



MAASAI MARA UNIVERSITY

GENDER BASED VIOLENCE POLICY

Policy No.	MMU/GEC/P02
Version	01
Principal Responsibility	Director Gender, Equity and Culture
Effective Date	15 th January, 2018

Policy Approval

This policy shall be known as the Gender Based Violence Policy of Maasai Mara University (herein after referred to as “the Policy”) which shall take effect on the date of approval by the University Council.

In exercise of the powers conferred by Statute 17 (2d) of Maasai Mara University, section 35(1) (a) (iii) of the Universities Act No. 42 of 2012 and section 19 of the Charter for Maasai Mara University 2013, Maasai Mara University Council affirms that this Policy has been made in accordance with all relevant legislations.

Dated the day of2018

Signed:

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Foreword

Kenya has a progressive Constitution and has made major strides in developing legislative and policy frameworks on response, prevention and management of gender based violence. At the international and regional level, there exist a series of instruments that protect women and girls against gender based violence. Kenya is a signatory to most of the commitments in these instruments and have a horde of legislative and policy frameworks to addressing gender based violence.

This Policy is to provide guidance to the University on critical elements and considerations for Policy on gender based violence. It should be read alongside the Model Legislative Framework on sexual gender based violence prepared with support of the Government.

I believe this Policy framework will further provide a mechanism for coordinating the response to gender based violence. The University will provide adequate resources and enhance partnerships for a comprehensive response to increasing incidences of gender based violence.

The policy framework is hoped to bring long-term and sustained change.

Prof Mary K. Walingo, PhD, MKNAS, EBS

Vice-Chancellor

Definition of Terms

“**Gender**” refers to the socially or culturally determined power relations, roles, responsibilities and entitlements for men, women, girls and boys. The social constructors vary between cultures as well as overtime.

“**Gender-Based Violence**” is an umbrella term for any harm that is perpetrated against a person’s will as a result of gender-power inequalities that exist among males and females. It refers to any violent action inflicted on the victim primarily because of his/her gender.

“**Gender Biases**” refers to attitudes held by people regarding the superiority or inferiority of being a male or a female.

“**Gender Equality**” refers to the equal treatment of women and men, girls and boys so that they can enjoy the benefits of development such as equal access to and control of opportunities and resources.

“**Gender-Equity**” refers to the practice of fairness and justice in the distribution of benefits, access to and control of resources, responsibilities, power, opportunities and services.

“**Sexual Abuse**” refers to the misuse of sex. It refers to unlawful, forceful sexual contact or intercourse. It is abuse of a sexual nature including acts such as rape, incest, fondling and indecent exposure.

“**Sexual Assault**” refers to a wide range of forms of non-consensual sexual conduct, ranging from sexual coercion, attempted rape and date-rape. Sexual assault involves unwanted sexual experiences, sexual aggression and sexual abuse, ranging from non-consensual kissing to coerced sexual intercourse. At the core of sexual assault is power and misuse of authority, which may include threats of harm or use of actual physical force.

“**Sexual Harassment**” it refers to unwelcome advances, requests for sexual favours or other verbal or physical conduct of sexual nature by way of words, acts, gestures or comments that would embarrass humiliate, intimidate, demean or compromise a person at whom such advances, requests or conduct are directed. It also refers to the imposition of sexual requirements in the context of a relationship of unequal power.

“**The University**” means Maasai Mara University.

“University Disciplinary Committee” The Committee is responsible for considering and disposing of any allegation made against a student or staff which constitutes a major offence, as defined in the Gender Based Violence Policy.

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Acronyms and Abbreviations

ABC	Abstinence, being faithful to one uninfected partner, Condoms
AIDS	Acquired Immune –Deficiency Syndrome
GBV	Gender Based Violence
HIV	Human Immune-deficiency Virus
VCT	Voluntary Counseling and Testing

1.Introduction

Maasai Mara University is a successor of the then Narok University College which was established as a University College of Moi University in 2008. The university is located within Narok County. It attained full University status following the enactment of the University's Act, 2012 and the award of the charter on 12th February 2013 from which it draws its mandate. The University now operates five Schools namely: School of Science and Information Sciences, School of Education, School of Business and Economics, School of Tourism and Natural Resource Management and the School of Arts and Social Sciences.

