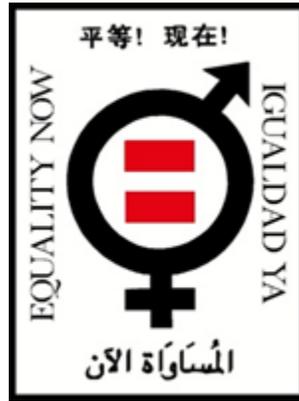


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## EQUALITY NOW



### United States of America

#### Submission to the UN Universal Periodic Review

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## **Introduction and Summary**

1. Equality Now is an international human rights organization with ECOSOC status working to protect and promote the rights of women and girls worldwide since 1992, including through our membership network comprised of individuals and organizations in over 190 countries.
2. In this submission, Equality Now provides information as stipulated in the *Information and Guidelines for Relevant Stakeholders' Written Submissions*. Equality Now highlights its concerns about (1) female genital mutilation in the United States of America (U.S.); (2) the role of U.S. government personnel and contractors in fueling sex trafficking, and access to services for victims of trafficking in the U.S.; and (3) sex discrimination in the nationality law of the U.S. Equality Now makes several recommendations for action by the U.S. government to better address these areas of concern.

## **Promotion and Protection of Human Rights on the Ground**

### ***Female Genital Mutilation (FGM) in the United States***

3. FGM is a harmful practice that occurs in many countries across the world, including in the U.S. FGM can have detrimental lifelong health consequences including chronic infections; severe pain during urination, menstruation, sexual intercourse and childbirth; infertility; psychological trauma; and in some cases even death. FGM is often seen as a rite of passage into womanhood and a prerequisite to marriage. It is estimated that between 100 and 140 million girls and women around the world have undergone FGM. FGM violates various human rights under international law, including women's and girls' rights to equality, life, security of the person, dignity, as well as freedom from discrimination and torture, cruel, inhuman or degrading treatment.
4. The statistics available about FGM in the U.S. are extremely limited. In 1997, the U.S. Department of Health and Human Services estimated that over 168,000 girls and women living in the U.S. have either been, or are at risk of being, subjected to FGM. In 2000, the African Women's Health Center at Brigham and Women's Hospital estimated that 227,887 women and girls were at risk of being subjected to FGM in the U.S. that year.
5. While there have been only a couple of reported cases of FGM in Georgia (in 2003 and 2010), anti-FGM activists in the U.S. have heard from community members about American girls from practicing communities being subjected to FGM when they are on vacation in their parents' countries of origin, when circumcisers are brought into the U.S. to cut girls, or in some cases by doctors in hospitals in the U.S. This is despite the fact that U.S. federal law, as well as the laws of several U.S. states, makes it illegal to perform FGM in the U.S. or to transport a girl out of the U.S. for purpose of undergoing FGM (a practice known as "vacation cutting").<sup>1</sup>
6. Equality Now has helped inform U.S. policy on FGM and continues to advocate with FGM survivors for a comprehensive approach to effective implementation of U.S. laws and

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<sup>1</sup> See [www.equalitynow.org/sites/default/files/FGM%20in%20US%20Fact%20Sheet\\_1.pdf](http://www.equalitynow.org/sites/default/files/FGM%20in%20US%20Fact%20Sheet_1.pdf).

policies against FGM. Along with FGM survivor and activist Jaha Dukureh, Equality Now recently supported a Change.org petition which gained over 200,000 signatures, calling on President Obama to update prevalence and incidence statistics of girls and women subjected to and at risk of FGM in the U.S., to develop a comprehensive strategic plan to end the practice in the U.S., and to provide services to those who have already been subjected to FGM.

7. We welcome the recent commitments made by the U.S. government to address FGM domestically and abroad. For instance, in August 2012, the U.S. issued its first ever *Strategy to Prevent and Respond to Gender-Based Violence Globally*,<sup>2</sup> recognizing FGM and other harmful practices as forms of gender-based violence. President Obama issued an Executive Order<sup>3</sup> calling for implementation of this strategy. In addition, the U.S. government made several commitments during the July 2014 Girl Summit in London,<sup>4</sup> including to undertake a nationwide study on FGM to determine how many women and girls are living with the consequences of FGM or are at risk of FGM in the U.S., and to send a newsletter to all U.S. Attorney Offices setting forth guidance on investigating and prosecuting cases of FGM.
8. We urge the Human Rights Council to encourage the U.S. to follow through with its recent commitments to address FGM.

### ***Preventing Sex Trafficking and Protecting Survivors***

9. Equality Now is very concerned about the failure of the U.S. government to hold military and other government personnel and contractors accountable for fueling the demand that drives sex trafficking through the purchase of sex. Equality Now is also concerned about barriers to access to services for all victims of human trafficking in the U.S.

