



**STATEMENT BY EQUALITY NOW DURING THE 43<sup>rd</sup> ORDINARY SESSION OF THE AFRICAN COMMITTEE OF EXPERTS ON THE RIGHTS AND WELFARE OF THE CHILD, 15 APRIL 2024, MASERU, LESOTHO**

*Honourable Chairperson of the ACERWC, State-Party Representatives and Fellow Civil Society Representatives*

Equality Now, an international Human rights organisation (with observer status No. OBS/029/2018), founded in 1992, working for the protection and promotion of the rights of women and girls worldwide commends and congratulates the Honourable Chairperson of the ACERWC and the Honourable Expert Members for the successful convening of this 43<sup>rd</sup> Ordinary Session of The African Committee of Experts on the Rights and Welfare of the Child. We submit our statement as follows;

**1. Anti-FGM Law in The Gambia**

We are alarmed by the fast-developing situation in The Gambia, where attempts are being made to repeal the legal provisions within the Women's (Amendment) Act of 2015, which prohibit and criminalize FGM; including the recent parliamentary vote which led to the Bill being referred to Parliamentary Select Committees for further review. We urge this Committee to proactively engage the Government of The Gambia to protect the interests of the Gambian children and ensure that it complies with its human rights obligations by maintaining the anti-FGM provisions within the Women's (Amendment) Act of 2015 in place.

**2. Tragic Deaths of Girls due to FGM in Sierra Leone**

We are concerned about the recent reports of the tragic deaths of girls in Sierra Leone as a result of FGM earlier this year. As confirmed by the Ministry of Gender [Adamsay Sesay](#), 12; [Salamatu Jalloh](#), 13; and [Kadiatu Bangura](#), 17, died during initiation ceremonies to the Bondo society in the country's North West province. Despite this, there is no specific law prohibiting FGM in the country. Given the urgent unfolding situation in the country, we implore the Committee to call upon the Government of Sierra Leone to ensure justice in these cases; and to urgently pass a specific law prohibiting FGM accompanied by financial resources and an action plan to facilitate preventive measures and prosecution of perpetrators in line with articles 1 and 21 of the African Charter on the Rights and Welfare of the Child.

**3. Call for accelerated efforts to end child marriage in Africa**

Child marriage continues to be on the increase with the deepening effects of climate change especially in Southern Africa where the current extreme drought situation is significantly putting girls at increased risk of child marriage and sexual exploitation. The urgent need to accelerate efforts to address child marriage is highlighted by recent cases, such as the marriage of a 12-year-old girl in Ghana to a 63-year-old priest in a traditional customary marriage, just last month. Recent clawbacks to girls' rights, such as the constitutional amendment in Somalia which seeks to set the age of maturity at 15, could also put children, particularly girls, at greater risk of child

marriage. We call on the Committee to urge the Government of Somalia to review this provision and ensure that the Constitution explicitly prohibits marriage for children under the age of 18, without exceptions. We equally urge the Committee to intervene in the Ghana case and impress on the Government to take urgent measures to rescue the young girl and prosecute the priest for engaging in child marriage.

#### **4. The Situation of Pregnant Girls in Tanzania**

Honourable Committee Members, Equality Now recognizes and appreciates the bold recommendations made by the Committee through its decision on the communication (Communication No: 0012/Com/001/2019 Decision No 002/2022) on the situation of Pregnant girls in Tanzania. However, Equality Now still has concerns about the situation of pregnant girls' education in Tanzania; and the lack of implementation of the Committee's decision. The Education Act of Tanzania, enacted through Government Notice No. 295 under Regulation 4 (Expulsion and Exclusion of Pupils from Schools), still stands, and authorizes the permanent expulsion of pregnant and married girls from public schools. The recently issued re-entry guidelines by the Government of Tanzania fall short of Human rights standards as they are still discriminatory, and vague and have been irregularly enforced from one school to another due to limited dissemination and understanding by education officials. There are cases where school officials decide what happens with a pregnant girl's education without necessarily following the guidelines. Further, the guidelines have not addressed the drivers of teenage pregnancies, school-related sexual and gender-based violence, mandatory pregnancy testing, and the expulsion of girls from school when they become pregnant. Neither have the guidelines provided recourse for girls expelled from school because only students who dropped out within two years are allowed re-entry. Therefore, there is still a need to comprehensively review the education laws and policies to ensure all children attend school and are safe from schools related sexual and gender based violence.

