

**A TEENAGER'S GUIDE TO  
SEXUALITY AND REPRODUCTIVE  
HEALTH QUESTIONS**

# Table of Contents

Glossary .....	iv
----------------	----

Introduction.....	v
-------------------	---

## Reproductive health..... 1

1. What is reproductive health? .....	1
2. What are reproductive rights? .....	1
3. What is the acceptable way to treat someone of the opposite sex? .....	2
4. Do young people have the right to information on Reproductive Health and Family Planning? .....	3
5. Do young people have a right to engage in sex? .....	4
6. From what age do young people have the right to use reproductive health services and contraceptive methods? .....	5
7. Where can adolescents get information on reproductive health?.....	6
8. Can a service provider refuse to treat a young person?.....	6
9. What are the laws regarding abortion? .....	7
10. Are there laws regarding masturbation? .....	8
11. What does the law say about homosexuality? What is the religious/moral stand on these? .....	8

## Sexual violence ..... 10

12. What is sexual violence?.....	10
13. Is giving presents in exchange for sex an abuse? .....	11
14. If a grown up person has sex with a child and they both agreed to this, is this also an abuse?.....	12
15. Can force be a culturally acceptable part of sexual relationships?.....	12
16. What makes a person rape another? What kinds of people are involved in rape?.....	13
17. Does provocative clothing promote the act of rape?.....	14
18. What effect does sexual violence have on a person? .....	15

19. Is it possible for a girl or a woman who is raped to get pregnant?.....	15
20. Can a man or boy be raped? .....	16
21. How does the society react to sexual violence? .....	17
22. How can I avoid being raped? .....	17
23. If you discover that your relative or friend has been raped, what should you advise them to do? .....	18

## Forced marriage..... 20

24. What is meaning of forced marriage?.....	20
25. What rights and/or freedoms are violated if a girl or a boy is forced to marry? .....	20
26. What are the laws concerning forced marriage?.....	21
27. What can people do if they are forced to marry someone they do not want? .....	22
28. What problems are associated with early marriage?.....	23

## Female Genital Mutilation (FGM) ..... 24

29. What is FGM?.....	24
30. What is the origin of FGM? .....	24
31. What problems can FGM lead to?.....	25
32. What are the laws regarding FGM? .....	26
33. Where can young people seek help about FGM? .....	27
34. Is circumcision of men comparable to FGM? .....	28

## National and international legal documents referred to ..... 29

Schedule of organizations dealing with women and children rights in Kenya .....	31
---	----

# Glossary

## **Adolescent**

This is a young person who has undergone puberty but has not yet attained full maturity ( a teenager). The World Health Organization defines this as persons between the ages of 10 and 19. Adolescence more or less begins when normal puberty starts. It ends when the person develops an adult identity and behavior.

## **Child (according to Kenyan law)**

Any person under the age of 18 years

## **Legislation**

Law or set of laws governing a country or state

## **Youth**

A young person aged approximately between 18 and 35 years

# Introduction

Several reasons exist as to why we should focus our attention on the health of adolescents in this country. These include: To reduce death and disease in adolescents; To reduce the burden of disease in later life; To invest in health today and tomorrow; To promote human rights and To protect human capital.

Adolescents face many reproductive health risks since they are more prone to experiment and engage in unprotected sex; young women are less able to resist sexual pressure and coercion, they are vulnerable to sexual exploitation for favors and financial support, many have to endure unsafe abortion procedures and for biological and cultural reasons are more susceptible to HIV infection.

Lack of reproductive health knowledge and information leads to younger adolescents (10-14 years) not being able to fully understand or appreciate the changes in the bodies, and need reassurance, support and must be able to access information on sexuality and reproductive health rights. Older adolescents (15-19 years) lack decision and negotiation skills required to makes career choices and defy pressure to practice irresponsible sexual behaviour. Health personnel, parents, teachers and guardians need to have the skills to assist young people in making the transition to adulthood in a productive and healthy manner.

Besides knowing about their sexuality, information on reproductive health also equips adolescents with knowledge on proper diet to adhere to in order to mature properly. Girls who are malnourished at this age end up with a small pelvis and may become anaemic. Young adults also need to learn about STDs/STIs and HIV/AIDS, how to prevent themselves against them, and their symptoms so as to know when and where to seek help when needed. Girls get to learn about their monthly periods and how to recognize problems associated with them.

Besides the 'healthy' segment of knowledge on reproductive health, young adults also need to know about harmful practices, which negatively affect their reproductive health. These include female genital

mutilation (FGM) and early marriages. Both are normally carried out forcibly on girls hence denying them their freedom of choice and right to education besides exposing them to a lifetime of scars and pain, complications during birth for young adolescent mothers and even death. Boys are also at times forced to undergo circumcision against their will or are victimized if they have not undergone the act. They all need to know where to seek help in case of issues arising from such practices.

Forms of sexual abuse including rape and incest, which afflict girls and boys in many homes and schools, need to be addressed in order to equip teenagers with the required information. They need to know that these acts are illegal and punishable by law. No one deserves to be sexually abused and cases need to be reported as soon as they take place to the nearest authority.

Questions that many adolescents ask about reproductive health are addressed in this booklet and the best answers are sought for them. It is intended to be a quick source of knowledge for the sexuality needs of adolescents and the youth. It will hopefully answer the when, why, how and where queries they have on various issues of reproduction that girls and boys have as they grow up. In the end, we hope that the booklet will give adolescents the knowledge about their sexual and reproductive rights to enable them make responsible decisions.

## Reproductive health

### 1. What is reproductive health?

Reproductive health relates to a person's reproductive system, the health of a person's genital organs and to all matters related to reproduction and sexuality. It implies that people are able to have a satisfying and safe sex life; that they have the capability to bear children and that they have the freedom to decide if, when, and how often to bear children.

This includes the right of men and women to be informed and to have access to safe, effective, affordable and acceptable methods of family planning of their choice and the right to appropriate health care service that enable girls and women to safely go through pregnancy and delivery.

### 2. What are reproductive rights?

Human rights are rights concerning basic freedoms and human dignity to which all people are entitled to, because they are human beings. Once a person is born, he or she automatically enjoys these rights. These rights are recognized internationally, regionally and nationally and are the same for all people.



