THE LONG OVERDUE REGIONAL LAW ON FEMALE GENITAL MUTILATION: A WELCOME INITIATIVE IN EAST AFRICA

Policy Brief

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I. Background

Female genital mutilation (FGM) refers to any procedure involving the partial or total removal of the external female genitalia, or other injury to the female genital organs, for non-medical reasons. It is a harmful practice that is typically performed on girls and young women, often under the guise of cultural, religious, or social tradition. At its core, FGM derives from gender inequality and power imbalance between the sexes, with the underlying driver being the need to control the sexuality of women and girls. It is rooted in discriminatory gender norms that view women and girls as subordinate in society and aim to regulate their sexual behaviour and maintain this status quo.

FGM has no medical benefit, yet it remains a severe violation of the rights of women and girls, with devastating physical, psychological, and social consequences. While global efforts have led to some decline in its prevalence, the practice persists in many regions, particularly in the East African Community (EAC). Alarmingly, the rise of cross-border FGM - where families take girls across national borders to be cut - has become a significant challenge, undermining national and regional efforts to eliminate the practice.

The EAC Elimination of FGM Bill, 2025 is a timely piece of proposed legislation introduced in the East African Legislative Assembly (EALA) on 29th April 2025. The Bill was jointly moved by Hon. Jacqueline Amongin from Uganda and Hon. Falhada Dekow Iman from Kenya, with strong support from other EALA members, including Honourable Members from Somalia and Tanzania. It aims to provide measures to eliminate the harmful practice of FGM in the EAC Partner States, to prohibit cross-border and medicalised FGM, and provide for the protection of girls and women at risk.

Countries	Percentage of women and girls aged 15-49 who have undergone FGM/C
Burundi	*Not available*
Democratic Republic of the Congo (DRC)	*Not available*
Kenya	15%
Rwanda	*Not available*
Somalia	99.2%
South Sudan	1%
Tanzania	8.2%
Uganda	0.2%

Source: Source:UNICEF Global Database, 2024

II. Situation of female genital mutilation within the East African community

Prevalence of FGM

FGM affects millions of girls and women across the EAC, leading to severe physical, emotional, and psychological consequences.

- More than 230 million girls and women worldwide have undergone FGM, with over 4 million girls at risk annually.
- In Kenya, FGM prevalence stands at 15%, with rates exceeding 90% in some ethnic groups.
- In Tanzania, 8% of women have undergone FGM, with regional hotspots reaching nearly 50%.
- Uganda (0.2%) and South Sudan (1%) have lower prevalence rates but still face challenges in enforcement.
- Somalia has the highest prevalence rate of FGM in the world, at 99%, with weak legal frameworks allowing the practice to continue unchecked.
- In the Democratic Republic of the Congo (DRC), there is evidence of past practice of FGM, though there is insufficient data on current prevalence. Rwanda and Burundi have no available data on the practice.

Legal status of FGM in the EAC partner states

Many countries within the EAC, including Kenya, Uganda, Tanzania, and South Sudan, have specifically prohibited FGM within their domestic laws. The Penal Code of the DRC includes a criminal offence of violating the physical or functional integrity of a person's genital organs. However, Somalia does not have a specific criminal law against FGM, though recently, Galmudug and Jubaland states in Somalia have passed laws against FGM. Article 15 of the current Somali Constitution 2012 states that the circumcision of girls is a cruel and degrading customary practice and is tantamount to torture. Rwanda and Burundi also do not have any legislative provisions dealing with FGM.
Despite existing anti-FGM laws in most EAC countries, cross-border FGM remains a loophole, as families exploit legal and enforcement gaps by travelling to neighbouring countries where laws are either weak or poorly enforced. Only two countries in the region - Kenya and Uganda - have criminalised cross-border FGM within their laws.

