
FEMALE GENITAL MUTILATION

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* This paper is approved by Swati Jha, Sr. Legal Content Analyst, Goeman Bind HTO

1. INTRODUCTION:

Female genital mutilation (hereinafter referred to as “FGM”) is internationally recognized as a violation of the human rights of girls and women. FGM is the ritual cutting or removal of some or all of the external female genitalia. The practice is mostly found in Africa, Asia and the Middle East. However, around the world, activists are rising up to end this centuries-old practice of FGM.

Recognizing that each year three million girls and women continue to be at risk of being mutilated around the world, on December 20, 2012, the United Nations General Assembly adopted the first-ever resolution against FGM (67/146), calling for intensified global efforts to eliminate it.¹

The practice of FGM is deeply rooted in the cultural and religious belief of the people of the communities wherein it is practiced which makes it difficult to eliminate the practice. However, the global prevalence of the same has raised concerns. Countries like Burkina Faso, Egypt, and Kenya etc. have designed legislation to fight against the old and dreadful practice of FGM.

People are using advocacy, art, drama, music, and literature to educate communities about FGM and to try to stop families from putting girls and women through this medically unnecessary procedure. They collaborate with international non-governmental organizations and agencies of the United Nations, which have long declared FGM a violation of human rights and a risk to the safety, equality, and dignity of girls and women.²

2. FEMALE GENITAL MUTILATION: BASIC FACTS

WHAT IS FGM?

Female genital mutilation is a centuries-old practice that the World Health Organization defines as “the partial or total removal of the female external genitalia or other injury to the female genital organs for non-medical reasons.” FGM, which is ingrained in a diverse variety of cultural customs, is internationally recognized as a *violation of women and girls’ fundamental human rights*.

¹*Demographic Perspectives on Female Genital Mutilation*, UNITED NATIONS POPULATION FUND, (2015), http://www.unfpa.org/sites/default/files/pub-pdf/1027123_UN_Demographics_v3%20%281%29.pdf.

²Archana Pyati & Claudia De Palma, *Female Genital Mutilation In The United States*, SANCTUARY FOR FAMILIES, 6 (June 20, 2017), http://wcchr.com/sites/default/files/fgm_in_the_us-_sanctuary_for_families_2.pdf.

The World Health Organization estimates that about 140 million women and girls worldwide are living with the consequences of FGM, and according to new estimates from United Nations Population Fund and UNICEF, at least 30 million girls under the age of 15 are at risk of being cut. Women who have survived FGM frequently describe significant physical, sexual, and psychological complications, some of which persist throughout their lives. The motivations most commonly articulated for FGM include enforcement of traditional notions of femininity, control of female sexuality, preservation of family honor, and preparation for marriage which tend to perpetuate discriminatory views about the status and role of women.³

FGC VS. FGM

Three separate terms have been widely used to describe the practice: female circumcision, female genital mutilation (FGM) and female genital cutting (FGC). The term “circumcision,” incorrectly implies a parallel between FGC and male circumcision because the degree of cutting is much more extensive, often impairing a woman’s sexual and reproductive functions.⁴ WHO uses the term “female genital mutilation”. *Mutilation* shows the gravity of the practice, damaging healthy tissue and altering it in ways that may be permanent, for no medical reason. But some people, when working within communities, use the word *cutting* instead of *mutilation*. In some places, the word *mutilation* comes across as meaning the women who have had the procedure are damaged.⁵ The term *cutting* is more effective for engaging groups in dialog around this practice, and eventually bringing about its end.⁶ *Mutilation* sounds derogatory and can complicate conversations with those who practice FGC.⁷

Since 2007 UNFPA has been using the hybrid terminology of Female Genital Mutilation/Cutting (FGM/C). However, UNFPA has now revisited its position and formally adopted the term ‘Female Genital Mutilation’ (FGM) in any reference to the practice from now on. More than ever, we are at a time when the practice must be viewed from a human rights perspective and the term ‘mutilation’ better describes the practice from this viewpoint both in terms of the process and the outcome. It is UNFPA’s strong belief that advocacy

³ Archana Pyati & Claudia De Palma, *Female Genital Mutilation In The United States*, SANCTUARY FOR FAMILIES, 3 (June 20, 2017), http://wcchr.com/sites/default/files/fgm_in_the_us-_sanctuary_for_families_2.pdf.

⁴ Laura Reymond, Asha Mohamud, and Nancy Ali, *Female Genital Mutilation - The Facts*, PATH, <http://www.path.org/files/FGM-The-Facts.htm> (last accessed June 20, 2017).

⁵ Susan Brink, *Female Genital Mutilation: What It Does To A Woman*, GOATS AND SODA, <http://www.npr.org/sections/goatsandsoda/2017/05/06/526766230/female-genital-mutilation-what-it-does-to-a-woman> (last accessed June 20, 2017).

⁶ *Tostan FAQ: FGC vs. FGM*, TOSTAN – DIGNITY FOR ALL, <https://www.tostan.org/tostan-faq-fgc-vs-fgm/> (last accessed June 20, 2017).