Most countries have agreed what these rights are and have approved them by signing international instruments (agreements) defending them, thus making them part of their own laws. These rights have been defined since the International Conference held in Cairo in 1994<sup>1</sup>.

<sup>1</sup>Programme of Action of the International Conference on Population and Development, ICPD, 1994

Reproductive rights are based on these human rights and include the rights of an individual to:

- Receive information on sexual and reproductive health topics,
- Decide freely and responsibly if, when and with whom he or she wants to have sex,
- Make decisions concerning reproductive health free of discrimination, coercion and violence,
- Consensual marriage,
- Decide freely and responsibly on the number and spacing of their children,
- Have access to reproductive health services including access to information,
- Protection from harmful practices like female genital mutilation (FGM)

### 3. What is the acceptable way to treat someone of the opposite sex?

Many different cultures have clear roles for how boys and girls should treat one another. There is no culture or tradition or religion that teaches boys and girls to be cruel to one another. Usually young adolescents have a lot of pressure from their friends to treat persons of the opposite sex in a certain way. For example boys might think it is cool to bully girls and tease them or even to engage in sex at an early age because their friends expect it of them. No one person has more rights than the other and so it is important that boys and girls must treat each other as equals and with respect. Young adolescents should also be encouraged to talk with their parents or a responsible adult whenever they are confused about how to relate to persons of the opposite sex. This will ensure that they get responsible information and do not have to rely on uncontrolled sources of information such as television shows or the Internet.

### 4. Do young people have the right to information on Reproductive Health and Family Planning?

All adolescents have a right to access information on any topic they are interested in. As children grow, they experience many physical, emotional and psychological changes in their life. Adults, especially the close caretakers, should inform children of such changes and how they affect and influence their physical and emotional development. This should be done continuously at all ages.

Adolescents have different needs depending on their age, stage of development and circumstances. A boy of 11 or a young man of 18 will have very different concerns. Also, boys and girls have different needs, and even two adolescents of the same sex and age might grow and develop at different speeds and in different ways. These different needs have to be recognized and addressed.



It is also important to recognize that these needs change over time and might even change very fast, for example when a young person thinks of becoming sexually active. In any case, children need to be informed about reproductive health before or as soon as they enter adolescence. Also topics such as roles of boys and girls in the society, relationships with friends and parents/guardian/trusted person, sexual relationships, and also gender-based violence and sexual violence should be discussed.

If adolescents are not adequately informed of their body changes they may get into problems of unwanted sexual experiences, unwanted pregnancies or sexually transmitted diseases including HIV/AIDS. Therefore girls and boys need to receive sexuality education when they are adolescents.

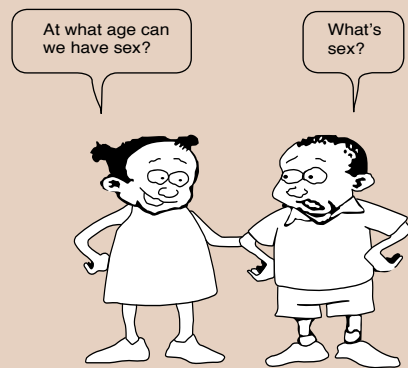
This includes information on how to protect themselves. It is not true that sexuality education will make children have sex. On the contrary, well-informed adolescents are better able to make healthy decisions such as starting sex later and using protection once they start having sex.

Sexual health education includes education about contraceptives and condoms. Before you make a decision to start having sex you seek information about how a sexual relationship will affect you mentally and physically. You should also know about contraceptive methods and especially how to use a condom, as it also protects you from HIV and other STDs. Also, it is a good idea to go to a clinic for advice on contraceptive methods when you decided to start to have sex.

## 5. Do young people have a right to engage in sex?

Having sex is an individual decision and nobody else has the right to make it for you. But, if you decide to have sex, ensure that it is an informed decision and that you know the possible consequences of having sex.

Young people below the age of 18 years should seek guidance from parents, teachers, peer educators, counselors or an adult close to them so that they can be aware of the consequences of having sex while at a young age. They should also know they have the right to choose not to have sex. There is nothing wrong with waiting until you are older or until you have all the right information and no one should pressure you into having sex.



As young person if after seeking guidance from an adult on whether or not to have sex, you still decide to engage in sex, you must be aware that there is a serious risk of contracting HIV which has no known cure and other sexually transmitted infections that are likely to result in complications such as infertility later in life. There is also the possibility of unwanted teenage pregnancies. Early

sexual activity with multiple partners also predisposes young women to developing cervix cancer. You must therefore take necessary precautions such as using a condom to protect yourself and your partner.

Remember to always carefully ask yourself if you are certain that you want to have sex. Don't have sex just because you think that everyone else is doing it, or to give in to pressure from friends or adults. If you are uncertain about what you should do in such a situation wait and speak to an adult about it.

## 6. From what age do young people have the right to use reproductive health services and contraceptive methods?

Although there is no set age limit for the use of reproductive health services and contraceptive methods for young adolescents it may not be advisable to use contraceptives if you are below the age of 18 because as a developing adolescent the use of contraceptives especially for young girls may have serious consequences on your reproductive health system. If as an adolescent you decide that you want to engage in sex, you should go to a reproductive health service provider and get advice from a clinical or health officer on sexual and reproductive health issues including the possible side effects that may result from the use of contraceptives.

Where one seeks contraceptives in order to prevent pregnancy, care should be taken to study the side effects associated with them. If begun at a very early age, family planning methods can later cause conception problems and have also been associated with children born with birth defects.

The sexual and reproductive health of adolescents is a priority for Kenyans, not only because youth represent one-quarter of the population, but also because they are the generation of the future. Unwanted, early pregnancies and infection with STIs, including HIV/AIDS, are two of the most serious reproductive health outcomes of early and unprotected sex.

Recent studies have shown that over 79% of adolescents engage in high risk and unprotected sex. A 2004 UNAIDS report indicated that there is a dramatic increase in infection rates among young people with girls and women accounting for up to 60% of those between the ages of 15 and 24 years living with HIV/AIDS.