Cross-border FGM

A 2019 study by the Kenyan Anti-FGM Board in collaboration with UNFPA shows that cross-border FGM has emerged as a new trend in practising communities in East Africa to avoid prosecution. In all five East African countries studied (Kenya, Tanzania, Uganda, Ethiopia, and Somalia), border areas have a higher prevalence of FGM than the national averages. The study found that approximately 60% of respondents from Ethiopia, 14% from Somalia, 17% from Tanzania, and 71% from Uganda travelled to Kenya to undergo FGM, demonstrating the extent of prevalence of cross-border FGM. Those involved fear arrest in their native countries and feel that neighbouring countries have limited ability to prosecute. Moreover, the borders are "porous" and remote - most people do not use official border crossings, and people move freely from one country to another daily with little or no restriction.

Medicalization of FGM

The medicalization of FGM refers to situations where FGM is performed by a health professional or health care provider. There is a global trend of increasing medicalization of FGM, which is also seen in East Africa. This is done to confer a sense of 'legitimacy' or the view that it is without any health consequences. However, studies have shown that FGM is not safe in any environment, nor is there any medical justification for it. In Kenya, the medicalization rate is at 15%. However, this practice is rising, with 20% of daughters subjected to it compared to 8% of their mothers. In Somalia, where there is no national data on the rate of medicalization, small-scale studies have found that medicalization is increasing, particularly in urban centres. For example, a UNICEF report noted that between 2016 and 2019, in some districts of Puntland and Jubaland, 63% of new FGM cases were medicalized. The medicalisation of FGM should not be used as a justification to undermine efforts at the elimination of the practice.

III. The EAC elimination of FGM Bill, 2025 - salient features

- **Comprehensive definition of FGM:** The Bill defines FGM to mean any procedure that involves the partial or total removal of external female genitalia or other alteration or injury to female genitalia, for non-medical reasons. Consent of a woman or girl is not considered a defence to FGM.

- **Prohibition of FGM across the EAC:** The bill prohibits FGM as well as a number of related offences, including aiding/abetting FGM or self-mutilation, using premises for the performance of FGM, and using derogatory language against women and girls who have not undergone FGM.

- **Specific provision on cross-border FGM:** The specific provision on cross-border FGM covers taking/facilitating a girl from one State to another to subject her to FGM. It also covers cutters who cross borders to perform FGM in other Partner States.

- **Addressing medicalized FGM:** The Bill explicitly defines the medicalisation of FGM, and creates an offence for a healthcare practitioner to perform FGM. Hospitals, clinics, and other healthcare providers who knowingly allow their premises to be used to perform FGM can also be subjected to a hefty fine of up to 30,000 USD.

- **Designation of national focal points:** All EAC Partner States are required to designate an agency responsible for coordinating the detection, prevention, and implementation of the elimination of FGM within the country.

- **Prevention of FGM:** Partner States will be required to include information on FGM in their national education curriculum and health services. National courts can issue FGM protection orders to protect women and girls from being subjected to FGM.

- **Duties of healthcare providers:** Health care providers are required to: (i) record every case of FGM and share quarterly reports with the national focal point; (ii) report cases of FGM or suspected cases; and (iii) include post-FGM care services in their health care packages.

- **Cooperation to address cross-border FGM:** Partner States must establish measures to monitor common borders to detect and prevent cross-border FGM jointly.

- **Regional efforts by the EAC:** The EAC Council of Ministers will develop and implement common public awareness strategies on eliminating FGM, as well as specific sensitization programs targeted at key stakeholders (including service providers, law enforcement, community, and religious leaders). The Secretary General of the EAC will report to EALA every 2 years on the status of the implementation of the law, to enable monitoring and accountability.

- **Duty to report:** Partner States are required to submit regular progress reports to the EAC Secretariat on measures taken to eliminate FGM. This includes information on legislation, policies, programmes, and cross-border collaboration efforts. This reporting aims to promote regional accountability, facilitate experience sharing, and strengthen collective action towards the abandonment of FGM in the EAC region.

IV. Why do we need this bill?

The lack of a regional law on FGM, including cross-border FGM, limits coordination and collaboration of inter-governmental institutions/authorities across the borders to effectively address FGM. Given the above, the need for the East African Community (EAC) Elimination of Female Genital Mutilation (FGM) Bill 2025 therefore arises from the urgent and ongoing challenge of eradicating FGM in the region. Key reasons include:

- **Creating a unified regional framework:** FGM transcends national borders, requiring coordinated cross-border legal and policy frameworks. A regional law would harmonize and coordinate efforts, strengthen enforcement, and close gaps in protection. A regional framework on FGM applicable across the EAC will provide standardized definitions, penalties, and protective measures for addressing FGM, and encourage Partner States to harmonize existing national legislation or pass new laws in compliance with the regional framework.

