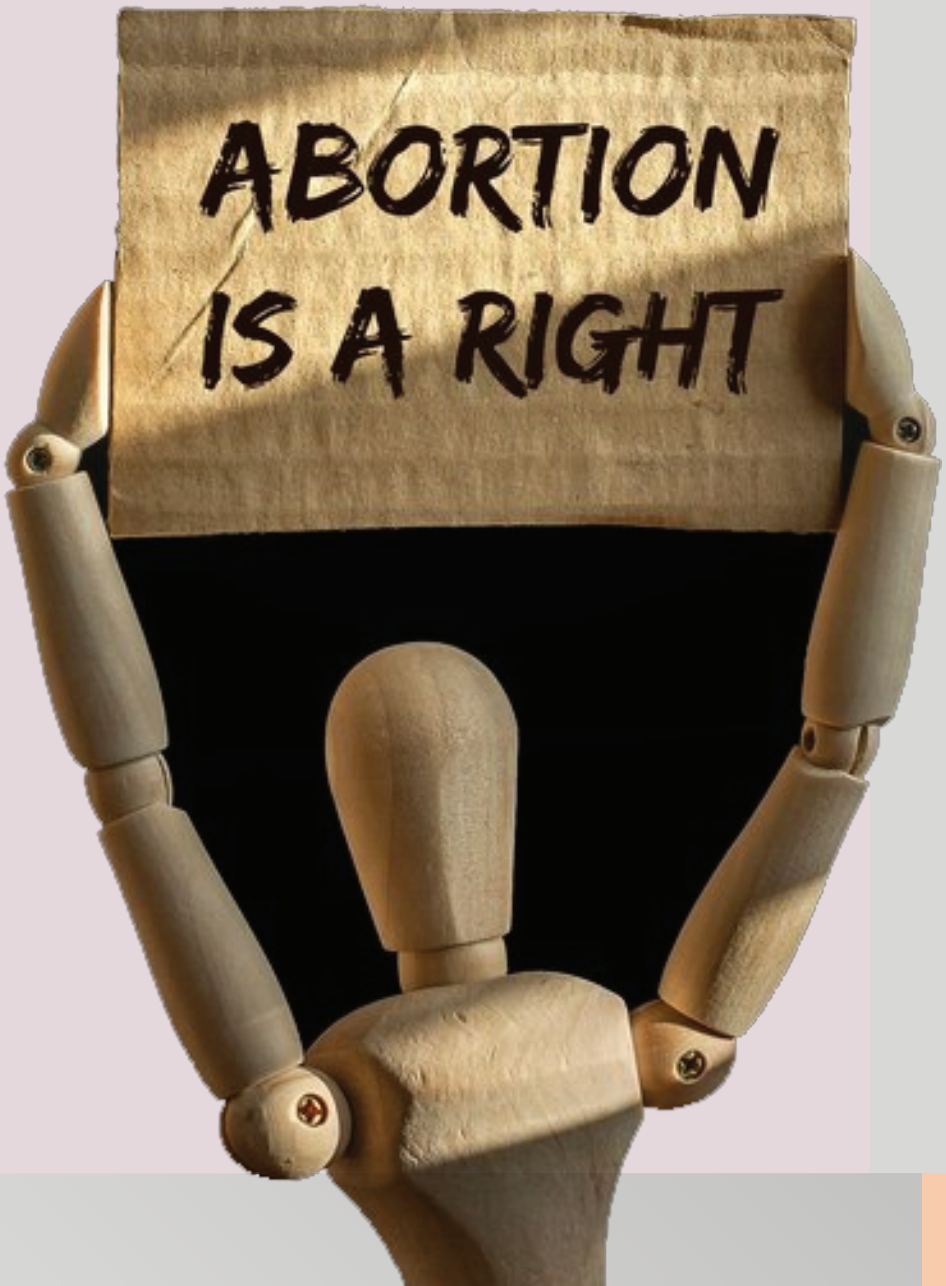
There is an advocate for legislation that provides a framework for legal protection and guidance and legitimacy for policymakers and activists to tackle the financial, social and cultural drivers behind child marriage. To ensure that adolescent girls and boys have access to safe and age-appropriate sexual and reproductive health information and services, including voluntary family planning that will allow them to make a safe transition from childhood into adolescence and adulthood.