After developing its Adolescent and Reproductive Health and Development Policy<sup>2</sup>, the Government of Kenya, through the Ministry of Health implemented a program designed to:

- Improve adolescents' knowledge about reproductive health
- Encourage a responsible and healthy attitude toward sexuality
- Delay onset of sexual activity among younger adolescents
- Decrease risky behaviors among adolescents who are already sexually active
- Increase provision of youth-friendly services by trained service providers and peer educators

The Adolescent and Reproductive Health (ARH) Program is currently being implemented in five provinces with partners including UNFPA, UNICEF, WHO, and Save the Children.

## 7. Where can adolescents get information on reproductive health?

There are several facilities that one can get information on reproductive health. Some are governmental while others are non-governmental e.g.

- Network for Adolescent and Youth of Africa (NAYA) Kenya Chapter
- Youth Education Support (Yes) Foundation, Nairobi
- Kenya Anglican Youth Organization (KAYO), Thika
- Kenya Youth Education & Community Development Programme, Nairobi
- Kenya Youth Foundation (KYF), Nairobi
- Kenya AIDS Intervention Prevention Project Group (KAIPPG), Western Province
- Youth Alive Kenya (YAK), Nairobi
- National Organization of Peer Educators (NOPE), Nairobi

## 8. Can a service provider refuse to treat a young person?

It is not right for a service provider to refuse treating an adolescent. As a young person you have the same rights to be treated just like any other

<sup>2</sup>Adolescent and Reproductive Health and Development Policy (2005-2015)

person. If a service provider refuses to treat you, you should try to discuss the matter with him or her and ask for reasons. If she or he insists on not treating you then you should either find another provider or speak to the superiors of the person about your problem. It is also a good idea to speak to a friend or contact a person you trust to help you find a solution.

Many public and private health services are making efforts to provide adolescent friendly services. Check your nearest health facility or other organizations providing reproductive health services. Remember, the right to health, which also carries the right to reproductive health services, is internationally recognized through agreements such as the ICESCR<sup>3</sup>, which was signed and ratified by Kenya in 1972. You should therefore not hesitate to ask for such a service.

According to a recent review of youth activities in Kenya, "Services for young people must be of high quality, affordable, safe and comprehensive, provided by people who have the skills to respond to young people's needs, and be in an environment that protects their dignity and confidentiality."<sup>4</sup> Health service facility characteristics for the youth are supposed to: have convenient hours/special times set aside, have acceptable costs, have adequate/separate space and sufficient privacy and be in comfortable secure surroundings<sup>5</sup>.

## 9. What are the laws regarding abortion?

Abortion is the purposeful termination of a human pregnancy by any person, including the pregnant woman herself, with an intention other than to produce a live birth or to remove a dead foetus or embryo<sup>6</sup>. The laws on abortion vary from country to country. In Kenya abortion is a criminal offence despite shocking statistics that indicate extremely high cases of illnesses and deaths associated with unsafe abortions. Up to 5,000 women die in Kenya each year as a result of abortion related complications - translating to about 14 deaths per day!

<sup>3</sup>International Covenant on Economic, Social and Cultural Rights, 1966

<sup>4</sup>Center for the Study of Adolescence, 2003

<sup>5</sup>National Guidelines for Provision of Youth-friendly Services (YFS) in Kenya, 2005

<sup>6</sup>Lawriter Ohio Laws And Rules ([http:// codes. Ohio.gov/orc/2919.11](http://codes.ohio.gov/orc/2919.11))

What do you say about abortion?



The offence of abortion involves the person who aborts a pregnancy<sup>7</sup> and anyone who helps in facilitating or procuring an abortion<sup>8</sup>. The law only allows abortion in very crucial circumstances; to save the life of a woman as a result of any medical complication she may encounter in order to save her life. The Constitution of Kenya stipulates that the right to life should be protected and no one can be robbed of

life except in the execution of the sentence of court<sup>9</sup>.

Many desperate girls and women practice illegal abortions in Kenya. They are very dangerous if they are done in an unprofessional way. If unskilled persons procure abortions; a woman tries to abort by herself; if the instruments used aren't clean or leaves or herbs are introduced into the vagina, they can seriously endanger the life of the woman. It is however important to know that most health services centers provide post-abortion services to any girl or woman who needs them, whether from problems resulting from a miscarriage or for problems resulting from an induced abortion.

## 10. Are there laws regarding masturbation?

Masturbation means caressing or rubbing one's own sexual organs in order to get sexual pleasure. There is nothing wrong with this, as it does not have any negative consequences on a boy's or girl's health. However, it is not a good thing if it becomes a substitute for a real loving relationship, or if one becomes addicted to it. Usually people do it in private. Most cultures



<sup>7</sup>The Penal Code Sec 159, CAP 63 (revised edition 1985)

<sup>8</sup>The Penal Code Sec 158, CAP 63 (revised edition 1985)

<sup>9</sup>The Constitution of Kenya Sec 71 (revised edition 1998)

and religious denominations discourage masturbation but there are no legal laws against it. It is only seen to have a tendency of being a moral wrong but indeed it's not a legal wrongdoing.

## 11. What does the law say about homosexuality? What is the religious/moral stand on these?

Homosexuality refers to having a preference for sexual relations with and feeling attracted to persons of the same sex. When a male is attracted to another male they are referred to as gay and when a female is attracted to another female they are called lesbians. In Kenya, though rarely enforced, punishment for gay sex is 5 to 14 years in jail. Sex between women is not mentioned in the law. In order to be convicted, there have to be circumstantial evidence such as being caught in the act by the police or the magistrate.

Male and female homosexuality is widely condemned in most Kenyan cultures and all religions. The Catholic Church and the Protestant churches in Kenya, including some Anglicans, condemn homosexuality as sinful. In Islam, the Qur'an forbids homosexual acts. This has resulted in gays and lesbians living 'in the closet' meaning they cannot publicly declare their sexual orientation. Most of those who 'come out' are shunned, labeled evil and rejected by their family and the society.

Gays and lesbians are human beings like any others and are entitled to their rights. Should a boy or girl discover that they are attracted to a person of the same sex as them it is not a cause for panic. They should seek information and support from the nearest reproductive health service providers. People who engage in unprotected gay sex can also contract HIV/AIDS, STIs and STDs.