- **Addressing loopholes that prevent elimination of cross-border FGM:** Given that national laws in only 2 out of 8 EAC Partner States currently criminalize cross-border FGM, gaps in national laws and the inconsistent levels of enforcement mean that cross-border FGM remains high in the region, with families and cutters crossing borders to evade responsibility. This Bill, by criminalizing cross-border FGM across the EAC, and streamlining measures for States to co-operate to prevent and detect it jointly, will help accelerate the elimination of cross-border FGM. This is critical given the documented cases of cross-border FGM despite the existence of national laws in individual EAC countries.

- **Increase political commitment:** The passage of this Bill will prompt national and regional leaders to reaffirm their dedication to the cause. It would propel FGM discussions to the forefront of national and regional agendas, ensuring that governments and regional bodies take coordinated, sustained action.

- **Implementation of existing international and regional human rights commitments:** The adoption of this Bill will be in line with several regional, continental and international policy and legal instruments and decisions ratified by Partner States including the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol), the African Charter on the Rights and Welfare of the Child, and the recently adopted AU Convention on Ending Violence against Women and Girls. It will also give effect to the Inter-Ministerial Declaration on Cross-Border FGM 2019 (signed by Kenya, Uganda, Tanzania, Ethiopia, and Somalia), which calls for stronger regional cooperation, as a regional law would solidify these commitments into binding legal obligations. The Bill would provide a stronger legal framework to protect women and girls and support survivors with comprehensive measures, including health worker training and survivor care, in line with human rights commitments.

- **Need to combat rising medicalization:** Increasing rates of medicalisation of FGM risks potentially legitimizing the practice or creating the false impression that it is without consequences, undermining broader efforts toward its abandonment. The Bill, by specifically prohibiting the performance of FGM by healthcare providers, creating accountability for healthcare institutions that allow their premises to be used for FGM, and imposing reporting, data collection, and care duties on healthcare providers, will be a useful tool in combating medicalisation and getting data on the prevalence of FGM.

- **Comprehensive approaches to ending FGM:** Going beyond mere criminalization, this Bill provides for a comprehensive, multi-sectoral approach towards ending FGM, including providing for the development of common public awareness and sensitization programs, requiring Partner States to mainstream FGM in education and health, and highlighting the importance of post-FGM health and support services for survivors.

- **Facilitating enforcement by EAC Partner States:** The Bill includes numerous provisions that will facilitate and encourage legal enforcement of anti-FGM laws and policies at the national level. For instance, the Bill requires Partner States to designate an agency as a national focal point for addressing FGM (which can be an existing state structure). This will enable the focal point to spearhead deliberate initiatives to eliminate FGM and help promote multi-sectoral collaboration and coordination of activities to address FGM at the national level. Further, the Bill empowers courts to make orders to protect girls and women at risk and requires Partner States to provide treatment, legal, and psychosocial support to victims.

- **Promoting cross-country collaboration:** The Bill would streamline efforts to monitor, report, and prosecute cases of cross-border FGM, enhancing joint responses and cooperation between governments, law enforcement, other government agencies, and civil society. It will also promote a harmonized approach to developing and implementing awareness-raising and sensitization measures and public messaging on FGM.

- **Monitoring and accountability:** This Bill would improve accountability among Partner States, encouraging them to uphold commitments to eliminate FGM and protect the rights of women and girls. Specific provisions mandating public reports from the EAC Secretary General to the EALA on implementing the law will also contribute to regular monitoring.

- **Community awareness:** A regional approach would engage communities in awareness-raising and advocacy, providing a unified message across countries. It would empower community leaders, women's rights organizations, and youth groups to collaborate regionally, share best practices, and mobilize efforts to prevent FGM at the grassroots level.


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