⁷ *Why Some Women Choose to Get Circumcised*, THE ATLANTIC, <https://www.theatlantic.com/international/archive/2015/04/female-genital-mutilation-cutting-anthropologist/389640/> (last accessed June 20, 2017).

initiatives on the practice need to be shaped and guided in this line of thinking and its strategic plan (2014-2017) unequivocally argues for a response that is grounded in a human rights-based approach. The use of the term ‘Female Genital Mutilation’ in a number of United Nations and intergovernmental documents in reference to the practice further supports the move taken by UNFPA. One recent and very important document to mention is the **first United Nations General Assembly Resolution (UNGA Resolution 67/146)** on “Intensifying global efforts for the elimination of female genital mutilations”.⁸

FGM – WHETHER OR NOT MANDATED BY ANY PARTICULAR RELIGION

Female Genital Mutilation has been believed to be in place even before the various religious groups chose to adopt it. The general but erroneous perception of a direct connection between FGM and Islam arises mainly because it is most often found in Muslim countries such as those of the Sub-Sahara region. The reality, however is that FGM is practised by various denominations and sects of Islam, just it has been adopted by some denominations and sects within Christianity and Judaism in that part of the world. Female genital mutilation is not a fundamentally Islamic practice. The ancient, barbaric practice originated in pre-Islamic Africa and has endured irrespective of the prevalent religion of the area. Today, it is primarily a cultural problem in central Africa, with Muslim-majority countries such as Egypt and Somalia on the list alongside Christian-majority ones such as Ethiopia and Eritrea. Though much lower in comparison to many African nations, the practice is also seen in Iraq and Yemen. It is uncommon in some of the largest Muslim countries such as India, Pakistan, and Bangladesh (Bohra communities being the exception) and in the Middle East (Saudi Arabia, Syria, Iran, Jordan, Oman). Further, there is no religious sanction for the procedure found in the Quran. In 2006, the grand sheikh of the deeply venerated Al-Azhar University and other Islamic scholars ruled that female genital mutilation is antithetical to Islam’s teachings.⁹

FGM is embedded in notions of purity and cleanliness and it has over the centuries been particularly evident in contexts where girls and women are seen as property owned and traded by men. FGM is a marker of chastity and sole ownership by a husband. *FGM is therefore an aspect of tradition, rather than a basic tenet of any particular religion. It is most usefully to*

⁸Implementation of the International and Regional Human Rights Framework for the Elimination of Female Genital Mutilation, UNITED NATIONS POPULATION FUND, 12 (November, 2014), <http://www.unfpa.org/sites/default/files/pub-pdf/FGMC-humanrights.pdf>.

⁹Jalal Baig, *Female Genital Mutilation Isn’t a Muslim Issue. It’s a Medical Issue*, SLATE, http://www.slate.com/articles/health_and_science/medical_examiner/2017/05/politicization_of_female_genital_mutilation_makes_it_harder_to_treat.html (last accessed June 20, 2017).

*be understood as a tribal practice relating to family dynasties, identities, wealth, influence and power.*¹⁰

HISTORICAL ROOTS OF FGM

The first records of female genital mutilation date back some thousands of years. It is found in communities as far apart as Australian aboriginal tribes and numerous African and other societies. FGM has emerged in societies where women are chattels, objects of (some) economic value, to be passed from father to husband. It is believed to be known that female slaves in Egypt sometimes had their labia pinned together with *fibulae* (brooches) for the prevention of pregnancy. This has led in the present day to the name ‘pharanoic circumcision’ for the most invasive form of FGM, ‘infibulation’ despite the fact that also scraping away most of the vulva has not been proven beyond doubt to have been practised by the Egyptians. There is no evidence of actual genital mutilation in females in earlier Old Kingdom Egypt (third millennium BC). There is nothing to suggest FGM in either the mummies or the art and literature of that time which brings us to the conclusion that *infibulations* as currently understood may not have occurred in ancient Egypt.¹¹

There is also evidence that fibulae were also used on the wives of important noblemen probably to ensure the chastity of these women.

The first direct references to FGM alongside male circumcision are found in writings of a few centuries before the birth of Christ. A Greek papyrus of 163 BC says that the procedure was performed in Memphis (Egypt). The Greek geographer Strabo was also of the view, following his visit to Egypt around 25 BC, that Egyptians ‘zealously’ raised every child, circumcising the males and excising the females. The papyrus report associates FGM with the stage in life when girls received their dowries which in turn is suggestive of the fact that it was a rite of passage or an initiation. The Greek physician Aetios, however, opined that Egyptians in the sixth century AD used FGM to remove what was regarded as the deformity of ‘overly large’ clitorises to get rid of anticipated resulting sexual appetite, a phenomenon which was (and in some places, still is) generally regarded as undesirable and a threat to male social order.¹²

¹⁰HILARY BURRAGE, ERADICATING FEMALE GENITAL MUTILATION: A UK PERSPECTIVE 2009-10 (1d ed. 2016).

¹¹ Ibid.

¹²HILARY BURRAGE, ERADICATING FEMALE GENITAL MUTILATION: A UK PERSPECTIVE 2009-10 (1d ed. 2016).