### ***Addressing the Role of U.S. Government Personnel and Contractors in Fueling Sex Trafficking***

10. As part of efforts to *prevent* sex trafficking, the U.S. government is bound by national<sup>5</sup> and international<sup>6</sup> laws and policies to reduce the demand for commercial sex. The U.S. government falls short of its obligations as it lacks a consistent, uniform and enforceable legal standard on sex trafficking and purchasing sex that covers the conduct of *all* government employees and contractors, whether military or civilian. While several federal agencies have policies or codes of conduct that expressly prohibit employees from buying sex, such as the U.S. State Department and the U.S. Military, other agencies such as the Secret Service, which operates under the Department of Homeland Security, do not seem to be governed by an explicit policy prohibiting commercial sexual exploitation.

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<sup>2</sup> Available at [www.state.gov/documents/organization/196468.pdf](http://www.state.gov/documents/organization/196468.pdf).

<sup>3</sup> Available at [www.whitehouse.gov/the-press-office/2012/08/10/executive-order-preventing-and-responding-violence-against-women-and-gir](http://www.whitehouse.gov/the-press-office/2012/08/10/executive-order-preventing-and-responding-violence-against-women-and-gir).

<sup>4</sup> Available at [www.girlsummit2014.org/Commitment/Show](http://www.girlsummit2014.org/Commitment/Show).

<sup>5</sup> Trafficking Victims Protection Act of 2000, available at [www.state.gov/j/tip/laws/61124.htm](http://www.state.gov/j/tip/laws/61124.htm).

<sup>6</sup> United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime, Article 9(5); The UN High Commissioner for Human Rights, Recommended Principles and Guidelines on Human Rights and Human Trafficking, Guideline

7.

11. Even when policies and codes are in place, the inconsistency in agencies' policies leads to a general lack of enforcement. The U.S. government has prosecuted American citizens who travel internationally to purchase sex. Yet, very little has been done to stop the alarming rate of U.S. government employees who are doing the same thing. In 2005, the U.S. government amended the Manual for Courts-Martial to include "patronizing a prostitute" as a violation of Article 134 of the Uniform Code of Military Justice. While this is a positive step, military bases continue to be a major factor in fueling the demand for sex trafficking. At nearly every international base there is a "rest/relaxation" center with hundreds of trafficked women around the world forced into selling their bodies to U.S. servicemen. The U.S. government has recognized the buying and selling of sex is closely linked to sex trafficking, yet the U.S. government must do more to hold its own U.S. servicemen and other personnel accountable for contributing toward the sexual exploitation and trafficking of women and girls.
12. Executive Order 13627, *Strengthening Protections Against Trafficking in Persons in Federal Contracts*,<sup>7</sup> and Title XVII of the National Defense Authorization Act, Public Law 112 – 239, *Ending Trafficking in Government Contracting*,<sup>8</sup> are intended to enforce a zero tolerance policy on trafficking in persons and procurement of sex by federal contractors and subcontractors. The U.S. government has reflected its concern about human trafficking and procurement of commercial sex by federal contractors and has made clear, at least on paper, that procurement of commercial sex is strictly forbidden. However, enforcement of these policies has not been a priority. These policies need to be enforced by both the contractors and U.S. government contracting officers. There should also be clear oversight and reporting procedures, beyond the self-reporting requirement, in place.
13. Equality Now urges the Human Rights Council to call on the U.S. to adopt, enforce and report on zero tolerance provisions banning the purchase of sex by all U.S. government personnel and contractors. Failure to do so undermines the U.S. government's commitment to combating sex trafficking, and perpetuates the abuse of women and girls worldwide.

#### *Improving Access to Services for Trafficking Victims*

14. We are also concerned about the limited access of trafficking survivors to services, including but not limited to legal, health, and psychosocial services. The U.S. issued the *Federal Strategic Action Plan on Services for Victims of Human Trafficking in the United States*, a four year plan calling on federal agencies to coordinate efforts for service provision to victims of human trafficking, including sex trafficking.<sup>9</sup> The 2013-2017 Plan promotes a strategic approach to rendering services to victims at all levels.<sup>10</sup> While the Plan is welcome, protection efforts thus far have primarily concentrated on child victims of sex trafficking. But, many child victims remain in the sex industry well into their adulthood, their victimization neither ceasing nor lessening. While we must address the needs of child victims of human trafficking and its prevention, this should be in addition to, not instead of, services to adult victims.

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<sup>7</sup> Available at [www.gpo.gov/fdsys/pkg/DCPD-201200750/pdf/DCPD-201200750.pdf](http://www.gpo.gov/fdsys/pkg/DCPD-201200750/pdf/DCPD-201200750.pdf).

<sup>8</sup> Available at [www.gpo.gov/fdsys/pkg/PLAW-112publ239/pdf/PLAW-112publ239.pdf](http://www.gpo.gov/fdsys/pkg/PLAW-112publ239/pdf/PLAW-112publ239.pdf).

<sup>9</sup> Available at [www.ovc.gov/pubs/FederalHumanTraffickingStrategicPlan.pdf](http://www.ovc.gov/pubs/FederalHumanTraffickingStrategicPlan.pdf).

<sup>10</sup> Id.