## ACCESS TO SAFE ABORTION

When it comes to abortion Tanzania is ambiguous[13]. Abortion is authorize abortion to save a woman's life, but remains unclear on its legality to preserve the woman's physical or mental health. Although Tanzania ratified the 2007 African Charter's Protocol on the Rights of Women in Africa allowing abortion in cases of rape, incest or if the pregnancy endangers the woman's life, mental or physical health or the life of the foetus[14]. The government has not incorporated these provisions into its national law[15]. There is also ambiguity over whether authorization is needed from more than one provider before performing an abortion[16]. This lack of clarity creates confusion amongst healthcare providers and women alike, and fear of prosecution on both sides pushes women to seek clandestine abortions that are often unsafe[17]. Although Tanzania ratified the 2007 African Charter's Protocol on the Rights of Women in Africa allowing abortion in cases of rape, incest or if the pregnancy endangers the woman's life, mental or physical health or the life of the foetus, the government has not incorporated these provisions into its national law[18].

In recent years, the Tanzanian government has shown strong commitment to reducing maternal mortality and morbidity through initiatives such as the National Road Map Strategic Plan to Accelerate Reduction of Maternal, New-born and Child Deaths, and the approval of Misoprostol first for postpartum haemorrhage in 2007 and then for treatment of incomplete deliberate self-harm[19].

The Tanzanian abortion law is inscribed in the Penal Code and implied in the country's Constitution. The Tanzanian Penal Code criminalises illegal abortion as an "offense against morality" (chapter XV). It provides grounds for punishing the person who unlawfully facilitates an abortion, the woman who procures her own abortion, and the one who supplies drugs or instruments with the intent to procure an abortion. Section 219 of the Penal Code frames abortion as "child destruction" - as an offense connected to murder, and those convicted as liable to life imprisonment. Abortion is legally permitted by the law in Tanzania in defence of the health and life of a pregnant woman, and states that in such circumstances a person is not criminally responsible for performing abortion in good faith and with reasonable care and skills (Section 230 of the Penal Code of Tanzania, Cap.16 R.E, 2002). Tanzania also have Policies on Post Abortion Care; these include the Comprehensive Post-Abortion Care Guideline Training Manual 2016 and a Standard Treatment Guidelines and Essential Medicines List.

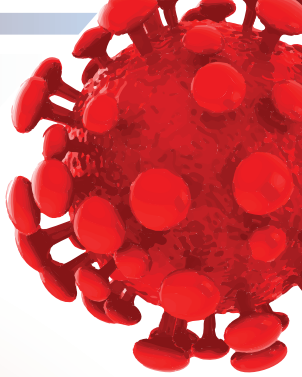


# CAMPAIGNS

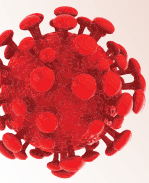
Policy advocacy and community outreach campaigns should seek to influence behavioural change and promote alternatives for protecting young girls against child marriage, FGM and ensure access to abortion services in Tanzania. Campaigns should be multi-pronged, focusing on legal reform, bi-lateral and multi-lateral advocacy and awareness raising efforts. The three linked issues should be addressed through:

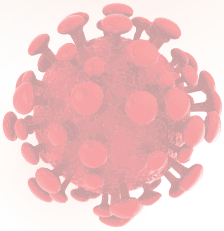
- *Robust community informed and integrated, multi-sectorial and evidence-led prevention and response efforts - to up-turn harmful social practices, promote positive social behaviour change and effect policy reforms. It is especially important to address the traditional and cultural beliefs that are driving child and early forced marriages, FGM and the lack of commitment to accessible safe abortion services.*
- *"Awareness Caravans" - Stakeholders from all the key relevant ministries, traditional leaders and practitioners and community leaders should collaborate in setting up "awareness caravans" to take information and services on these three linked issues, other educational and developmental opportunities, accompanied by legal experts who give relevant advice including on human rights, women and girl's rights, gender equality, GBV and women's empowerment to the far and hard to reach rural communities.*
- *Community dialogues - are a critical way to engage communities. Community engagement efforts should be scaled up through partnerships with civil society organizations and networks, traditional communicators, community radios, religious leaders and traditional chiefs, in order to combat all forms of GBV in Tanzania.*
- *Policy advocacy - should target law reform to align with regional and global commitments and respond to community needs.*
- *Collaborative and collective understanding facilitated - Social behaviour change communication strategies and programmes should be crafted with inputs from all relevant stakeholders and a strong referral system for education, services and support.*
- *Involve and influence local and national political and traditional leadership - to openly denounce the harmful practices and discourage silence, under-reporting and condonement.*
- *Advocate for a responsive justice system - and encourage effective law reform and enforcement.*