THE FOUR TYPES OF FGM RECOGNIZED BY THE WHO

In 1995, the World Health Organization (WHO) developed four broad categories for FGM operations.¹³

- ✓ Type 1: Often referred to as clitoridectomy, this is the partial or total removal of the clitoris (a small, sensitive and erectile part of the female genitals), and in very rare cases, only the prepuce (the fold of skin surrounding the clitoris).
- ✓ Type 2: Often referred to as excision, this is the partial or total removal of the clitoris and the labia minora (the inner folds of the vulva), with or without excision of the labia majora (the outer folds of skin of the vulva).
- ✓ Type 3: Often referred to as infibulation, this is the narrowing of the vaginal opening through the creation of a covering seal. The seal is formed by cutting and repositioning the labia minora, or labia majora, sometimes through stitching, with or without removal of the clitoris (clitoridectomy).
- ✓ Type 4: (unclassified) - This includes all other harmful procedures to the female genitalia for non-medical purposes, e.g. pricking, piercing, stretching, or incision of the clitoris and/or labia, cauterization by burning the clitoris and surrounding tissues, incisions to the vaginal wall, scraping (angurya cuts) or cutting (gishiri cuts) of the vagina and surrounding tissues and introduction of corrosive substances or herbs into the vagina.¹⁴

Deinfibulation refers to the practice of cutting open the sealed vaginal opening in a woman who has been infibulated, which is often necessary for improving health and well-being as well as to allow intercourse or to facilitate childbirth.¹⁵

THE HEALTH RELATED COMPLICATIONS ASSOCIATED WITH FGM

Death-The highest maternal and infant mortality rates are in FGM-practicing regions. The actual number of girls who die as a result of FGM is not known. However, in areas in Sudan where antibiotics are not available, it is estimated that one-third of the girls undergoing FGM will die. Conservative estimates suggest that more than one million women in Centrafrican Republic (CAR), Egypt, and Eritrea, the only countries where such data is available, experienced adverse health effects from FGM. One quarter of women in CAR and 1/5 of

¹³*Female Genital Mutilation*, WORLD HEALTH ORGANIZATION, <http://www.who.int/mediacentre/factsheets/fs241/en/> (last updated February, 2017).

¹⁴Laura Reymond, Asha Mohamud, and Nancy Ali, *Female Genital Mutilation - The Facts*, PATH, <http://www.path.org/files/FGM-The-Facts.htm> (last accessed June 20, 2017).

¹⁵Ibid 13.

women in Eritrea reported FGM-related complications. Where medical facilities are ill-equipped, emergencies arising from the practice cannot be treated. Thus, a child who develops uncontrolled bleeding or infection after FGM may die within hours.¹⁶

Physical Consequences - Girls and women who have undergone female genital mutilation report many physical complications, including:

Short-term¹⁷:

- ✓ severe pain from the cutting of nerve ends and sensitive tissue
- ✓ hemorrhage
- ✓ shock from pain or hemorrhage
- ✓ difficulty in urination or defecation due to swelling, edema, or pain
- ✓ infections, including tetanus and sepsis
- ✓ death due to hemorrhage or infections

Long-term¹⁸:

- ✓ severe chronic pain due to trapped or unprotected nerve ends
- ✓ dermoid cysts
- ✓ abscesses
- ✓ genital ulcers
- ✓ excessive scar tissue (keloid)
- ✓ pelvic infections, urinary tract infections, and sexually transmitted and reproductive tract infections, including bacterial vaginosis and genital herpes
- ✓ slow and painful menstruation and urination, accumulation of menstrual blood in the vagina (hematocolpos), or urinary retention, especially in cases of Type III FGM or infibulation
- ✓ greater risk of HIV transmission due to increased prevalence of genital herpes and increased likelihood of bleeding during sexual intercourse.

Sexual and Reproductive Health Consequences:

Women who have undergone female genital mutilation frequently describe severe pain during sexual intercourse. For many women, physical pain during intercourse persists throughout life due to infibulation or re-infibulation, extensive damage to sensitive genital tissue, or scar formation.

¹⁶Ibid 14.

¹⁷*Health risks of female genital mutilation (FGM)*, WORLD HEALTH ORGANIZATION, http://who.int/reproductivehealth/topics/fgm/health_consequences_fgm/en/ (last updated June 20, 2017).

¹⁸ Ibid 17.

Many women who have undergone female genital mutilation also describe the significant impact that their mutilation has had on their maternal health, as FGM can increase the risk of childbirth complications, such as prolonged or obstructed labor. The mother's mutilation can also increase danger to the infant; death rates among infants increase by 15% for mothers with Type I FGM, 32% for Type II FGM, and 55% for Type III FGM. Some women contract infections resulting from the cutting of the labia majora that result in infertility.¹⁹

Psychological Consequences

Many FGM survivors frequently suffer from depression, anxiety, multiple phobias, memory loss, and post-traumatic stress disorder (PTSD).²⁰

GLOBAL PREVALENCE OF FGM

FGM is practiced in at least 26 of 43 African countries; the prevalence varies from 98 percent in Somalia to 5 percent in Zaire. A review of country-specific Demographic and Health Surveys (DHS) shows FGM prevalence rates of 97 percent in Egypt, 94.5 percent in Eritrea, 93.7 percent in Mali, 89.2 percent in Sudan 11, and 43.4 percent in the Central African Republic. FGM is also found among some ethnic groups in Oman, the United Arab Emirates, and Yemen, as well as in parts of India, Indonesia, and Malaysia.²¹

FGM has become an important issue in Australia, Canada, England, France, and the United States due to the continuation of the practice by immigrants from countries where FGM is common.²²

It is estimated that more than 200 million girls and women alive today have undergone female genital mutilation in the countries where the practice is concentrated. Furthermore, there are an estimated 3 million girls at risk of undergoing female genital mutilation every year. The majority of girls are cut before they turn 15 years old.

