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THE EAST AFRICAN COMMUNITY

**BILLS SUPPLEMENT**

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THE EAST AFRICAN COMMUNITY

**THE EAST AFRICAN COMMUNITY SEXUAL AND  
REPRODUCTIVE HEALTH RIGHTS BILL, 2017**

**MEMORANDUM**

The object of this Bill is to provide a legal framework for matters relating to sexual and reproductive health, to protect children, adolescents and young persons from sexual abuse and other forms of exploitation, to provide for assisted reproductive technology and to provide for other matters related to those matters.

This Bill is premised on Article 118 of the Treaty for the Establishment of the East African Community, under which the Partner States undertook to *inter alia*—

- (a) cooperate in health and promoting the management of health delivery systems and better planning mechanisms to enhance efficiency of health care services;
- (b) harmonising national health policies and regulations in order to achieve quality health in the Community; and

- (c) cooperating in the development of specialized health training health research, reproductive health pharmaceutical products and preventive medicine.

This Bill recognizes—

- (a) the Maputo Plan of Action for the operationalisation of the African continental policy framework for universal access to comprehensive sexual reproductive health services, which in effect makes it imperative for the Community to have a law to operationalize that policy and plan of action; and
- (b) the United Nations Commission on Population and Development 2013 resolution that recognizes that sexual and reproductive health rights as well as population and development, education and gender equality are integrally linked to global efforts to eradicate poverty and achieve sustainable development.

In addition, this Bill seeks to implement the East African Community Sexual and Reproductive Health Rights Strategic Plan which seeks to complement the Partner States' sexual and reproductive health rights as well as their reproductive health community security strategies by providing a strategic direction towards universal access to sexual and reproductive health facilities for all in the EAC.

This Bill therefore, intends to—

- (a) provide a framework for the protection and advancement of sexual and reproductive health rights to all;
- (b) promote safe motherhoods across the region for maternal, new born and adolescent morbidity and mortality rates;
- (c) prevent bad practices such as child marriage, female genital mutilation, retrogressive practices during initiations and circumcision of boys;
- (d) prevent unwanted pregnancies, risky abortion and sexually transmitted infections including HIV; and

(e) ensure quality sexually reproductive health care, education and services for all citizens of the East African Community.

HON. DR. ODETTE NYIRAMILIMO,  
*Member, East African Legislative Assembly.*

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REPRODUCTIVE HEALTH BILL, 2017

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**THE EAST AFRICAN COMMUNITY SEXUAL AND  
REPRODUCTIVE HEALTH BILL, 2017.**

A Bill for an Act

ENTITLED

**THE EAST AFRICAN COMMUNITY SEXUAL AND  
REPRODUCTIVE HEALTH ACT, 2017.**

**An Act to provide for matters relating to sexual and reproductive health, to protect children, adolescents and young persons from sexual abuse and other forms of exploitation, to provide for assisted reproductive technology and for other related matters.**

ENACTED by the East African Community and assented to by the Heads of State.

PART I—PRELIMINARY

1. This Act may be cited as the East African Community Sexual and Reproductive Health Act, 2017 and shall come into force on such date as the Council may, by publication in the Gazette appoint.

Short title  
and  
commence  
ment.

2. In this Act, unless the context otherwise requires—

Inter-  
pretation.

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“adolescent” means any person aged between ten and nineteen years;

“child” means an individual below the age of eighteen years;

“Community” means the East African Community established by Article 2 of the Treaty;

“contraception” means the deliberate prevention of pregnancy by measures that prevent the normal process of ovulation, fertilization and implantation;

“disability” includes any physical, sensory, mental, psychological or other impairment, condition or illness that has, or is perceived by significant sectors of the community to have a substantial or long-term effect on an individual’s ability to carry out ordinary day-to-day activities;

“family planning” means the conscious effort by a person to plan for and attain the person’s desired number of children and to regulate the spacing and timing of the births of the children with or without the use of contraceptive commodities;

“healthcare provider” means any person or institution that has been authorised to deliver health care services;

“reproductive health” means a state of complete physical, mental and social well-being in all matters relating to the reproductive system and to its functions and processes;

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“reproductive rights” include the right of all individuals to attain the highest standard of sexual and reproductive lives free from discrimination, coercion or violence;

“Treaty” means the Treaty for the Establishment of the East African Community.