Gender based violence reflects and reinforces inequities between men and women in terms of the health, dignity, security and autonomy of its victims. It encompasses a wide range of human rights violations, including sexual abuse of children, rape, domestic violence, sexual assault and harassment, trafficking of women and girls and several harmful traditional practices. Any one of these abuses can leave deep psychological scars, damage the health of women and girls in general, including their reproductive and sexual health, and in some instances, results in death.

1.1 The Policy Environment for Gender Based Violence

Kenya has been at the fore front in efforts to eliminate all forms of SGBV especially since the promulgation of the Constitution 2010. By dint of a Constitutional provision, all International and Regional legislative and policy frameworks adopted and ratified by Kenya have become part of the domesticated laws to fight SGBV. Within this context, Kenya has taken steps in ratifying international treaties and regional conventions on elimination of SGBV and gender inequality. She has also put in place a national policy and legislative framework that supports the campaign against all forms of SGBV in practice. Globally, the Beijing Declaration and Platform for Action of 1995 adopted a set of priority areas which Kenya acceded to. The prohibitions on sex discrimination in the UN Convention on the Elimination of All Forms of Discrimination against Women encompass SGBV. The UN Convention on the Rights of the Child requires States Parties to protect children from all forms of violence, maltreatment or exploitation, including sexual abuse. The UN Declaration on the Elimination of Violence against Women affirms that violence against women constitutes a violation of the rights and fundamental freedoms of women. Further, the African Union (AU) adopted the Protocol to the African Charter on Human and Peoples' Rights on the

Rights of Women in Africa (Maputo Protocol) in 2003 which was ratified by Kenya in 2010. The Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa devotes Article 4 entirely to the topic of violence against women, calling for a range of state measures to address violence which takes place “in private or public”, including the punishment of perpetrators, the identification of causes of violence against women and the provision of services for survivors (Policy on Sexual and Gender based Violence, 2017).

Table 1: Summary of national legislative framework addressing elements of SGBV

The Constitution 2010	Provides that every person has right to freedom and security of their person which includes the right not to be subject to any form of violence from either public or private sources, any form of torture whether physical or psychological or cruel, inhuman or degrading treatment. The right to security means that the Constitutions safeguards women’s right against SGBV and any other related form of gender-based violence.
The Penal Code Cap 63 Laws of Kenya	Other than bigamy which is provided for under section 171, there are no provisions for such forms of SGBV as marital rape, wife or husband battery, domestic violence etc. Some of these offences are only derivative of main offences such as assault under section 250 and 251.
The Children’s Act, 2001	Provides for a child care, administration institutions, and sets the age of marriage at 18 years in line with Convention on the Rights and Welfare of the Child.
The Sexual Offenses Act, 2006	Provides for prevention and the protection of all persons from harm from sexual acts and access to justice and psychosocial support
Employment Act, 2007	The Act prohibits discrimination and harassment of employees on the basis of sex, guaranteeing equal remuneration for work of equal value.
Prohibition of Female Genital	Prohibits the practice of Female Genital Mutilation and safeguards against violation of a person’s mental or physical integrity

Mutilation Act, 2011	
Marriage Act, 2014	Provides for the minimum age in marriage and types of marriages. The Act guarantees parties to a marriage, equal rights at the time of the marriage, during the marriage and at the dissolution of the marriage.
The Protection Against Domestic Violence (PADV) Act, 2015	Provides for the protection and relief of members of a family from domestic violence.
National Gender and Development Policy (2000)	Makes recommendations on diverse issues on violence including: amendments of SGBV laws, more so the Penal Code to include gender related crimes; privacy in conducting SGBV hearings; SGBV tailored trainings on agents in the judicial system; setting up safe shelters for victims of domestic violence; and ensuring access to information.
Kenya Adolescent Reproductive Health Policy (2003)	Which recommends development of safety nets and rehabilitation and rescue mechanisms for victims of sexual abuse and violence and enhancing measures to protect young people in penal institutions from sexual abuse
National Adolescent Sexual and Reproductive Health Policy (2015)	It provides for mechanisms for addressing adolescents’ sexual and reproductive health (SRH) needs. It recommends multifaceted approaches to adolescent SRH issue which provides for mitigation of risk factors and puts in place a safety net for early detection and prevention of SRH challenge. It routes for

Source: Kenya Policy on Sexual and Gender based Violence (2017)

1.2 Vision, Mission and Core Values

Vision

To be a world class university committed to academic excellence for development

Mission



To provide Quality University education through innovative teaching, research and consultancy services for development

Core Values

Excellence

Team Work

Professionalism

Equity and Social Justice

Creativity and Innovativeness

Transparency and Accountability

2. Purpose

The purpose of this policy is to ensure the safety and welfare of all staff and students who may be the subject of gender based violence and provide impartial processes for dealing with such violence.