Female genital mutilation has been documented in 30 countries, mainly in Africa, as well as in the Middle East and Asia. Some forms of female genital mutilation have also been reported in other countries, including among certain ethnic groups in South America. Moreover, growing migration has increased the number of girls and women living outside their country

¹⁹Archana Pyati & Claudia De Palma, *Female Genital Mutilation In The United States*, SANCTUARY FOR FAMILIES, 10 (June 20, 2017), http://wcchr.com/sites/default/files/fgm_in_the_us-_sanctuary_for_families_2.pdf.

²⁰Ibid.

²¹Laura Reymond, Asha Mohamud, and Nancy Ali, *Female Genital Mutilation - The Facts*, PATH, <http://www.path.org/files/FGM-The-Facts.htm> (last accessed June 20, 2017).

²² Ibid.

of origin who have undergone female genital mutilation or who may be at risk of being subjected to the practice in Europe, Australia and North America.

The type of procedure performed also varies, mainly with ethnicity. Current estimates (from surveys of women older than 15 years old) indicate that around 90% of female genital mutilation cases include either Types I (mainly clitoridectomy), II (excision) or IV (“nicking” without flesh removed), and about 10% (over 8 million women) are Type III (infibulation). Infibulation, which is the most severe form of FGM, is mostly practiced in the north-eastern region of Africa: Djibouti, Eritrea, Ethiopia, Somalia, and Sudan. In West-Africa (Guinea, Mali, Burkina Faso, etc.), the tendency is to remove flesh (clitoridectomy and/or excision) without sewing the labia minora and/or majora together.²³

Over the last 20 years, significant efforts have been made at the local, regional and international levels to eliminate FGM. Nonetheless, in 2012, in 17 countries implementing intensive FGM programmes, it was performed on about 12 million girls aged 15-19. If prevalence remains unchanged in these countries, by 2020, 15 million girls born between 2000 and 2005 will undergo FGM.²⁴

3. INTERNATIONAL CAMPAIGN TOWARDS ERADICATION OF FGM

Many international and regional organizations have since the 1990s gotten themselves involved in the fight against female genital mutilation after years of the practice being considered as a private act or a domestic matter carried out by private individuals. The efforts towards eliminating the practice have, ever since its recognition as an international issue (violence against women as violation of human rights), continuously been increasing. On 6th February, 2016, the global community observed the “**International Day of Zero Tolerance for Female Genital**”. The day was adopted on 20 December 2012 by the United Nations General Assembly (UNGA) to enhance campaigns to raise awareness and educate people about the dangers of Female Genital Mutilation (FGM) as well as to take concrete actions against Female Genital Mutilation.²⁵

²³*Prevalence of FGM*, WORLD HEALTH ORGANIZATION, <http://who.int/reproductivehealth/topics/fgm/prevalence/en/> (last accessed June 21, 2017).

²⁴*Demographic Perspectives on Female Genital Mutilation*, UNITED NATIONS POPULATION FUND, 42 (2015), http://www.unfpa.org/sites/default/files/pub-pdf/1027123_UN_Demographics_v3%20%281%29.pdf.

²⁵*International Day of Zero Tolerance for Female Genital Mutilation - 6th February 2016*, AFRICAN UNION, <https://www.au.int/en/pressreleases/19706/international-day-zero-tolerance-female-genital-mutilation-6th-february-2016> (last accessed June 21, 2017).

The following landmark movements by the eminent international organizations have significantly contributed to the global efforts for putting an end to FGM;

1. Building on work from previous decades, in 1997, WHO issued a joint statement against the practice of FGM together with the United Nations Children’s Fund (UNICEF) and the United Nations Population Fund (UNFPA).
2. In 2007, UNFPA and UNICEF initiated the Joint Programme on Female Genital Mutilation/Cutting to accelerate the abandonment of the practice.
3. In 2008, WHO together with 9 other United Nations partners, issued a statement on the elimination of FGM to support increased advocacy for its abandonment, called: “Eliminating female genital mutilation: an interagency statement”. This statement provided evidence collected over the previous decade about the practice of FGM.
4. In 2010, WHO published a "Global strategy to stop health care providers from performing female genital mutilation" in collaboration with other key UN agencies and international organizations.
5. In December 2012, the UN General Assembly adopted a resolution on the elimination of female genital mutilation.
6. Building on a previous report from 2013, in 2016 UNICEF launched an updated report documenting the prevalence of FGM in 30 countries, as well as beliefs, attitudes, trends, and programmatic and policy responses to the practice globally.
7. In May 2016, WHO in collaboration with the UNFPA-UNICEF Joint Programme on FGM launched the first evidence-based guidelines on the management of health complications from FGM. The guidelines were developed based on a systematic review of the best available evidence on health interventions for women living with FGM.²⁶

ORGANIZATIONS AND NETWORKS ACROSS THE WORLD WORKING TIRELESSLY TO CONSIGN FGM TO HISTORY (IN PARTNERSHIP WITH UNFPA, UNICEF & WHO):

- **The End FGM European Network** is a European umbrella network of 20 organizations working to ensure sustainable European action to end female genital mutilation. The End FGM European Network has designated ‘Building Bridges’ as its theme for 2017.