3. The objectives of this Act are to—

Objectives  
of the Act.

- (a) provide a framework for the protection and advancement of sexual and reproductive health rights to all persons;
- (b) promote reproductive health and safe motherhood in the Partner States for a rapid and substantial reduction in maternal and new-born morbidity and mortality rate;
- (c) prevent harmful practices including child marriages, female genital mutilation, retrogressive practices during circumcision of boys and gender-based violence;
- (d) prevent unwanted pregnancies and risky abortions; and
- (e) ensure access to quality and comprehensive provision of sexual and reproductive health care services to all persons.

PART II—SEXUAL AND REPRODUCTIVE HEALTH RELATED  
RIGHTS

4. The Partner States shall ensure the protection and advancement of sexual and reproductive health rights to all persons.

Sexual and  
reproductive  
health  
rights.



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General rights of a child.

5. The general rights of a child shall be as specified in the Convention on the Rights of the Child, the African Charter on the Rights and Welfare of the Child and the relevant laws of the Community relating to children.

Right to information on sexual and reproductive health.

6. (1) Every individual shall have the right to seek and receive age- appropriate sexual and reproductive health information, in any form, either orally, in writing or in print, in art, or through any other medium of their choice, subject to restrictions imposed by law.

(2) The Partner States shall strengthen parents' capacity to provide appropriate information to their children relating to sexual and reproductive health, in a manner consistent with the evolving capacities of their children.

Protection from sexual exploitation and abuse.

7. (1) A child shall not be subjected to physical and psychological violence or abuse, neglect and any other form of exploitation, including being used in sexual work, induced or coerced to engage in any sexual activity, exposed to obscene or pornographic materials, sexually abused or groomed using the internet, or sold, enslaved, trafficked or abducted by any person.

(2) The Partner States shall put in place policies, laws and measures to ensure that necessary support is given to children and victims of sexual exploitation and abuse, rehabilitation and treatment of injuries or illnesses resulting from maltreatment, abuse or exploitation.

Prohibition and prevention of child marriages.

8. (1) The Partner States shall prohibit child marriages and the betrothal of children and shall put in place the necessary measures to prevent child marriages and betrothal of children through education, legal and other social mechanisms.

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(2) The Partner States shall put in place mechanisms to ensure that necessary support is given to victims of child marriages by ensuring rehabilitation and treatment of any injuries or illnesses resulting from maltreatment, abuse or exploitation.

9. (1) The Partner States shall ensure that pregnant girls have a right to access free and compulsory primary and secondary education.

Right to  
education  
for pregnant  
girls.

(2) A child shall not be expelled from school or any learning institution as a result of pregnancy.

(3) Subject to subsection (1), the Partner States shall ensure that girls who become pregnant before completing their primary and secondary education are given the opportunity and facilities during pregnancy and after delivery, to continue with their education.

(4) The Partner States shall, for the purposes of this section maintain records of all pregnancies occurring among adolescents in schools.

(5) The Partner States shall introduce measures to protect children from any forms of abuse or related stigma or discrimination in the instances of early pregnancies by affording sexual and reproductive health information and where to access services to prevent early pregnancies.

(6) The Partner States shall put in place systems to identify, manage, and refer children, adolescents and young persons, who have been victims of sexual abuse and are coming to the health facilities and communities for psychological, health care, and legal support.

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PART III—ACCESS TO SEXUAL AND REPRODUCTIVE HEALTH  
SERVICES

Sexual and  
reproductive  
health  
education.

**10.** (1) The Partner States shall design, implement and evaluate sexual and reproductive health education packages to promote positive healthy behaviours and increased uptake of services using community engagement and media.

