

Resolution on the Development of a General Comment on the prohibition of Female Genital Mutilation in Africa - ACHPR/Res. 493 (LXIX)2021

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 69th Ordinary Session, held virtually, from 15 November to 05 December 2021;

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa;

Recalling the entry into force of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) on 25 November 2005;

Recalling that Article 5 (b) of the Protocol explicitly prohibits all forms of Female Genital Mutilation (FGM) and calls for their elimination; and Article 21(1) of the Charter on the Rights and Welfare of the Child (ACRWC) also prohibits harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child and in particular those customs and practices prejudicial to the health or life of the child as well as those that are discriminatory to the child on the grounds of sex or other status;

Recalling also Resolution ACHPR/Res.110 (XXXXI)07: Resolution on the Health and Reproductive Rights of Women in Africa;

Recalling further the launch of the African Union continental initiative (Saleema Initiative) to eliminate FGM in order to save more than 50 million girls in Africa under the age of 15 who are at risk of FGM by 2030, at the 32nd Ordinary Session of the African Union Summit of Heads of State and Government;

Bearing in mind Aspiration 7 of Agenda 2040 of the African Committee of Experts on the Rights and Welfare of the Child (ACERWC), to ensure that every child is protected against violence, exploitation, neglect and abuse; calls for the prohibition of FGM by all African States by 2020;

Considering the inherent difficulties in implementing the Maputo Protocol in many African countries, notably its domestication and harmonisation with its national laws to ensure the effective protection of the rights of women and girls;

Concerned that FGM is a harmful practice which affects the reproductive health of women; and its high prevalence in some African countries in spite of legislation outlawing/criminalising it;

Mindful of the Commission's role under Article 45 of the African Charter, to formulate and lay down principles and rules aimed at solving legal problems relating to human and peoples' rights in particular;

Convinced of the urgent need to clarify the nature and scope of State Party obligations regarding the prohibition of FGM under the Protocol and other relevant AU legal Instruments in order to establish a continent-wide standard based on human rights principles; and enhance the protection accorded to women in this regard;

Noting the important work already started by the Commission on the issue in collaboration with other AU Organs and Departments.

The Commission decides to:

1. Elaborate a Joint General Comment on the prohibition of Female Genital Mutilation pursuant to Article 5 (b) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa and Article 21(1) of the African Charter on the Rights and Welfare of the Child;
2. Collaborate with the African Committee of Experts on the Rights and Welfare of the Child to jointly develop the General Comment; and
3. Task Hon. Commissioner Janet Ramatoulie Sallah-Njie to work on the implementation of this Resolution and report to the 70th Ordinary Session of the Commission.

Done virtually, on 5 December 2021