²⁶*Female Genital Mutilation, WORLD HEALTH ORGANIZATION, <http://www.who.int/mediacentre/factsheets/fs241/en/> (last accessed June 21, 2017).*

Building Bridges is defined by the creation of synergies to develop, share and coordinate actions, policies and legal frameworks to end FGM in countries of residence and of origin.²⁷

➤ **The Donors Working Group on Female Genital Mutilation/Cutting** has since 2001, brought together key governmental and intergovernmental organizations and foundations committed to supporting the abandonment of FGM/C. The DWG has reached a consensus on a common programmatic approach to support the abandonment of the practice and make a major difference for girls and women worldwide.²⁸

➤ **Tostan – Dignity for All** was founded by Molly Melching (who first arrived in Senegal as an exchange student from the United States) in the year 1991. The goal is to empower African communities to bring about sustainable development and positive social transformation based on respect for human rights.²⁹ Their human rights-based Community Empowerment Program (CEP) allows community members to draw their own conclusions about FGC and lead their own movements for change.³⁰

➤ **The Association of European Parliamentarians with Africa (AWEPA)** works in cooperation with African Parliaments to strengthen parliamentary democracy in Africa, keep Africa high on the political agenda in Europe and facilitate African-European parliamentary dialogue.³¹ AWEPA's FGM/C programme aims to contribute to an increase in capacity among parliamentarians to legislate around the protection of women and girls from violence, including FGM/C, as well as to establish linkages with communities requiring support towards abandonment.³²

➤ **The Inter-African Committee on Traditional Practices affecting the Health of Women and Children (IAC)** is an international and African regional umbrella body that has been working on policy programmes and actions to eliminate Harmful Traditional Practices in the African Region and worldwide, created on February 6th 1984, in Dakar. The Vision of IAC is to see a society in which African women and children fully enjoy their Human Rights free from harmful traditional practices.³³

²⁷*Campaigns*, END FGM EUROPEAN NETWORK, <http://www.endfgm.eu/what-we-do/campaigns/> (last accessed June 21, 2017).

²⁸*About the Working Group*, THE DONORS WORKING GROUP ON FEMALE GENITAL MUTILATION/CUTTING, <http://www.fgm-cdonor.org/about/index.html> (last accessed June 21, 2017).

²⁹*About Us*, TOSTAN, <https://www.tostan.org/about-us/mission-history/> (last accessed June 21, 2017).

³⁰*Cross-Cutting Issues*, TOSTAN, <https://www.tostan.org/areas-of-impact/cross-cutting-gender-social-norms/female-genital-cutting/> (last accessed June 21, 2017).

³¹*Mission*, AWEPA, <http://www.awepa.org/about-us/mission/> (last accessed June 21, 2017).

³²*Female Genital Mutilation/Cutting Programme*, AWEPA, <http://www.awepa.org/programmes/female-genital-mutilation-cutting-programme/> (last accessed June 21, 2017).

³³*About IAC*, INTER-AFRICAN COMMITTEE ON TRADITIONAL PRACTICES (IAC), <http://iac-ciaf.net/about-iac/> (last accessed June 21, 2017)

4. INTERNATIONAL LAWS PROHIBITING FGM

In the early years of the campaign against FGM, it was framed as a health issue, and efforts to eliminate it focused on the adverse health consequences of the practice. This focus may have unintentionally promoted the ‘medicalization’ of the practice, with the result that it is increasingly being performed by medical professionals (whether in public or private clinics, homes or elsewhere) rather than by traditional practitioners. However, from a human rights perspective, medicalization of the practice does not in any way make FGM more acceptable. The international community has since recognized that FGM is not only a health issue but also a matter of human rights. The international campaign to eliminate the practice has subsequently embraced the human rights framework, acknowledging that, while parents do not intend to hurt their children, FGM violates a number of recognized human rights.³⁴

The classification of FGM as an international human rights violation has been reinforced by various United Nations agencies, for example in the 1997 joint statement against FGM by the World Health Organization (WHO), United Nations Population Fund (UNFPA) and United Nations Children’s Fund (UNICEF) and in ‘Eliminating female genital mutilation: an interagency statement’ in 2008. These statements expressed the common commitment of United Nations entities to continue working towards elimination of FGM within a generation. This commitment is exemplified by the UNFPA-UNICEF Joint Programme on Female Genital Mutilation/Cutting: Accelerating change, initiated in 2008. It supports 17 countries to accelerate the abandonment of FGM.³⁵

The Universal Declaration of Human Rights (1948) (“UDHR”) and the **International Covenant on Civil and Political Rights (1966)** (“ICCPR”) provide for every person’s rights to life, liberty and security of person, and to be free from cruel, inhumane or degrading treatment.⁸⁹ **The International Covenant on Economic, Social and Cultural Rights (1976)** (“ICESCR”) requires countries to uphold the right to the enjoyment of the highest attainable standard of physical and mental health.³⁶

The Convention on the Rights of the Child (1989) (“CRC”) requires countries that signed the treaty to take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical and mental violence and to provide social

³⁴*Implementation of the International and Regional Human Rights Framework for the Elimination of Female Genital Mutilation*, UNITED NATIONS POPULATION FUND, 9 (November, 2014), <http://www.unfpa.org/sites/default/files/pub-pdf/FGMC-humanrights.pdf>.

