

FOR IMMEDIATE RELEASE

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Court case challenging the constitutional validity of Kenya's Anti-FGM Act back in court

At a time when the country has implemented several restrictions in response to COVID-19, girls are more marginalised and vulnerable to undergoing female genital mutilation (FGM) as these restrictions to prevent transmission have also interrupted the various programmes to prevent FGM through community interventions.

On 12 June 2020, the Initiative for Strategic Litigation in Africa (ISLA) and Kenya Legal and Ethical Issues Network on HIV & AIDS (KELIN) will return to court as [joint amicus curiae](#) in the case where Dr Tatu Kamau, as the Petitioner, is challenging the constitutional validity of the Prohibition of Female Genital Mutilation Act, simply known as the Anti-FGM Act. The case began in October 2019 before the Constitutional Division of the High Court in Kenya.

The matter resumes virtually before Justice Lydia Achode, Justice Kanyi Kimondo and Justice Margaret Muigai as detailed in the [Cause List](#).

Dr Kamau filed a petition seeking a declaration from the Court that the Anti-FGM Act is unconstitutional for being in violation of adult consenting women's right to culture, health and equality. However, ISLA and KELIN's [amici curiae submission](#) demonstrates that in enacting the Anti-FGM Act, Kenya has acted in line with the International standards requiring it to enact gender sensitive legislation to prevent, protect against and respond to FGM.

This case resumes in court at a time when it's particularly important that the negative impact of this practice remain in the public discourse. The case is approaching the end with parties' counsel due to make final oral submissions before the Court tomorrow. The parties have filed their final written submissions in the matter and will use the limited time allocated by the Court to highlight sections of these written submissions.

"The question of consent by an adult woman to undergo the cut shouldn't come into play. The reality for majority of the girls and women who are cut is one where they face insurmountable social and cultural pressure to undergo the cut," says Matilda Lasseko, ISLA's Violence Against Women Lawyer.

"By enacting the Anti-FGM Act, the State has acted in compliance with its duty to protect, prevent and respond to FGM as a form of violence against women and girls and eliminate a cultural practice universally recognised as being harmful."

To contribute to the discussion and for live updates follow ISLA & KELIN on our social media platforms: Twitter: @ISLAfrica @KELINkenya using hashtag #EndFGM#Don'tTouchFGMLaw#Justice2Health

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