3. Policy Statement

The University shall:

- i. Sponsor and facilitate programmes to inform University staff about sexual harassment and to make them more sensitive to its forms and the damaging consequences.
- ii. Facilitate sessions that publicize the procedures, sanctions and remedies available against it
- iii. Notify the University staff of prohibited conduct and include the sexual harassment policy in orientation materials for new staff.
- iv. Advise University staff of their rights, obligations and responsibilities under the policy and procedures.
- v. Build capacity of personnel responsible for the administration of the policy and procedures through appropriate formal training.
- vi. Develop procedures for prompt corrective action and discipline

4. Policy Objectives

- i. To sensitize the University community on what constitutes gender based violence.

- ii. To create awareness on the reporting procedure for victims of gender based violence including circumstantial evidence.
- iii. To provide disciplinary procedure and reprieve for the aggrieved.
- iv. To provide prompt, effective and consistent, sensitive and fair guidelines for handling cases of gender based violence at the University.
- v. To promote harmony among different categories of staff and students at the University.

5. Scope of the Policy

This policy document provides guidelines on how to identify, prevent, deal with, mitigate, and manage Gender – Based Violence at the work place in the University.

6. Gender Violence

This refers to any form of violence at the work place related to social expectations and social positions based on gender. It also includes any kind of violence at the work place based on non-conformance to a socially accepted gender role. It includes acts that inflict physical, mental, or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty.

Gender violence like other forms of violence at work place, has serious negative ramifications to the parties involved, their families, other workers and the organization at large. Affront to human dignity, death, injuries, stress, destruction of property, poor working relationships, loss of revenue, absenteeism, low morale are just but a few of these consequences.

Where abuse is currently being experienced there may be a requirement for an urgent response, safety planning, flexible working arrangements and the provision of information. Where abuse has occurred historically the required response will be on supporting the employee to identify and address the long term consequences of the abuse.

7. Sexual Harassment

An employee is sexually harassed if the employer of that employee or a representative of that employer or a co-worker;

- i. Directly or indirectly requests that employee for sexual intercourse, sexual contact or any other form of sexual activity that contains an implied or express promise of preferential treatment in employment, threat of detrimental treatment in employment or threat about the present or future employment status of the employee.

- ii. Uses language whether written or spoken of a sexual nature.
- iii. Uses visual material of a sexual nature; or
- iv. Shows physical behavior of a sexual nature which directly or indirectly subjects the employee to behavior that is unwelcome or offensive to that employee and that by its nature has a detrimental effect on that employee's employment, job performance, or job satisfaction.

8. Guiding Principles

The policy is guided by the following principles;

- i. Prevention of GBV and sexual harassment from occurring in the first place and from recurring at the work place.
- ii. Protection from GBV and sexual harassment by identifying and providing services to victims.
- iii. Accountability to ensure that the perpetrators are disciplined.

9. Roles and Responsibilities

To achieve the above objectives the various stakeholders shall play the following roles:

9.1 Management

University management undertakes:

- i. To promote and provide a work environment that is free from all types of gender based violence.
- ii. Communicate the policy to all employees.
- iii. Take appropriate action to resolve any complaints or claims brought to their attention.
- iv. Monitor situations where complaints have been substantiated to ensure corrective measures have been successful.

9.2 Workers

Workers and their representatives should take all reasonable care to prevent, reduce and eliminate the risks associated with gender violence at workplace. In fulfilling this objective, they should:

- i. Be aware of and comply with the policy.
- ii. Treat all persons in the work place with dignity and respect.

- iii. Cooperate with formal investigations, facilitated discussions and mediations conducted under this policy.
- iv. Treat complaints and investigation or mediation process as confidential.
- v. Report all acts of gender based violence and sexual harassment at workplace.