³⁵*Ibid.*

³⁶Archana Pyati & Claudia De Palma, *Female Genital Mutilation In The United States*, SANCTUARY FOR FAMILIES, 18 (June 20, 2017), http://wcchr.com/sites/default/files/fgm_in_the_us-_sanctuary_for_families_2.pdf.

programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment.³⁷Article 24(3) of the Convention states that State parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

The Convention on the Elimination of All Forms of Discrimination Against Women (1979) (“CEDAW”) not only bars discrimination against women but also requires countries to modify their “social and cultural patterns of conduct with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women. The governing body of this treaty, the CEDAW Committee, adopted three General Recommendations (Nos. 14, 19, and 24) to further clarify these requirements, which make clear that FGM is a “form of violence against women” and that it carries “severe health and other consequences for women and girls”.³⁸

The Declaration on the Elimination of Violence against Women expressly states in its article 2 that violence against women shall be understood to encompass, but not limited to physical, sexual and psychological violence occurring in the family, including dowry related violence, female genital mutilation and other traditional practices harmful to women.³⁹

AFRICAN UNION HUMAN RIGHTS FRAMEWORK

On the African continent, the principal human rights instrument that promotes and protects human rights and basic freedoms is the **African Charter on Human and Peoples’ Rights** of 1981, also known as the **Banjul Charter**. It sets forth civil and political rights (such as the right to life, freedom of religion, freedom of torture), as well as a limited number of economic and social rights (such as the right to work, to health and to education). A protocol to the charter, adopted in 1998, called for creation of the African Court on Human and Peoples’ Rights. Another protocol to the charter pledges comprehensive rights to women called the **Maputo Protocol**, it was adopted by the African Union on 11 July 2003. **The African Charter on the Rights and Welfare of the Child** (ACRWC) was adopted by the Organization of African Unity (predecessor of the African Union) in 1990. Like the CRC, the ACRWC is a comprehensive instrument that sets out rights and defines universal principles

³⁷Ibid.

³⁸ Archana Pyati & Claudia De Palma, *Female Genital Mutilation In The United States*, SANCTUARY FOR FAMILIES, 18 (June 20, 2017), http://wcchr.com/sites/default/files/fgm_in_the_us-_sanctuary_for_families_2.pdf.

³⁹ Efua Dorkenoo, Linda Morison and Alison Macfarlane, *A Statistical Study to Estimate the Prevalence of Female Genital Mutilation in England and Wales*, FORWARD, 7 (2007) (https://www.city.ac.uk/__data/assets/pdf_file/0003/266034/PREVALENCE-STUDY_FINAL.pdf).

and norms for children. Another important document is the **Africa Youth Charter**, adopted by African Union countries in Gambia in 2006. This document contains references to freedom from harmful practices as a human right.⁴⁰

5. THE UNFPA-UNICEF JOINT PROGRAMME ON FEMALE GENITAL MUTILATION

UNFPA and UNICEF jointly lead the largest global programme to accelerate the abandonment of female genital mutilation. The UNFPA-UNICEF Joint Programme on FGM/C: Accelerating Change brings the complementary expertise of the two agencies – often in partnership with grass-roots community organizations – together with the latest social science research. The focus is on protecting women and girls from female genital mutilation using a human rights-based and culturally sensitive approach. The Joint Programme also supports health and protective services for those adversely affected.⁴¹

The Joint Programme was initiated in 2007 and is fully aligned with a statement (*Eliminating Female Genital Mutilation: An Interagency Statement*) on the elimination on FGM/C agreed to by ten UN agencies that deal with women’s health and rights. The joint statement highlights that the practice is a human rights violation with damaging effects on the health of women, girls and newborn babies.

Summary Report of Phase I of the Joint Programme (2008-2013) - Results;

- ✓ National policy or legislation adopted in 12 of the 15 programme countries.
- ✓ Protocols for FGM survivors integrated into ante- and post-natal care at 5,500 health facilities
- ✓ Training of over 100,000 health practitioners on FGM prevention, response and care
- ✓ Public declarations of abandonment in over 12,700 communities
- ✓ Public declarations from 20,000 religious and traditional leaders disavowing any religious requirements for FGM⁴²

The Joint Programme’s **Annual Report of 2012** documents activities of the Joint Programme in its fifth year of implementation in 15 African countries: Burkina Faso, Djibouti, Egypt,

⁴⁰*Implementation of the International and Regional Human Rights Framework for the Elimination of Female Genital Mutilation*, UNITED NATIONS POPULATION FUND, 24 (November, 2014), <http://www.unfpa.org/sites/default/files/pub-pdf/FGMC-humanrights.pdf>.

⁴¹*Joint Programme on Female Genital Mutilation/Cutting*, UNITED NATIONS POPULATION FUND, <http://www.unfpa.org/joint-programme-female-genital-mutilationcutting#> (last accessed June 22, 2017).