(2) Sexual and reproductive health related public education shall include but not be limited to—

(a) partner communication and education about contraception, child-bearing, rearing and socialisation;

(b) safe pregnancies and delivery;

(c) prevention of sexually transmitted infections;

(d) sexual dysfunctions and reproductive health cancers;

(e) prevention of mother-to-child transmission; and

(f) gender-equitable and mutually satisfying, protective and safe relationships.

(3) Sexual and reproductive health education packages shall be targeted to those most vulnerable to ill-health with strategies and in the locations that are most accessible to them including in refugee camps, cross-border areas, truck corridors, mining and fishing communities, and workplaces.

Programmes  
to promote  
positive  
healthy  
behavioural  
change.

**11.** The Partner States shall design, implement and evaluate innovative social behavioural change communication programmes and youth friendly services to promote positive healthy behaviours among adolescents and young persons

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with special emphasis to the marginalized communities, vulnerable groups including out-of-school and parenting adolescents and adolescents exploited into sex work.

**12.** (1) The Partner States shall ensure that every individual has the right to—

Access to  
contraceptives and  
family  
planning  
services.

- (a) control their fertility by determining whether to have children or not, the number of children and the spacing of children;
- (b) have family planning services and to receive family planning education and the available family planning methods, as part of a health care package; and
- (c) choose and consent to any method of contraception including sterilisation.

(2) The Partner States shall ensure availability and accessibility of quality integrated sexual and reproductive health services including—

- (a) access to contraceptives and related supplies; and
- (b) management of cancers including cervical, breast and prostate cancers.

**13.** The Partner States shall promote access to maternal and new-born health care services and information including nutrition support from pre-conception to post-delivery care by ensuring the availability of—

Access to  
maternal  
and new-  
born health  
care.

- (a) standard care and referral system;
- (b) essential supplies and equipment;

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- (c) HIV prevention, detection and treatment services;
- (d) contraception and family planning services;
- (e) nutrition services and education; and
- (f) other related services.

Skilled care  
during and  
after  
delivery.

**14. (1)** The Partner States shall ensure that maternal health care during the period of pre-conception, pregnancy, childbirth and after delivery is offered by trained health professionals.

(2) The Partner State shall ensure that during the period of pregnancy, childbirth and post-delivery, every woman is treated in a humane manner and accorded privacy, dignity and mutual respect with supportive infrastructure.

(3) Every woman shall have the right to--

- (a) access to essential and emergency obstetric care;
- (b) well equipped and adequately staffed maternal health care centers;
- (c) receive skilled attendance at childbirth;
- (d) postpartum care and effective referral and transport to get optimum level of care;
- (e) birth preparedness plans for institutional delivery with skilled birth attendance; and
- (f) safe abortion in accordance with section 15.

(4) The Partner States shall ensure that health facilities are in good condition and fully equipped to offer quality maternal and new-born health services.

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15. (1) The Partner States shall safeguard and give effect to the reproductive rights of a woman by permitting the termination of pregnancy when in the opinion of a trained health professional, the pregnancy endangers the health or life of the woman.

Termination  
of  
pregnancy.

(2) The Partner States shall put in place measures to ensure that before the termination of pregnancy is undertaken, counselling is provided to the pregnant woman before and after the termination.

16. (1) The Partner States shall ensure that every head of a health facility in which maternal and perinatal death occurs, notifies the Ministry responsible for health and any other relevant body or authority, within a period not exceeding seven days. (7) days' from the date of such occurrence.

Notification  
of maternal  
and  
perinatal  
deaths.

(2) The Ministry responsible for matters relating to health and such other body or Authority referred to in subsection (1), shall put in place mechanisms to monitor, respond and take corrective measures.

17. (1) The Partner States shall design and implement programmes tailored to address the specific sexual and reproductive health needs of adolescents and young persons living with HIV, to ensure access to integrated services, treatment of opportunistic infections and other HIV related complications and to receive information on prevention of mother-to-child transmission.

Adolescents  
and young  
persons  
living with  
HIV.

