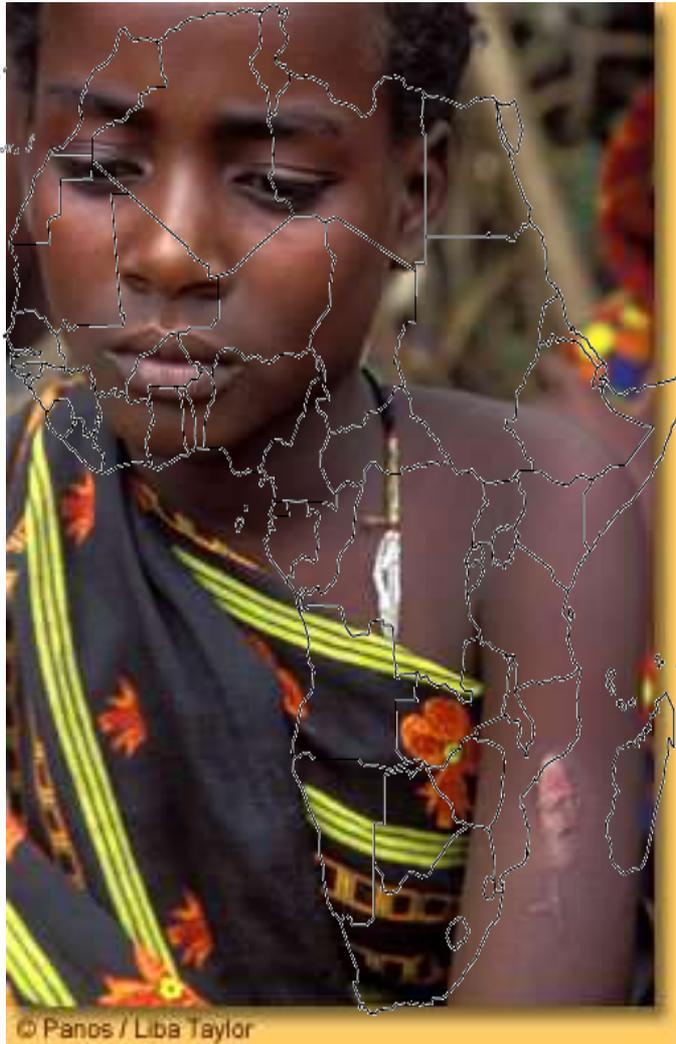


# INTERNATIONAL EXPERT CONSULTATION TO ADDRESS HARMFUL PRACTICES AGAINST CHILDREN



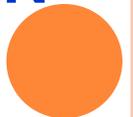
**Presentation:** The Regional frameworks for the protection of girls and boys from harmful practices

**Venue:** Radisson Blu Hotel, Addis Ababa - 13 June 2012

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# Outline Of Presentation

## 1. Introduction

- Understanding of Harmful practices, what it is about
- Traditional and other forms of Harmful practices in Africa and impacts

## 2. Regional frameworks for the protection of girls and boys from harmful practices

- Regional frameworks emphasis on Africa and their monitoring bodies
- Some Country examples

# Introduction

## 3. Harmful Practices

- Girls and also boys, throughout the world are subjected to many violent and discriminatory practices, making them more vulnerable to the discriminatory practices
- It reflects cultural, religious practices, values and beliefs held by members of a community, from generations.
- It can be positive (beneficial to all members, such as those which sustain society, provide cohesion and solidarity, and promote development )and also negative (harmful to specific groups – young girls, women.
- Harmful Practices have persisted because individuals and communities may hesitate to sacrifice what is perceived as important, although they may recognize them as harmful. As seen in Traditional forms of practices / Other forms of practices

# Contd

- Traditionally condoned forms of discrimination include: Virginty testing; Early and forced marriage/ bride price; female genital mutilation (FGM), breast ironing; Early pregnancy; son preference and its implication on the girl child; Harmful initiation rites and other practices.
- Other forms that are not profiled include child sacrifice, child labour, children born with disabilities to mention but a few

# Forms of Harmful Practices

## A. EARLY MARRIAGE AND DOWRY

- Early marriage is serious problem which some girls, as opposed to boys face.
- The practice of giving away girls for marriage at an early age after which they must start producing children, is prevalent among certain ethnic groups in Africa.
- The principal reasons for this practice are the girls' virginity and the bride-price. Young girls are less likely to have had sexual contact and thus are believed to be virgins upon marriage; this condition raises the family status as well as the dowry to be paid by the husband. In some cases, virginity is verified by female relatives before the marriage.