# Sexual violence

## 12. What is sexual violence?

Sexual violence has many forms, and can happen to both boys/men and girls/women. It is usually referred to as the intentional use of physical force or power, threatened or actual, against a person, or against a group or community that either results in or has a high likelihood of causing injury, death, psychological harm or denial of rights<sup>10</sup>.



It is therefore very important for young people to understand what sexual violence is and what are things that can cause it to happen. Understanding how to relate to a person of the opposite sex is also very important so that young persons can appreciate that no one has a right to physically or sexually abuse another person.

Under the Kenyan laws, sexual harassment includes; persistent sexual advances or requests made by a person in position of authority or holding a public office and which he or she knows or has reasonable grounds to know are unwelcome. Sexual harassment is a criminal act. Making of unwelcome, unlawful and unsolicited sexual advances or requests by a person holding a public office or being in a position of authority is sexual harassment and is punishable by a prison term of not less than 3 years or a fine of Ksh 100,000 or both<sup>11</sup>.

Other forms of sexual harassment include calling someone names, using sexual gestures or actions, forcing someone to strip in public or forcing people to perform sexual acts on one another. Keep in mind that

<sup>10</sup>WHO, World Report on Violence and Health, 2002

<sup>11</sup>Sexual Offences Act No.3 of 2006, section 23

sexual violence is a legal wrong as it violates human rights and causes pain to the victim. Sex with a near relative, such as a father, mother, brother, sister, half sister/brother, adopted brother/sister or grandparent is a sexual abuse known as incest and is prohibited by law<sup>12</sup>.

## 13. Is giving presents in exchange for sex an abuse?

Yes, giving presents to somebody in exchange for sex is an abuse. If the receiver of the presents does not agree to sex and you force him/her to have sex then that amounts to rape (for those above 18) and defilement (for those below 18) because that sexual intercourse was unwanted by the other person.

Giving money, goods, other benefits or any other form of bribe to a child or his parents with intent to get the child for sexual intercourse or any other form of sexual activities or indecent exhibition or show is an offence called child prostitution and is punishable with a sentence of not less than 10 years in prison<sup>13</sup>.

Be careful when you are being offered presents, better marks at school or a job in exchange for sex. Always ask and try to understand why a present is being offered to you. Do not accept any presents or any money, if you think that the person offering is expecting you to have sex in exchange. It can be tempting to accept presents or money, especially when you are in need, but think of the dangers involved in having sex such as unwanted pregnancy, sexually transmitted diseases or even HIV/AIDS. If you are not sure about the intention of the person offering the gift then you should tell an adult, or a grown up relative or friend who can advise you on what to do in that case.

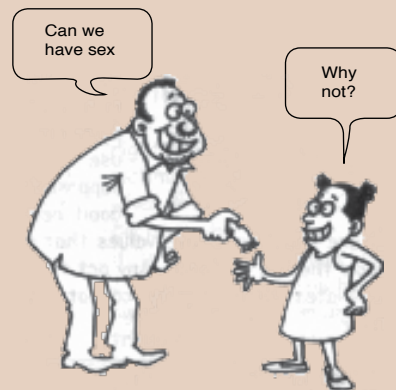


<sup>12</sup>Sexual Offences Act No. 3 of 2006, section 20, 21 and 22

<sup>13</sup>Sexual Offences Act 2006, section 15(g)

## 14. If a grown up person has sex with a child and they both agreed to this, is this also an abuse?

Yes, this is an abuse called defilement. Having sex with a child below the age of 18 is illegal even if the child agrees to the act. Children can be influenced and manipulated by an adult who tries to persuade them to have sex. In addition, they may not know about all the effects having sex can have on their health and therefore they cannot make a fully informed decision. A child is not capable of taking all these things in mind before having sex. Relationships are also likely to be unequal as the adult may have power over the child. It is an offence to have sex with a girl/boy under the age of 18 years even if the child agrees to it<sup>14</sup>.



The punishment for defilement depends on the age of the child. Defilement of a child of 11 years and below is a sentence to life imprisonment; of a child between the ages of 12 and 15 years is 20 years or more and of a child aged 16 to 18 years is 15 years or more in jail. The person accused of having sex with a child cannot defend himself by saying the child agreed or that the child looked or said that they were over 18 years of age.

## 15. Can force be a culturally acceptable part of sexual relationships?

The use of force in a sexual relationship is against the law, reproductive and human rights. A sexual relationship should be based on understanding, respect and love for each other. In some cultures the man traditionally has a dominant place and it is traditionally accepted that he may use force.

<sup>14</sup>Sexual Offences Act 2006, section 8

However, culture is supposed to promote and encourage good relationships in the society. Our culture should promote values that respect human dignity and don't allow the use of force. Any act that violates a person's rights and humiliates their dignity cannot be accepted and regarded acceptable.



Forcing a person to take part in a sexual act for cultural or religious reasons is an offence and is prescribed a minimum sentence of 10 years<sup>15</sup>. This is important in helping to curb harmful cultural practices like early child marriages, having sex with small children believing that this can cure AIDS, adults having sex with teenagers thinking that this will make them look younger, parents having sex with their daughters in order to 'gain wealth' and dangerous cultural rites of passage.

## 16. What makes a person rape another? What kinds of people are involved in rape?

It is difficult to understand what makes a person rape another. The act of rape is where any person unlawfully and purposely uses his/her private parts to penetrate another person's private parts without permission and uses force, threats, coercion and/or intimidation. It is a crime under the Kenyan law<sup>16</sup>. Upon conviction someone is imprisonment for a term of not less than ten years, which may be enhanced to life imprisonment.



There are no excuses for rape. Rape is always the fault of the rapist and not

<sup>14</sup>Sexual Offences Act 2006, section 8

the victim. There can be no clear description of the people who are or might get involved in rape. Rape can happen due to different reasons which include; drugs and alcohol, addiction to pornography, urge to be violent and dominate their victim, history of child abuse, psychological (mental) problems, inability to have a steady/loving relationship, among others.

Sometimes people rape because they think girls/women or boys/men are there to satisfy them sexually, to punish a girl/boy or because others advised/challenged them to do so. Others have the urge for sadistic sex, they may feel unloved, it may be a form of revenge while some people may feel sexually inadequate. Rape is wicked and immoral and disrespects human rights and the dignity of the victim.