⁴² Ibid.

Eritrea, Ethiopia, The Gambia, Guinea, Guinea Bissau, Kenya, Mali, Mauritania, Senegal, Somalia, Sudan and Uganda.

First-ever General Assembly resolution against FGM

The Joint Programme has worked closely with Member States to foster greater understanding of FGM and the need to approach it from a holistic, culturally-sensitive and human rights-based perspective. This work culminated in December 2012, when the UN General Assembly unanimously adopted resolution 67/146, *Intensifying Global Efforts for the Elimination of Female Genital Mutilations*. Co-sponsored by some 150 countries, the resolution underscored the fact that the practice of FGM/C is a violation of the human rights of women and girls, and called for stronger global efforts to end it, including an extension of the Joint Programme.

Joint Evaluation of Unfpa-Unicef Joint Programme on Female Genital Mutilation/Cutting: Accelerating Change

An independent evaluation of the UNFPA-UNICEF Joint Programme carried out in 2013 concluded that the Joint Programme had contributed to the acceleration of abandonment of FGM/C at community and national levels and that it be extended in order to build on the momentum established in Phase I.⁴³

The Joint Programme's **Annual Report of 2014 (Voices of Change)** documents major achievements and innovations in 2014, the initial year of Phase II of the Joint Programme, with a focus on three major outcome areas:

- ✓ Improved policy and legal environments for the elimination of female genital mutilation (FGM)
- ✓ Increased quality of related health-care, protection, legal and social services
- ✓ Increased acceptance of the elimination of the social norm upholding FGM.

Phase II (2014-2017)

In 2014, the UNFPA-UNICEF Joint Programme launched a second phase, expanding its work to 17 countries – Burkina Faso, Djibouti, Uganda, Egypt, Ethiopia, Eritrea, Gambia, Guinea, Guinea Bissau, Kenya, Mali, Mauritania, Nigeria, Senegal, Sudan, Somalia and Yemen. It also supports regional (Africa and the Arab States) and global efforts to eliminate FGM. The stated goal of Phase II is to build on the momentum toward abandonment established in the first phase. Specifically, it aims for a 40 per cent decrease in prevalence among girls 14 and

⁴³*Child protection from violence, exploitation and abuse*, UNICEF, https://www.unicef.org/protection/57929_58002.html (last accessed June 22, 2017).

younger in at least five countries, with at least one country declaring total elimination of the practice by the end of 2017.⁴⁴

In September 2015, a bold international development agenda, with 17 global goals at its core, was unanimously adopted by the 193 Member States of the United Nations. Within the **Sustainable Development Goal** (SDG) on gender equality, **Target 5.3** specifically commits Member States to ending female genital mutilation (FGM). This inclusion is a major result of years of effort by the UNFPA-UNICEF Joint Programme.

The Joint Programme's **Annual Report of 2015 (Metrics of Progress, Moments of Change)** highlights results achieved in 2015 across the three outcome areas of the programme, including⁴⁵:

- ✓ Policy reform: Two additional countries, the Gambia and Nigeria, adopted national legislation criminalizing FGM/C, bringing the total to 13. Other countries made progress in terms of ownership and enforcement of existing laws, or advocating for new ones.
- ✓ FGM/C-related services: 531,300 girls and women received FGM/C-related prevention, protection or care services, which corresponds to nearly twice as the 2014 figure.
- ✓ Galvanizing social dynamics: Close to 2,000 communities, representing close to 5 million people, made public commitments to abandon FGM/C, a significant increase from 2014.

6. SUCCESS STORIES – REASONS TO BE HOPEFUL

JAJANBUREH, The Gambia

For years, Aja Babung Sidibeh would gather girls together in the Central River Region of the Gambia and would prepare them to take part in an initiation rite. The girls would come stay with her until a circumciser arrived to cut them. Ms. Sidibeh inherited her role from her family, members of her clan are considered custodians of the tradition and had no reason to question it until five years ago, when two girls fell seriously ill after undergoing the ritual.

“In the hospital, they explained everything to me,” Ms. Sidibeh later told UNFPA. **“It was the cutting that made them sick, and I knew they were right about it.”**The infection was

⁴⁴Joint Programme on Female Genital Mutilation/Cutting, UNITED NATIONS POPULATION FUND, <http://www.unfpa.org/joint-programme-female-genital-mutilationcutting#> (last accessed June 22, 2017).

⁴⁵ UNFPA and UNICEF, *2015 Annual Report of the UNFPA-UNICEF Joint Programme on Female Genital Mutilation/Cutting - Metrics of Progress, Moments of Change*, UNITED NATIONS POPULATION FUND, 5 (August, 2016), http://www.unfpa.org/sites/default/files/pub-pdf/UNFPA_FGM_WEB_FINAL_ENGLISH.pdf.

excruciating, but both girls eventually recovered. “After that, I gathered all circumcisers in the region and shared my experience with them. I told them to drop the knife,” Ms. Sidibeh said.