15. Equality Now urges the Human Rights Council to call on the U.S. to provide and improve access to comprehensive services for all victims of human trafficking, regardless of age. In addition, cooperation with law enforcement should not be a condition for trafficking victims to receive services, nor should convictions for prostitution and/or related crimes serve as a bar to federal assistance or benefits, including housing and student loans. The Human Rights Council should also encourage the U.S. government to form partnerships with a broad range of survivor-led organizations that can provide well-rounded expertise in the provision of services and protection for all trafficking victims.

### ***Sex Discrimination Under the Immigration and Nationality Act***

16. Sections 309(a) and (c) of the U.S. Immigration and Nationality Act (8 U.S.C. § 1409)<sup>11</sup> discriminate on the basis of sex. For a U.S. citizen father to pass on his citizenship to his child who was born abroad and out of wedlock, the father must meet several requirements which are not applicable to similarly situated U.S. citizen mothers. For instance, fathers must in addition to establishing paternity, make a written undertaking to provide financial support, and demonstrate they resided within the U.S. for at least five continuous years after the age of fourteen under 8 U.S.C. § 1401(g).<sup>12</sup> Similarly situated mothers need only show that they resided for one year within the U.S. without any additional requirements.
17. Such distinctions between fathers and mothers are incompatible with the equal sharing of parental responsibility and serve to entrench harmful gender stereotypes that absolve men of this responsibility. This not only denies equality to women and men, but can also result in severe consequences for children such as statelessness, risk of deportation, and lack of access to publicly-funded education, health and social benefits and economic opportunities.
18. These distinctions in the transmission of citizenship violate the right to equality before the law and equal protection of the law, and constitute discrimination on the basis of sex. In accordance with the principles of equality and non-discrimination set forth in treaties ratified by the U.S., the U.S. should guarantee its citizens the equal right to confer citizenship on their children born abroad and out of wedlock.
19. We urge the Human Rights Council to call on the U.S. government to amend the sex discriminatory provisions in the law relating to nationality.

### **Recommendations for Action by the Government of the United States of America**

#### ***Female Genital Mutilation***

20. Equality Now respectfully urges the Human Rights Council to call on the government of the United States of America to address female genital mutilation by ensuring:
  - a. Follow through with its plan to conduct a prevalence study on FGM in the U.S.

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<sup>11</sup> Available at [www.gpo.gov/fdsys/pkg/USCODE-2011-title8/html/USCODE-2011-title8-chap12-subchapIII-partI-sec1409.htm](http://www.gpo.gov/fdsys/pkg/USCODE-2011-title8/html/USCODE-2011-title8-chap12-subchapIII-partI-sec1409.htm).

<sup>12</sup> Available at [www.gpo.gov/fdsys/pkg/USCODE-2011-title8/html/USCODE-2011-title8-chap12-subchapIII-partI-sec1401.htm](http://www.gpo.gov/fdsys/pkg/USCODE-2011-title8/html/USCODE-2011-title8-chap12-subchapIII-partI-sec1401.htm).

- b. The FGM Inter-Agency Working Group develops a comprehensive strategic national action plan to prevent and address FGM in the U.S. that involves coordination among governmental agencies, affected communities and other relevant stakeholders.
- c. Implementation of culturally sensitive awareness-raising, education and outreach programs to protect girls living in the U.S. from FGM, as well as education and training for front line professionals such as teachers and healthcare providers on how to deal with FGM.
- d. Implementation of the U.S. *Strategy to Prevent and Respond to Gender-Based Violence Globally*, and commitments made during the Girl Summit regarding FGM.
- e. Women and girls who have undergone FGM or are at risk of undergoing FGM can access services, including but not limited to counseling, healthcare and emergency shelters.
- f. Implementation of laws against FGM through the prosecution of offenders.

### ***Sex Trafficking***

- 21. Equality Now respectfully urges the Human Rights Council to call on the government of the United States of America to address the role of U.S. government personnel and contractors in fueling sex trafficking, and improve access to services by all trafficking victims, by:
  - a. Enforcing Article 134 of the Uniform Code of Military Justice on “pandering” and “patronizing a prostitute” and affirm its commitment to combating the demand for commercial sex that fuels sex trafficking.
  - b. Ensuring all federal agencies are governed by an explicit policy prohibiting trafficking and the procurement of sex.
  - c. Enforcing zero tolerance provisions banning the purchase of sex by U.S. government personnel and contractors.
  - d. Developing and implementing clear oversight and reporting procedures, beyond the self-reporting requirement, regarding the purchase of sex by U.S. government contractors.
  - e. Providing and improving access to comprehensive services for all victims of human trafficking, regardless of age.
  - f. Ensuring that access to services for trafficking victims is not conditioned on cooperation with law enforcement, and is not restricted by convictions for prostitution and/or related crimes.
  - g. Developing partnerships with survivor-led organizations that can provide well-rounded expertise in the provision of services and protection for all trafficking victims.

### ***Sex Discrimination in the Law***

- 22. Equality Now respectfully urges the Human Rights Council to call on the government of the United States of America to address sex discrimination by amending Sections 309(a) and (c) of the Immigration and Nationality Act (8 U.S.C. § 1409) and all other relevant provisions so that men and women can transfer their nationality to their children on an equal basis.