### 17. Does provocative clothing promote the act of rape?

Rape is never the fault of the person being raped; it is entirely the fault of the rapist. What you wear does not give anybody the right to rape you. Most rape victims do not wear a miniskirt when they are raped. It is your decision what you wear. However, if you provoke others

by your choice of clothing you have to be aware that some people may object strongly or harass you through actions and gestures or by calling you insulting names.

Wearing clothing that the society around you does not approve of can incite people to insult you. Nevertheless, under no circumstances does a person have the right to rape another.

According to a study on Domestic and Sexual Violence, just like domestic violence, rape is a crime of power and control. Myths

that rape only happens to young, beautiful women wearing provocative clothing bring about the idea that rape is a crime of passion, when in fact all women ,girls and boys are vulnerable to rape, regardless of age, race, class, education or physical appearance. Research also shows that

Does this mini skirt instir any rape insticts in you?



MMH!



60-75% of rapes are planned and brought about by anger and hatred, not sex.

### 18. What effect does sexual violence have on a person?

Sexual violence has serious physical and long lasting psychological effects on the victim. Acts of rape, attempted rape, child sexual abuse and female genital mutilation are directed to the body of the victim. The victim may feel strong pains during the violence. His or her sexual organs may be injured during rape. In addition, the rapist can hurt other parts of the victim's body.

In the worst case sexual violence can lead to permanent injuries or even death. Sexual violence can lead to unwanted pregnancy and the transmission of sexually transmitted diseases such as Gonorrhoea, Syphilis and even HIV/AIDS. Children are even more vulnerable to acts of sexual aggression to their body as the size of their genital organs is smaller than those of adults.

Psychological effects on the victim are also very serious. Sexual violence is traumatizing and in the worst case can lead to serious mental stress and anguish. In the first months after a sexual attack or even years after, the victim will often recall the painful incident and relive it in her mind. Many victims have difficulties in having normal sexual relationships, as the victim will associate having sex with being raped. This is why victims of sexual violence need support, care, understanding and patience from their family, partner and friends.

### 19. Is it possible for a girl or a woman who is raped to get pregnant?

It is possible for a girl or woman who is raped to get pregnant. The likelihood of getting pregnant is the same whether sex was voluntary or forced. The rape victim after the act requires care in four aspects. First, she must receive spiritual and psychological support and counseling to help her deal with the trauma of the attack. Such support and counseling will probably continue for some time after the immediate period.

Second, health care providers need to cooperate with law enforcement officials in gathering evidence that can be used in the prosecution of the rapist. This requires collection of any bodily fluids ejected after the rape for DNA testing. It is thus advisable not to take a bath or shower in order to preserve this evidence. Third, the victim needs treatment for bruises, cuts, or other injuries.

Finally, health care providers must provide treatment to prevent the possible contraction of venereal disease and pregnancy. If the victim sees a health service provider soon after the rape happens, she can get emergency contraceptive pills and possibly treatment to prevent HIV infection called post-exposure prophylaxis (PEP). PEP reduces the chance of HIV infection, where someone carrying the virus rapes a woman, if given within 72 hours of the crime.

In the case where pregnancy occurs as a result of the rape, many victims resort to abort the fetuses. Post abortion care should be provided to them without prejudice in such cases since most of them procure the abortion under dangerous and unhealthy conditions. All in all, care of rape victims must be sensitive and compassionate and remember that rape is never the victims fault!

## 20. Can a man or boy be raped?

Yes, any person who is forced to have sex is being raped, regardless whether this person is a woman/girl or a man/boy. Boys and men can be raped by men or they can be forced by women to engage in sexual acts. Men may force boys to have anal or oral sex. Under Kenyan law, this is called sodomy and not rape.



Consequences of sodomy or rape on boys are similar to those of raped girls; boys may be seriously hurt during the act and it is

<sup>17</sup>Penal code, Cap 63, Laws of Kenya, section 162, Sexual Offences Act 2006, section 3 and 8

also traumatizing for boys. The laws in Kenya recognize homosexual relationships and rape of young boys as a criminal offence<sup>17</sup>.

## 21. How does the society react to sexual violence?

Society has different reactions to sexual violence. In some places or circumstances, sexual violence is accepted. Sometimes sexual violence is ignored because it is a taboo to talk about it. It happens that society does not treat the victim correctly, for example sometimes girls who are raped are expelled from school and socially isolated.

However, there is also growing consciousness that sexual violence is wrong and women associations are fighting against sexual violence. A person who has experienced rape needs close care, support and understanding by all members of the society.

## 22. How can I avoid being raped?

Even if you take precautions not to get raped, it can still happen. Rape and sexual violence can happen to everyone. However, there are certain things that can reduce the danger of getting raped. Be sure to avoid:

- Being alone in the dark streets or corners,
- Being out late without a reliable form of transport,
- Going alone into the forest or to areas where there are few people or fetching water from far isolated places,
- Dressing provocatively,
- Attending wild parties,
- Drinking alcohol and being with drunk people,
- Going to places and visiting people you suspect may rape you,
- Accepting presents or favors if you think they may be given to you in exchange for sex,
- Being led into alleys and isolated streets by people you don't know.

There are other ways to avoid being raped, which include:

- Making sure there are people around you to help you in case of danger,

- ❑ If forced to work in a dangerous, rape-prone environment, try to discuss the issue with your parents/guardian or a person you trust and ask him/her to talk to your parents/guardian,
- ❑ If you feel threatened, try to run and shout for help immediately. Research has shown that girls or women who are able to clearly say “NO” and who dare to scream loudly and draw attention from others when they are harassed have less risk of rape.
- ❑ Being firm and clearly stating what you want and what you don’t want; it’s an important part of your protection.
- ❑ Staying awake and alert in public transport and public areas, and follow your instincts in case you feel insecure about someone’s behavior near you,
- ❑ Locking doors and windows of your house securely when going to sleep,
- ❑ Having your keys in your hand when approaching your car in the parking lot to avoid wasting time searching through your bag or pockets,
- ❑ If you suspect you are being followed while driving, hoot loudly, draw attention to yourself, put on your hazard lights and drive to the nearest police station, petrol station or populated public area.

