

CHILDREN'S RIGHTS COMMITTEE RECOMMENDS STRENGTHENING ADOLESCENTS' REPRODUCTIVE RIGHTS IN KENYA

The Kenyan government ratified the Convention on the Rights of the Child in 1990, thereby establishing its consent to be bound by the treaty. The government has an international obligation to uphold the convention's provisions even if they are not incorporated into domestic legislation. Yet, the reproductive health rights of girls and adolescents in Kenya, which are protected by the Children's Rights Convention and other key human rights treaties ratified by Kenya, are not being adequately respected, protected, and fulfilled.

On February 2, 2007, the United Nations' Committee on the Rights of the Child – the body that monitors Kenya's compliance with the Children's Rights Convention – issued a set of Concluding Observations on Kenya. Below is a summary of some of the Committee's important recommendations on reproductive rights to the Kenyan government. Reproductive rights have also been recognized as a key component of civil and political rights in the March 2005 Concluding Observations on Kenya issued by the United Nations' Human Rights Committee, the monitoring body of the International Covenant on Civil and Political Rights.

Implementing the recommendations below from the Children's Rights Committee and the Human Rights Committee would significantly improve the lives of girls and women in Kenya and bring the Kenyan government closer to fulfilling its obligations under international law.

I. Improve access to contraception and to comprehensive education on sexual and reproductive health

Young people in Kenya often have trouble getting contraception or information about safe sex, which leads to high rates of sexually transmissible infections including HIV, unplanned pregnancy, unsafe abortion, and maternal deaths. The Children's Rights Committee expressed concern over Kenya's high number of teenage pregnancies, the criminalization of abortion in cases of rape and incest, the lack of accessible sex education and reproductive health services, and the difficulties pregnant girls face in continuing their education.¹

In order to address these problems, the Committee made the following recommendations to the government:²

- Give young people access to confidential HIV testing and contraceptives. Provide adolescents with reproductive health counseling services and make sure they know these services are available.
- Step up HIV prevention efforts by providing youth with comprehensive information about HIV/AIDS and safe sex. Train health workers and teachers on how to teach about these subjects.
- Provide support to pregnant teenagers and help them find ways to continue their education. Make sure girls and boys have equal access to education, health care, and financial aid programs.
- Work with adolescents to understand the health problems they face and to establish health policies and programmes in schools. Focus on preventing teenage pregnancies, unsafe abortions, and sexually transmitted infections including HIV.

II. Improve reproductive health services targeting maternal mortality, unsafe abortion, and HIV/AIDS

In addition to providing Kenyan youth with better access to information, the government should improve young people's access to reproductive health services. In the absence of these services, adolescents face high rates of

illness and death due to unsafe abortion, complications during childbirth, and lack of information on HIV prevention, treatment, and transmission. The Children’s Rights Committee expressed deep concern about the high maternal mortality and HIV infection rates among adolescent girls in Kenya, as well as the government’s insufficient funding for sex education and HIV/AIDS medication.³

In order to address these problems, the Committee made the following recommendations to the government:⁴

- Give all pregnant women health and social services free of charge.
- Strengthen efforts to stop the spread of HIV by improving programs to prevent mother-to-child transmission. Ensure the provision of HIV/AIDS drugs and formula-feeding for infants.
- Launch public awareness campaigns to stop discrimination against HIV-positive children or mothers.
- Reduce maternal and infant death rates by giving more funding to public healthcare services, establishing more clinics in all parts Kenya, and improving care during pregnancy and childbirth.
- Increase efforts to stop corruption in the public health sector.

In 2005, the Human Rights Committee also expressed concern about Kenya’s high maternal mortality rate, caused in part by the high number of unsafe abortions. The Committee recommended that the Kenyan government “improve access to family planning services for all women” and “review its abortion laws, with a view to bringing them into conformity” with the International Covenant on Civil and Political Rights.⁵

III. Strengthen efforts to eliminate harmful tradition practices like FGM and early marriage

Although performing Female Genital Mutilation (FGM) on children under the age of 18 is banned by the Children Act 2001, the Kenyan government needs to take further steps to ensure that people obey the law. Early marriage – resulting in early-pregnancy related health risks and increased vulnerability to HIV infection – also continues to be a problem in Kenya. The Children’s Rights Committee expressed concern that FGM and early marriage are “still widely practiced” and that “there are various minimum ages for marriage under different laws and that they are not the same for boys and girls.”⁶

In order to address these problems, the Committee made the following recommendations to the government:⁷

- Set 18 as the minimum legal age of marriage for both boys and girls.
- Make sure the laws against FGM and early marriage are strengthened and strictly enforced.
- Build public awareness about the dangerous consequences of FGM, child marriage, and other traditional practices that harm the health, survival, and development of girls.
- Involve healthcare providers, extended family, and traditional/religious leaders in programs to change attitudes towards harmful traditional practices.

In its 2005 Concluding Observations, the Human Rights Committee also urged the Kenyan government to “increase its efforts to combat the practice of FGM, including through prohibition of FGM for adults” and to step up its awareness campaigns.⁸

¹ *Concluding Observations of the Committee on the Rights of the Child: Kenya*, CRC, 44th Sess., para. 49, U.N. Doc. CRC/C/KEN/CO/2 (2007) [hereinafter CRC Concluding Obs.].

² *Id.* at paras. 25, 50.

³ *Id.* at para. 51.

⁴ *Id.* at paras. 48, 52.

⁵ *Concluding Observations of the Human Rights Committee: Kenya*, HRC, 83rd Sess., para. 14, U.N. Doc. CCPR/CO/83/KEN (2005) [hereinafter HRC Concluding Obs.].

⁶ CRC Concluding Obs., paras. 22, 53.

⁷ CRC Concluding Obs., paras. 22, 54.

⁸ HRC Concluding Obs., para. 12.