# COVID 19 IMPACT



The COVID-19 pandemic profoundly affects the everyday lives of girls: their physical and mental health, their education, and the economic circumstances of their families and communities. Changes like these increase the likelihood of child marriage and FGM practices which are recorded even worse, with less accessibility to abortion services. The Government put in place a series of restrictions and social distancing measures including school and Church closures, movement. Restrictions led to a drop-in economic activity, the loss of livelihoods, and household poverty. The resulting economic insecurity limited the ability of parents to provide for their children. Worsening household income caused some adolescents living in especially difficult circumstances to view child marriage as a viable option.





# CONCLUSIONS AND RECOMMENDATIONS

Tanzania should streamline more progressive legislation so that it is not up to individuals to choose between the more progressive civil code and customary code in family law. All need to be aligned to minimise the misinterpretation of the law, effective implementation and clear accountability mechanisms and practice. Developing and allocating sufficient resources for the implementation of a national plan to combat these harmful practices, including a media campaign and communication plan as well as national education programmes is essential[20]. FGM has serious short and long-term implications on the human rights and health of women and girls, including risks of getting the Human Immunodeficiency Virus (HIV). Other short-term challenges include severe pain, excessive bleeding, shock, genital tissue swelling, infections, urination problems, impaired wound healing, death and psychological trauma. Long term challenges and health risks include death, pain, infections, painful urination, menstrual problems, keloids, obstetric complications, obstetric fistula, perinatal risks and psychological consequences.[21] Despite these well-established challenges, FGM continues in Tanzania. Statistics from UNICEF show Tanzania as the only country in Southern Africa where at 10% for women aged 15-49, FGM is practised on a large scale.

## CONTINENTAL AND REGIONAL BODIES

African Union, (AU), ECOWAS and IGAD need to review the EAC Act and look to implement and enforce similar regional laws to tackle cross-border FGM. ECOWAS should suggest legislation and improvement on the enforcement of cross-border FGM in Africa. Ensure child marriage is a national, regional and continental priority.

## GOVERNMENT OF TANZANIA

The Tanzanian government should work towards implementing and enforcing the numerous  It has signed and ratified many international treaties, but there is still a lot of work to do by applying those laws in practice. Girls need to be empowered and become aware of their rights in order to overcome this conservative culture that makes them victims of such practice. Empowering girls through education, leadership and life skills training, coaching and mentoring using role models could help reduce the practice: every girl has the right to decide on her own future, but not every girl knows this. When girls are confident in their abilities, armed with knowledge, they are able to claim their freedom and independence. Expanded legal grounds for abortion should be adopted to align with guidelines modelled in the World Health Organisation and international medical standards which now offer safe, facility-based abortions[22].

## BUSINESS COMMUNITY

Since one of the causes of child marriage are economic difficulties, providing families with livelihood opportunities like small loans could prevent child marriages that happen as a result of such financial needs[23]. Once the financial situation of families is modest and stable, daughters would not be seen as economic burdens and parents could allow them to go to school and get an education in order to acquire skills to secure a profitable future for the family.

## EDUCATION INSTITUTIONS

Tanzania has one of the highest child marriage prevalence rates in the world. On average, almost two out of five girls will be married before their 18th birthday. In 2010, about 37 percent of the women aged 20-24 were married/in union before age 18. Data shows a 10 percent decline since 2004. Experts argue that education is one of the most effective strategies to protect children against marriage. When girls are able to stay in school, an attitudinal change can also occur towards their opportunities within the community. The current legality of child marriages makes the challenge of ending such marriages particularly difficult.

## HEALTH INSTITUTIONS

Mid-level personnel such as nurses and midwives and registered nurses should be capacitated with the necessary skills trainings, resources and adequate facilities to provide post abortion care services.



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**The African Women's Development and Communications Network**

# Economic Empowerment is Key to Ending Harmful Practices and Protecting Women & Girls' Rights

Female genital mutilation • Early & Child mariages • Safe Abortion

Tanzania

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