### 23. If you discover that your relative or friend has been raped, what should you advise them to do?

First of all you should try to reassure the victim and give comfort as they have experienced a terrible thing. Take them to the nearest health facility immediately and in any case within 72 hours of the rape/defilement/sexual assault. This is so that he/she can get medical attention immediately that will treat any injuries and prevent pregnancy and contracting HIV/AIDS and other STIs and STDs.

You must then accompany your friend to the nearest police station to report the matter. The police will give her a P3 form, which shall be filled by a police doctor showing his/her



injuries. It is very important to remember not to shower/wash before being examined by the doctor as this could wash away evidence of the rape.

As going through such administrative procedures will be difficult, the victim needs close support and care. A parent/guardian or friend needs to accompany him/her and assist, for example by making sure that at the police station a girl is interviewed by a female police officer.

It is also important that you treat the information about the victim confidentially. Don’t tell every person about what has happened. Just tell those people who you think can help e.g. a doctor, teacher or parent. Don’t ask “why” questions as it would sound like it’s the victim’s fault. Instead, speak to the person quietly and privately, and give him/her your full attention. Make sure not to put any blame on the victim - rape is never the fault of the victim.

# Forced marriage

## 24. What is meaning of forced marriage?

**F**orced marriage means that either the girl/woman or the boy/man who gets into a marriage union has not voluntarily agreed to do so and does not want to get married. There are different circumstances in which girls or boys are forced to marry. Sometimes parents think that they know what is best for their children and therefore choose a spouse. In other cases, parents have economic or social considerations when choosing the person the daughter or son should be married to. They might try to marry their child off to a rich family.



Another reason to force a person to marry is pregnancy. If a girl becomes pregnant, she and the boy who made her pregnant may be forced to marry because some societies do not accept having children outside marriage (out of wedlock). This takes place even both of them are minors. Sometimes, young people are forced to marry because they have reached a certain age at which society expects them to marry.

Often a person obeys the order to get married as he or she fears being isolated and chased away or sometimes he or she is even threatened with physical violence.

## 25. What rights and/or freedoms are violated if a girl or a boy is forced to marry?

**W**ho and when you marry is one's personal decision, even if friends and parents advice you on the matter. Forcing somebody to marry is taking away his or her freedom to live the way they would like to live.

Their right to choose whether or not to marry and to found and plan a family is violated as well as their freedom of movement. This right is part of many international conventions<sup>18,19</sup>.

The law of marriage in Kenya entails that no marriage shall be valid, unless with the consent, freely and voluntarily given by each of the parties who intends to marry. Any marriage, which someone has entered into involuntarily, is not a valid marriage<sup>20</sup>.

When a child (any one under the age of 18) is forced to enter into a marriage that she is not ready for, that marriage will be violating the girl's/boy's rights including the right to education<sup>21</sup>. They both have a right to education, the right to marry upon attaining the required age through their own choice and form a family.

While it is believed that forced marriages only take place in rural areas, there is another form in urban areas. This is in the form of sugar daddies and mummies who prey on young people in exchange for monetary favors. This is a serious violation since its illegal to for an adult to have sex with minors. Such acts should be avoided and one should have moral principles to avoid falling into these traps. The offenders should be reported to the authorities for legal action to be taken against them.

## 26. What are the laws concerning forced marriage?

**T**he basic law of marriage in Kenya is the Marriage Act. This law prohibits forced marriages. It recognizes marriage as a union between a man and woman who have voluntarily chosen to live as husband and wife. The same law says that if a marriage is not voluntary, then it is not a marriage. This law also imposes liability to those people who influenced or forced the parties to enter into such involuntary marriage.

<sup>18</sup>Programme of Action of the United Nations Cairo Conference 1994, Chapter 4 (b), 6 (b)

<sup>19</sup>The Universal Declaration of Human Rights, 1948 Article 13, 16

<sup>20</sup>Marriage Act, Cap 150 Laws of Kenya

<sup>21</sup>United Nations Convention on the Rights of the Child 1990, Article 28

The law provides that no person shall subject a child to early marriage or other 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<sup>22</sup>. The penalty for violation of this law is a prison sentence not exceeding 12 months or a fine not exceeding Ksh 50,000 or both.

Therefore, a victim of forced marriage can report those who forced him/her into marriage to the police who will carry out the necessary prosecution since this is a criminal offence. Any person who for cultural or religious reasons forces another person to engage in a sexual act or any act that amounts to an offence under the Sexual Offences Act is guilty of an offence and is liable upon conviction to imprisonment for a term of not less than ten years<sup>23</sup>.

Early marriage in Kenya is still a common occurrence in some communities owing to the customary laws that allow marriage of children especially after certain rites of passage like circumcision. The inconsistent laws compound the situation. In this concern, Kenya's Marriage laws do not adequately protect young women. Although the Children's Act 2001 indirectly defines the minimum age for marriage as 18, the Marriage Act<sup>24</sup> and the Hindu Marriage and Divorce Act<sup>25</sup> both specify that the minimum age of marriage is 16 years for a girl and 18 years for a boy. Customary and Islamic laws generally allow adolescents who have reached puberty to marry regardless of their age.

## 27. What can people do if they are forced to marry someone they do not want?

If someone is forced to marry a person he/she does not want the first step is to resist the marriage, and show that resistance openly. Discuss the matter with your parents/guardian. Explain why you disagree with

<sup>22</sup>The Children's Act 2001, Cap 8 Section 14

<sup>23</sup>Sexual Offences Act, Cap 3 Section 29

<sup>24</sup>Cap 150 Laws of Kenya

<sup>25</sup>Cap 157 Laws of Kenya

this marriage in a respectful way. Usually parents want the best for their children so a good relationship for dialogue between parents and children can resolve things.



If attempts to talk with your parents have not worked, you can talk about the issue with a person you trust and who may agree to talk to your parents. Remember that if you are still forced to marry, you can contact the police, as under Kenyan law forced marriages are not allowed.