9.3 General Public, Customers and Clients

Customers, clients and the general public are key stakeholders in the prevention of gender violence and sexual harassment at workplace. The customers of the University have a right to be treated with respect and dignity while within the University. The customers are equally expected to abide by the provisions of various policies in place at the University. Any form of violence including gender based violence perpetrated by or directed to the staff, students or customers shall be dealt with in accordance with the provisions of the policy in place. The stakeholders are expected to:

- i. Report all acts of gender based violence at the University to the management.
- ii. Cooperate with management during investigation and disciplinary proceedings
- iii. Refrain from acts that might promote gender violence at the University.

10. Complaint and Resolution Procedure

Where gender violence or sexual harassment has occurred, either formal or informal complaint and resolution procedures can be followed.

i. Informal Process

Where the parties involved deem it fit the following informal process can be followed.

ii. Direct response

Where safe and reasonable to do so, an employee who believes that he or she is subject to GBV should inform his or her head of department. The head of department will review the situation and where necessary take appropriate action. If the perpetrator is the head of department, the employee should inform the next level of management.

iii. Facilitated Discussion

Managers may choose to use facilitated discussion as a resolution tool.

iv. Mediation

Formal mediation may also be facilitated by an outside party who is acceptable to both parties and can occur at any time during the process when agreed to by both parties.

11 Formal Process

Either party can choose to follow the formal complaint and resolution procedure as follows;

i) Written Complaint

A formal written complaint may be made to the immediate supervisor. The complaint will specify the details of the allegation, including; Name, title and location of the respondent;

A description of the action/circumstances of the complaint, Date(s) of incident(s), Name of witnesses, if any. If the complaint is against the supervisor, it can be filed with the next level of management. The supervisor will send formal written complaints to the Department of Human Resources.

The department of HR shall write to the DVC (AF&P) on the same and request for constitution of an investigating panel. The DVC (AF&P) shall appoint an investigating panel constituting of the Registrar (Administration) as the chair, HR officer as the secretariat with one representation from academic departments, one from non-academic divisions and legal officer. In case any of the above officers is the complainant or the accused, the DVC (AF&P) shall substitute them with other suitable officers.

ii) Investigation

The investigation panel shall investigate the allegations of gender violence and make recommendations through a written report to the DVC (AF&P). The investigations shall involve giving a fair hearing to all the parties. The panel may summon such witnesses who may hold necessary evidence to the benefit of the investigations. Based on the investigations, disciplinary action will be taken in line with the terms and conditions of service for staff members and as per students' rules and regulations.

12. Retaliation

The University will not tolerate retaliation, reprisals or threats as a result of filing a complaint or speaking as a witness. Any acts of retaliation will be dealt with as per the terms and conditions of service.

13. Privacy and Confidentiality

The University is committed to respecting the confidentiality of the Survivor/Victim's experience of Sexual/Gender-based Violence, as well as the confidentiality of the Respondent, unless the safety of a Survivor/Victim or the greater University Community is at risk and/or where the University has an extraordinary legal obligation to act. In these circumstances, the University reserves the right to initiate an investigation or to report the incident to the appropriate authorities.

14. Reporting to the Police

The University has a responsibility to report a suspected crime to the police. Where gender violence constitutes a criminal offence, then the University shall report and cooperate with the police in ensuring justice and fairness to both the victim and the accused.

15. Medical Treatment and Support

Appropriate medical treatment shall be availed, where required, to workers affected by gender violence at workplace. Counseling services shall also be made accessible to such victims and their close family members as appropriate.

16. Promotion of the Policy

The employees shall be made aware of this policy through a range of methods such as providing information about the policy on notice-boards, notices, news-sheets in canteens, restaurants, websites, through training courses and more creatively where possible via the media of drama, promotional DVDs and staff seminars etc. Information on the policy should be included in employee handbooks, induction packs, pay slips, and relevant in-house training. The policy shall be promoted by senior staff in partnership with employee representatives.

17. Recording Acts of Violence at the Workplace Level

Incidences of gender violence at workplace in the University shall be recorded. This is important for the University to learn from those experiences. The management shall review these experiences in order to identify patterns and trends, including:

- i. Identifying sources of workplace violence as being internal or external, where possible; Categories and severity;
- ii. Incidence of violence in particular area/task categories;
- iii. Perpetrator and victim characteristics;

- iv. Forms of violence;
- v. Possible contributing factors, such as delays in service provision;
- vi. Situational contexts;
- vii. Other risk factors such as time of day or night.

18. Monitoring and Evaluation

The monitoring and evaluation will be effected by the gender and disability committee.

19. Policy Review

This policy will be reviewed from time to time as the need arises