As a result of these laws, policies and practices, many girls are still at risk of child marriage, pregnancy, and, therefore, the loss of their right to education. Further, the state ought to develop a comprehensive national action plan for the re-entry of girls to schools that are in line with international normative standards of being available, accessible, and acceptable to ensure all girls can continue with their education, to break the cycles of violence and poverty. We urge the Committee to continue impressing upon Tanzania to repeal Regulation 4 of the Education Act and, further, abide by the country's Court of Appeal decision banning child marriage without any exceptions.

#### **5. Call for Legal Reform to Protect Children from Sexual Violence and Exploitation**

Honourable Committee of Experts, Equality Now has been conducting a study on Rape Laws in Africa. It has established in various jurisdictions legal and practice gaps in protecting children from various forms of sexual violence. Under international human rights law, all states are mandated to prevent all forms of violence by adopting legislation that unequivocally criminalizes all forms of violence against women and girls. We have noted, with great concern, that various countries have a very low age of consent to sex, ranging from 11 years in Nigeria to 12 years in Equatorial Guinea. Children can be vulnerable due to their level of maturity and, further, can be at the mercy of adults who may take advantage of existing power dynamics and subject them to sexual conduct without them providing informed, free, and willful consent. We strongly urge the Committee to urge all African states to reform their rape laws to ensure they provide the fullest protection. This would include being based on the principle of consent rather than the use of force, to take account of coercive and exploitative circumstances, including in the context of dependent relationships, with respect also to the potential exploitation of power dynamics concerning

children, and to ensure the penalties for sexual violence are commensurate with the severity of the crime.

#### **6. Ratification of the African Charter on the Rights and Welfare of the Child to Enhance Protection of Child Rights in South Sudan**

Equality Now commends the Government of South Sudan for ratifying the Maputo Protocol in June 2023. This offers protection to the rights of school-going girls, who continue to experience numerous human rights violations such as forced marriage, abduction and kidnapping, defilement, and discrimination, supported by harmful customary practices, patriarchal attitudes, and impunity. We urge the Committee to call on the government of South Sudan to do the following:

- i) Ratify the African Charter on the Rights and Welfare of the Child;
- ii) Ensure the Permanent Constitution that is currently under development clearly defines the marriageable age in line with the Children's Charter and the Maputo Protocol;
- iii) Prioritise the enactment of the Anti-GBV Bill and the Family Law Bill which have progressive provisions on violence, marriage, and the protection of the girl child;
- iv) Ensure the existing legal framework such as the Penal Code is revised and fully implemented to punish those who commit crimes and are held accountable.

#### **7. Call for Signature and Ratification of the Protocol to the African Charter on Human and Peoples' Rights Relating to the Specific Aspects of the Right to a Nationality and the Eradication of Statelessness in Africa (the Nationality Protocol)**

Honourable Committee of Experts, We commend the African Union Heads of State Assembly for adopting the Nationality Protocol during its 37th Ordinary Session in February 2024. The Protocol entrenches protecting the right to nationality of children and women in Africa. We call upon the Committee to urge all Member States to sign and ratify the Nationality Protocol so that it can enter into force as soon as possible.

Equality Now remains committed to supporting the Committee in contributing to initiatives and efforts to implement The African Charter on the Rights and Welfare of the Child (ACRWC) and promote and protect children's rights in Africa and beyond.

Thank you.

Done in Maseru, Lesotho on 15 April 2024.