(2) The Partner States shall ensure that adolescents and young persons get access to relevant quality and youth friendly sexual and reproductive health services including contraceptives and condoms.

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Measures to address special needs for adolescents and persons with disabilities.

**18.** The Partner States shall provide supportive infrastructure, equipment, educational materials and other services targeting adolescents and persons with disabilities including—

- (a) health personnel trained to communicate with adolescents;
- (b) trained health personnel able to communicate with persons with disabilities through either sign, tactile languages and Braille in health facilities; and
- (c) a services' module for persons with disabilities to be integrated in pre-service and in-service training for health care providers.

Protection against sexually transmitted diseases, etc.

**19.** (1) The Partner States shall ensure that every person has—

- (a) the right to self-protection and protection against sexually transmitted infections including HIV; and
- (b) the right to be informed of the health status of their sexual partners including their HIV status.

(2) The Partner States shall provide pre-exposure and post-exposure prophylaxis to persons at high risk of acquiring HIV.

Protection from discrimination.

**20.** The Partner States shall ensure that men, women and the young people have access to sexual and reproductive health services without any form of discrimination.

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**21.** The Partner States shall put in place mechanisms to promote voluntary medical male circumcision to protect the welfare of boys.

Voluntary  
male  
circumcision.

**22.** Partner States shall ensure the provision of sexual and reproductive health services complies with the exigencies of the right to privacy, dignity, respect and adherence to the principles of confidentiality.

Privacy and  
confident-  
iality.

**PART IV — ASSISTED CONCEPTION**

**23.** The Partner States shall put in place mechanisms for accreditation, supervision and regulation of assisted reproductive technology.

Regulation  
of assisted  
conception.

**24.** The Partner States shall designate or establish centres where people seeking assisted reproductive technology can access information and services on fertility and assisted conception.

Access to  
information  
on assisted  
conception.

**25.** The Partner States shall put in place policies, laws and measures to regulate the right to gestational surrogacy.

Regulation  
of right to  
gestational  
surrogacy.

**PART V — SUPPORT PROGRAMMES AND POLICIES FOR  
VULNERABLE GROUPS**

**26.** The Partner States shall put in place policies, laws and measures for availing sexual and reproductive health services to vulnerable groups, including victims of child marriages, orphans, widows, persons with disabilities, and other populations at risk.

Policies on  
vulnerable  
groups.

**27.** The Partner States shall establish and strengthen referral systems and linkages between education, health, legal, psychological, rehabilitation and social support services for adolescents and young persons with special provisions for the vulnerable groups.

Referral  
systems.



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PART VI—HARMFUL PRACTICES

Initiation  
rites.

**28.** (1) The Partner States shall strengthen the capacity of traditional initiation structures to provide combined sexuality education and the beneficial elements in those traditional initiation rites.

(2) The Partner States shall prohibit harmful norms and sexual practices associated with particular initiation rites that expose adolescents to sexually transmitted infections, HIV, unintended pregnancies or child marriages.

Genital  
mutilation.

**29.** (1) The Partner States shall prohibit all forms of female genital mutilation.

(2) The Partner states shall prohibit any health care provider from performing female genital mutilation in health care facilities and other settings.

(3) The Partner States shall design and implement programmes that provide legal, social and medical health services for the victims of female genital mutilation.

(4) The Partner States shall ensure that health care providers are trained to provide specialised services for girls and women subjected to female genital mutilation.

PART VII—MISCELLANEOUS PROVISIONS

Research  
and data  
manage-  
ment.

**30.** (1) The Partner States shall ensure the collection and custody of accurate and updated data relating to sexual and reproductive health.

(2) The Partner States shall invest in developing sexual and reproductive health research including but not limited to clinical trials and operational research, and in improving and digitizing the sexual and reproductive health management information systems.

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(3) The Partner States shall set up monitoring and evaluation systems that track sexual and reproductive health indicators and related targets including those aimed at young persons.

**31.** The Council may make regulations generally for the better carrying into effect the provisions of this Act. Regulations.