## 28. What problems are associated with early marriage?

Early marriage often means that girls/boys are physically, emotionally and mentally not ready for the responsibility of bringing up children. For the girls, it is even more dangerous. Getting pregnant and having children before their bodies are mature can lead to rupture of their birth canal leading to obstetric fistula. This is a severe medical condition in which a fistula (hole) develops between either the rectum and vagina or between the bladder and vagina after severe or failed childbirth, when adequate medical care is not available. Girls/women with this hole have their urine or faeces passing freely and are often treated as outcasts in their society.

Most adolescent girls have double the chance of dying during pregnancy. The children of such mothers are often more sick and weaker and rarely survive through childhood. Young mothers are more at a risk of anaemia and often have a poor access to contraceptives.

Early marriage often means that girls and boys stop going to school thus limiting their potential in life. It is also associated with high poverty since higher education often delays childbirth and equips people better for economic gain. Early marital unions expose many girls to the risk of domestic abuse and sexual violence besides the risk of acquiring STDs, STIs and HIV/AIDS.

# Female Genital Mutilation (FGM)

## 29. What is FGM?

In some societies the external reproductive genital organs of a girl, the clitoris and/or parts of the inner and outer lips are cut or removed. This is female genital mutilation (FGM) or female circumcision. At times female genital mutilation is done in the first months of a girl child's life. Often, female circumcision is performed as the girl reaches adulthood to mark the transition from childhood to adulthood. Sometimes FGM is part of initiation or a ceremony in which girls learn about "how to behave as a woman" and are prepared for marriage.



There are different types of FGM:

- ❑ **Type 1:** The small protective skin that covers the clitoris is removed. Sometimes the clitoris or part of it is cut as well.
- ❑ **Type 2:** The clitoris together with all or part of the inner vaginal lips is removed.
- ❑ **Type 3:** All or part of the external genital organs is removed, and the vaginal opening is closed with stitches. This leaves only a small hole where urine and menstrual blood pass. This type is also called infibulation.
- ❑ **Type 4:** All other operations or manipulations on the external genital organs like introducing harmful substances into the vagina, cuts, stretching the vaginal lips or clitoris or pricking.

## 30. What is the origin of FGM?

No one exactly knows why and when the practice started. Communities give different explanations why girls have to be circumcised. The following reasons have been given for this practice; custom and tradition, religion, cleanliness, protection of virginity and chastity and so on. Often the reason for removing or cutting the clitoris is to reduce the woman's sexual desire or pleasure. Wrongly, some people believe that in this way the women will be more faithful to their husbands.

Medically there is no reason to circumcise a girl on the contrary, it may cause a number of health problems. FGM is not required by any religion; neither the Koran nor the Bible promotes it. FGM is a traditional practice that is passed down from one generation to another. It often involves the use of crude tools although it has been made medical of late by parents and doctors who want to avoid prosecution.

## 31. What problems can FGM lead to?

Female circumcision can be very hazardous for the girl who is being circumcised and girls may die from its consequences. Possible results of FGM are the following:

- Severe bleeding
- Infections especially if instruments used for circumcision were not clean. Infections may spread to the inner reproductive organs, and cause infertility or even death
- Risk of HIV infection during the procedure from shared cutting instruments
- Urine and menstrual blood can be blocked inside the body of the woman and cause infections
- Difficulties and pain during sexual intercourse, urination, menstruation and child birth and sometimes death of baby during delivery from the small vagina opening

FGM has been linked to childbirth complications and increased risk of death, both at the time of delivery and after birth. It can also make labor

and delivery difficult for women/girls leading to prolonged obstructed labor, which is one of the leading causes of obstetric fistula as explained previously.

FGM often has psychological consequences, where girls lose trust and confidence in their guardians or parents and they may suffer from feelings of anxiety, depression and incompleteness. Furthermore, FGM reduces a woman's sexual pleasure. To achieve sexual pleasure depends to a large extent on normal external genital organs. FGM however, harms the structure and function of the female external genital organs. It has physical and psychological consequences that often complicate the sexual relationship between men and women.

The clitoris is a sensitive part of a girl's body and the most sensitive part of the sexual organs. It provides sexual excitement to the woman when being touched. The inner lips and the clitoris are largely responsible for a woman's orgasm during sexual intercourse. When the clitoris and other parts of the genital organs are removed, the woman's sexual excitement and pleasure are greatly reduced. When a woman is severely cut or the vaginal opening stitched, sexual intercourse and delivery is likely to be painful and difficult.

## 32. What are the laws regarding FGM?

Both national governments and international institutions guarantee that human rights should be protected. Kenya has signed international charters and conventions that guarantee that every person has the right to health and the right to be free from violence, for example the United National Universal Declaration of Human Rights<sup>26</sup>.

Other conventions improved the protection for women and children, like the Convention on Elimination of All Forms of Discrimination

<sup>26</sup>Universal Declaration of Human Rights, 1948-1998, Article 5

<sup>27</sup>Article 24 (3): The right to be protected from harmful practices

<sup>28</sup>African Charter on Human and People's Rights 1981 and the African Charter on the Rights and Welfare of the Child 1990

<sup>29</sup>Act 8, Chapter II, clause 14

Against Women and the Convention of the Rights of the Child<sup>27</sup>. These conventions clearly state that FGM is a harmful traditional practice that is against human rights, against the rights of the child and against women's rights to health. In addition, many African countries have passed laws to ban the practice of FGM<sup>28</sup>. In Kenya, Parliament passed The Children Act, which bans FGM on girls younger than 18<sup>29</sup>.

This Act describes girls who are likely to be forced into FGM as children in need of special care and protection and provides for courts to take action against the perpetrators. However the Law has faulted for not providing for punishment of offenders and recent statistics indicate that the government needs to take further steps to ensure the law is observed in practice i.e. actualization. Further there is a policy, which calls upon the communities to cast off customs like FGM that have harmful effects on the youth<sup>30</sup>. So if you are a girl under 18 years, it is an offence to have you circumcised. Likewise it is illegal for circumcisers to practice FGM.

The campaign against FGM in Kenya has included adoption of various plans of action including the **National Plan Of Action For The Elimination of Female Genital Mutilation in Kenya, 1999-2019**. The Convention on the Rights of the Child provides for state parties to take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of the children.