### **Impacts**

- Health complications that result from early marriage include, for example, the risk of operative delivery, low weight and malnutrition resulting from frequent pregnancies and lactation in the period of life when the young mothers are themselves still growing, exposes young girls to a greater risk of HIV infections as often find it difficult to negotiate for the use of condoms or access to reproductive health services.

# Contd - Harmful Practices

## B. FEMALE GENITAL MUTILATION(FGM/C)

- FGM, or female cutting as it is sometimes referred to, involves surgical removal of parts or all of the most sensitive female genital organs
- It is an age-old practice which is perpetuated in many communities around the world simply because it is customary. It is a custom or tradition derived over time from various values, especially religious and cultural values.
- The reasons for maintaining the practice include religion, custom, decreasing the sexual desire of women, hygiene, facility of sexual relations, fertility
- FGM is known to be practiced in at least 25 countries in Africa - Djibouti, Egypt, some parts of Ethiopia, Mali, Somalia and the northern part of the Sudan. Excision and circumcision occur in parts of Benin, Burkina Faso, Cameroon, the Central African Republic, Chad, Côte d'Ivoire, the Gambia, the northern part of Ghana, Guinea, Guinea-Bissau, Kenya, Liberia, Mauritania, Nigeria, Senegal, Sierra Leone, Togo, Uganda and parts of the United Republic of Tanzania.

## IMPACTS

- Short-term and long-term implications e.g. hemorrhage, infection and acute pain are the immediate consequences; Keloid formation, infertility as a result of infection, obstructed labour and psychological complications are identified as later effects.
- In rural areas where untrained traditional birth attendants perform the operations, complications resulting from deep cuts and infected instruments can cause the death of the child.
- The conditions under which these operations take place are often unhygienic and the instruments used are crude and unsterilized. A kitchen knife, a razor-blade, a piece of glass or even a sharp fingernail is the tools of the trade. These instruments are used repeatedly on numerous girls, thus increasing the risk of blood-transmitted diseases, including HIV/AIDS. The operation takes between 10 and 20 minutes, depending on its nature; in most cases, anaesthetic is not administered. The child is held down by three or four women while the operation is done.

# Contd- Harmful Practices

## C. EARLY PREGNANCY, NUTRITIONAL TABOOS AND PRACTICES RELATED TO CHILD DELIVERY

- It has harmful consequences for both young mothers and their babies.
- According to UNICEF, no girl should become pregnant before the age of 18 because she is not yet physically ready to bear children.
- Babies of mothers younger than 18 tend to be born premature and have low body weight; (likely to die in the first year of life, young mother's own health)
- LDCs, especially in rural areas, girls marry shortly after puberty and are expected to start having children immediately (situation improving, many countries have raised the legal age for marriage)

### Impacts

- Health complications, the risk of operative delivery, low weight and malnutrition resulting, exposes young girls to a greater risk of HIV infections as often find it difficult to negotiate for the use of condoms or access to reproductive health services.

# Contd - Harmful Practices

## D. VIOLENCE AGAINST CHILDREN

- Practices reviewed far constitute acts of violence against the children
- This is by the family and the community, and are often condoned by the State.

### Impacts

- Psychological, physical or even death of the child.

# REGIONAL FRAMEWORKS - HARMFUL PRACTICES

## A. The African Charter on the Rights and Welfare of the Child

- Very clear in that customs, traditions, cultural and religious practices may not be used as excuses for violating the rights of children as enshrined in the Charter.
- In its Preamble it calls for the consideration of the virtues of cultural heritage, historical background and the values of African civilization when reflecting upon the rights and welfare of the African Child, it discourages any custom, tradition, cultural and religious practice that is inconsistent with the rights and obligations in the Charter.
- Article 3 Non-discrimination (including on the grounds of sex) is a key principle in the application of the provisions of the Charter
- Article 21 forcefully and unequivocally obliges State Parties to take all measures to eliminate harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child, particularly those which endangers the health or life of the child as well as those practices which are discriminatory to the child on the grounds of sex or other status.
- Article 16 of the African Children's Charter prohibits all forms of torture, inhuman or degrading treatment and especially physical or mental injury or abuse, neglect or maltreatment including sexual abuse.

## Contd - REGIONAL FRAMEWORKS

### B. Protocol to the African Charter on Human and Peoples' Rights on the rights of women in Africa

- It concerns the prohibition of violence against girls (the Women's Rights Protocol defines women as persons of female gender, including girls) including those grounded on customary and traditional practices.
- In the Protocol's Preamble, it recognizes the crucial role of women in the preservation of African values based on principles of equality, peace, freedom, dignity, justice, solidarity and democracy.
- Articles 3 and 4 call on States Parties to protect women from all forms of violence and prohibit all forms of exploitation, cruel, inhuman or degrading punishment and treatment both in the public and private spheres. As part of the measures to be taken by States Parties, peace education must be promoted in order to eradicate elements in traditional and cultural beliefs, practices and stereotypes which legitimize and exacerbate the persistence and tolerance of violence against women
- Article 5; Obliges States Parties to prohibit and condemn all forms of harmful practices which have a negative effect on women's human rights.

# MONITORING BODIES

**D. Committee of Experts on the Rights and Welfare of the Child in Africa (35)**

**E. Committee of Experts on African Charter on Human and Peoples Rights (27)**

- Monitors, reports on enforcement and implementation of the instruments
- Question is on its operation cf to the International treaties (recommend)??

## Other Initiatives - REGIONAL FRAMEWORKS

### C. The Maputo Plan of Action on Sexual and Reproductive Health

- The ultimate goal - Called upon African governments, civil society, the private sector and all development partners to join forces and redouble efforts to achieve universal access to sexual and reproductive health services in all countries in Africa by 2015.
- Provides for universal access to Sexual and Reproductive Health Services (SRHS), and linked HIV to SRHS.
- The linkage between SRHR and HTP, why?
- Because they are also causes of high maternal mortality. Some women do not have control over their fertility as a result of various taboos and cultural practices, which can prevent them from accessing services or having too many pregnancies which can lead to birth related complications.
- Good policy environment for SRHR in Africa exists – frameworks such as Maputo PoA, African Women’s Decade, Africa UNiTE Campaign to EVAWG, The Campaign for Accelerated Reduction of Maternal Mortality in Africa

# COUNTRY EXAMPLES

## F. Laws on Harmful practices

### Uganda

- Act that provides for prohibition of FGM, the offence, prosecution and punishment of offenders and the protection of victims as well as girls and women under the threat of FGM and provide for other related matters (9 April 2010)

### Sudan

- In 1991, the government affirmed its commitment to the eradication of the traditional form of FGM/C. The 1993 Penal Code, however, does not mention FGM/C, leaving its status unclear. Sudan has ratified the CCPR, CESCRC, CRC and the African Charter on Human and People's Rights.

### Malawi (other amendments have taken place)

- Article 23 (4) of the Constitution of 1994, amended in 2001 guarantees the rights of the child in 5 areas, (protected from economic exploitation or any treatment, work or punishment that is, or likely to be hazardous; interfere with their education; or be harmful to their health or to their physical, mental or spiritual or social development". Malawi has a dualist system requiring an act of parliament to incorporate international treaties into domestic law. To date, no international treaty has been domesticated and the courts have taken no consideration for international law when interpreting legislation .It has ratified the CRC, CEDAW, the African Charter on the Rights and Welfare of the Child and the Women's Protocol to the African Charter, but as mentioned above, these treaties have not been incorporated into domestic law.

# Areas for consideration

- **Groups to be targeted in addressing HPs - government, youths, health workers, media and institutions such as mosques, churches and schools, through dialogues, awareness raising, behaviour change.**
- **Governments should be encouraged to undertake and promote research to identify HPs, the harms they cause and how to combat them, and ratify relevant international and continental legal instruments.**
- **Stakeholders at national, regional and International level should furthermore continue their important advocacy work**
- **Countries that have a dual legal system where customary law operates alongside case law/civil law , should ensure children's rights are respected, to avoid scenarios where children's issues have to be constantly negotiated between these legal systems.**

# MORE INFORMATION - READ

- Regional frame works in Africa (ACHPR, ACRWC)
- Female Genital Mutilation/ cutting, 2007  
[http://www.unicef.org/ethiopia/ET\\_fgm.pdf](http://www.unicef.org/ethiopia/ET_fgm.pdf)
- Malawi Human Rights Commission. Cultural Practices and their impact on the enjoyment of Human Rights, particularly the Rights of Women and Children in Malawi
- Research by Rebecca Tapscott, August 2012

**THANK YOU.**