## 33. Where can young people seek help about FGM?

You can try to talk to your parents/guardian and explain to them that FGM is a harmful practice. You may look for a supporter, someone who is trustworthy. A supporter can be a friend, a guardian, a parent or other adults in your family whom you trust. In your community you may find a trusted teacher, religious leader or a nurse who will support your ideas and who is committed to end FGM.

<sup>30</sup>National Plan of Action for the Elimination of Female Genital Mutilation, 1999

If there are no organizations fighting FGM in your area you may think of people who work with other organizations like youth centres, women organizations, churches and family planning organizations. You can report the matter to the nearest health post. Remember that for young people under 18 years, FGM is illegal and you can report any case to the police.

For those who have already undergone this rite of passage, they may also seek counseling facilities through the above areas. Those that have medical complication as a result of FGM should visit their nearest health centre for examination and treatment. No one is supposed to be treated differently due to the injuries incurred during the rite. Also there is no justification for discrimination e.g. in school or local offices of those that have not undergone the ritual in communities where it is practiced. Any such behaviour should be reported immediately.

### 34. Is circumcision of men comparable to FGM?

No, FGM and male circumcision are not comparable. The male equivalent of FGM would be cutting off the entire penis. In male circumcision only the foreskin of the penis is removed. While male circumcision is not necessary and some people object to it, it has no negative health consequences for the boy if it's done with clean instruments and in good hygienic conditions.

Some boys are circumcised when they are very young; others undergo the practice when they are adolescents. Then, circumcision is often associated with teaching the boy about tradition and how to behave as an adult man. This teaching is the only common point to male and female circumcision; otherwise the circumcision of girls is harmful and not comparable to that of boys!

## National and international legal documents referred to

### National documents:

- **The Constitution of the Republic of Kenya (revised edition 1998)**
- **The Penal Code, Cap 63, Kenya**  
This is an Act of Parliament intended to create criminal offences and their sanctions. The Penal Code expressly prohibits the procurement of abortion but has nothing on reproductive health and use of contraceptives
- **The Sexual Offences Act, 2006, Kenya**  
An act of Parliament to make provision about sexual offences, their definition, prevention and the protection of all persons from harm, from unlawful sexual acts and for connected purposes. It has currently repealed some of the sections contained in the Penal Code Act CAP 63 and incorporated them.
- **The Marriage Act, CAP 150, Hindu Marriage and Divorce Act Cap 157 Mohammedan Marriages and Divorce Act Cap 155 Laws of Kenya.**
- **The Children's Act, 2001, Laws of Kenya**

### International documents:

- **Universal Declaration on Human Rights, 1948**  
The UDHR resulted after numerous human rights violations and the efforts of the HR movement to alleviate them. Many human rights conventions or covenants originate from this declaration. As a first document ever, the declaration compiled and defined fundamental human rights such as the right to life, freedom and protection.

- **International Covenant on Economic, Social and Cultural Rights, 1966**

This is an international covenant to the universal declaration of human rights of 1948. In this covenant, state parties are required to promote economic, social and cultural rights such as the rights to health care and education.

- **Convention on the Rights of the Child, 1989**

This convention concerns the rights of the child, including freedom from violence, abuse and freedom from hunger and protection from diseases, free compulsory primary education, adequate health care and equal treatment regardless of gender, race or cultural background.

- **African Charter on Human and People’s Rights, 1981**

This is a basic human rights instrument for Africa. It’s especially drafted to fit the need of the African people. This instrument bans various discriminatory practices done to children such as female genital mutilation.

- **The International Conference on Population and Development (ICPD), Programme of Action (POA), UN 1994**

The International Conference on Population and Development (ICPD) was held in Cairo, Egypt in September 1994. Nearly all members of the United Nations participated, along with 10,000 representatives of the global civil society. At the ICDP, 179 nations agreed on a 20-year vision (the Programme of Action) to guide national and international family planning, reproductive health, HIV/AIDS prevention, women’s empowerment and related development efforts.

- **Convention on Elimination of all Forms of Discrimination Against Women, 1979**

This is a convention specifically drafted for women against discrimination, harmful practices and to promote equality of women. It calls state parties to set national action to end such discrimination.

## Schedule of organizations dealing with women and children rights in Kenya

Organization	Contact details	
	Physical location & email address	Tel No
1. 4Cs	Katiba house Off Ngong Rd, Opp Impala Club info@4cskenyatuitakayo.org	020 3874962
2. Action Aid International Kenya	Church Rd, Westlands, Nairobi anthony.kioko@actionaid.org	020 4440440/ 4440449
3. ANPPCAN Kenya	Chemusian Apartments, No B3, Argwings Kodhek Road, Hurlingham, admin@anppcankenya.co.ke	020 27228351/ 37/38
4. Chambers of Justice	Tetu Apartments, Block A, 3rd floor No.7, Off State House Avenue justice@chambersofjustice.org	020 2730403
5. Child Welfare Society of Kenya	cwsktoto@yahoo.com	020 603301
6. COCESCI		
7. COVAW	Leroghi Gardens, Mbaazi Avenue Off Kingara Road info@covaw.or.ke	020 3870357
8. CREAW	Mtoni Court Hse No. 8, Opp Ford Kenya Offices, Off Argwings Kodhek Rd info@creaw.org	020 3861016/ 3860640
9. ECIPIK	ecpikenya@yahoo.com	020 3861086/ 3870444
10. FIDA Kenya	Ambolesi Rd off Gitanga Rd info@fidakenya.org	020 3873511/ 369956

Organization	Contact details	
	Physical location & email address	Tel No
11. Girl Child Network	gcn@girlchildnetwork.net	020 604510
12. KAACR	kaacr@kaacr.com	020 4450256/7
13. LRF	Lenana Road Lrf@iconnect.co.ke	020 2720669
14. Pendekezo Letu	pendekezo@mitsuminet.com	
15. The CRADLE	Wood avenue, Wood avenue apartments Off Argwings Kodhek Rd, Kilimani info@thecradle.or.ke	020 3874575/6
16. Undugu Society	Arnold Plaza, Westlands Woodvale Grove Rd undugukenya@undugukenya.org	020 4454280
17. Women and Children in Crisis		020 3744879
18. WRAP	Muthaiga Roundabout, Opp Muthaiga Police Station wrap@wananchi.com	020 246024