Ms. Sidibeh began working with Gambia Committee on Traditional Practices Affecting the Health of Women and Children (GAMCOTRAP), a UNFPA-supported organization dedicated to improving sexual and reproductive health in the country.⁴⁶Ms. Sidibeh is now a staunch advocate for ending FGM. “We know it is part of our culture, but it is not in accordance with Islam, and it is against our rights as women,” she said. She is also strongly involved in efforts to fight gender inequality, such as inheritance laws that leave young widows with nothing. “I have signed an agreement with the government to protect these girls and their properties,” she told UNFPA.

KAWORYO, Uganda

For decades, Turutea Chelangat was one of the most famous circumcisers in the village of Kaworyo, in eastern Uganda.“At first I was trained as a mentor, guiding young girls and preparing them for cutting the night before, and encouraging them to be strong and ready,” Ms. Chelangat, now 77, told UNFPA. “I was told I had to keep our culture alive.”This all changed when she attended a UNFPA-supported seminar raising awareness of the harms of FGM.⁴⁷

In 2010, the Uganda Government passed the Prohibition of FGM Act, which criminalized the practice. Ms. Chelangat learned that FGM hurts women and girls. “When I heard the news that they were arresting people for cutting, I had to abandon it because I was told that I would be arrested,” she said. “I threw my cutting tools into the Kapterit stream,” she said, indicating that she would never go back to the old ways. “**I do not cut girls anymore.**” She has remained determined, despite the financial incentive to return to cutting.As an alternative, she has gone into farming and spends most of her time tilling and weeding her garden. For her, circumcision is a thing of the past.

⁴⁶*Dropping the knife: One woman joins the fight for women’s rights in the Gambia*, UNITED NATIONS POPULATION FUND, <http://www.unfpa.org/news/dropping-knife-one-woman-joins-fight-womens-rights-gambia> (last accessed June 22, 2017).

⁴⁷Evelyn Matsamura Kiapi, *Former Ugandan circumciser says she will never go back to performing FGM*, UNITED NATIONS POPULATION FUND, <http://www.unfpa.org/news/former-ugandan-circumciser-says-she-will-never-go-back-performing-fgm> (last accessed June 22, 2017).

7. WHY DO WOMEN CHOOSE TO GET CIRCUMCISED?

Female genital mutilation is a social convention governed by rewards and punishments which are a powerful force for continuing the practice. In every society in which FGM is practiced, it becomes a manifestation of gender inequality that is deeply entrenched in social, economic and political structures.⁴⁸ These practices have the effect of perpetuating normative gender roles that are unequal and harm women.

Essentially, the practice of FGM/C is linked to a ritual marking the coming of age and initiation to womanhood⁴⁹ which are considered necessary for girls to become adult and responsible members of the society.⁵⁰ The practice is continued even when it is known to inflict harm upon girls because the perceived social benefits of the practice are deemed higher than its disadvantages.⁵¹

FGM is considered necessary to raise a girl properly and to prepare her for adulthood and marriage.⁵² Girls themselves may desire to undergo the procedure as a result of social pressure from peers and because of fear of stigmatization and rejection by their communities if they do not follow the tradition. Also, in some places, girls who undergo the procedure are given rewards such as celebrations, public recognition and gifts.⁵³ Thus, in cultures where it is widely practiced, female genital mutilation has become an important part of the cultural identity of girls and women and may also impart a sense of pride, a coming of age and a feeling of community membership.

Some of the other justifications offered for female genital mutilation are also linked to girls' marriageability and are consistent with the characteristics considered necessary for a woman to become a 'proper' wife. It is often believed that the practice ensures and preserves a girl's or woman's virginity.⁵⁴ It is expected that men will marry only women who have undergone

⁴⁸United Nations, Why this practice continues? INTERAGENCY STATEMENT ON ELIMINATING FGM (2008), http://www.un.org/womenwatch/daw/csw/csw52/statements_missions/Interagency_Statement_on_Eliminating_FGM.pdf.

⁴⁹UNFPA, 'Implementation of the International and Regional Human Rights Framework for the Elimination of Female Genital Mutilation', November 2014, at p. 16.

⁵⁰Behrendt A (2005). The practice of excision in Moyamba and Bombali districts of Sierra Leone: perceptions, attitudes and practices. Dakar, Plan West Africa Regional Office.

⁵¹ UNICEF, FEMALE GENITAL MUTILATION: A STATISTICAL EXPLORATION (Nov. 2005)

⁵² Yoder PS, Camar PO, Soumaoro B (1999). Female genital cutting and coming of age in Guinea. Calverton, Macro International Inc.

⁵³*Ibid* at 5.

⁵⁴ Gruenbaum E, *Sexuality issues in the movement to abolish female genital cutting in Sudan*. MEDICAL ANTHROPOLOGY QUARTERLY(2006).

the practice.⁵⁵ The desire for a proper marriage, which is often essential for economic and social security as well as for fulfilling local ideals of womanhood and femininity, may account for the persistence of the practice.⁵⁶

In some communities, it is thought to restrain sexual desire, thereby ensuring marital fidelity and preventing sexual behavior that is considered deviant and immoral.⁵⁷ FGM is also considered to make girls ‘clean’ and beautiful. Removal of genital parts is thought of as eliminating ‘masculine’ parts such as the clitoris⁵⁸ or in the case of infibulation, to achieve smoothness considered to be beautiful.⁵⁹ A belief sometimes expressed by women is that female genital mutilation enhances men’s sexual pleasure.⁶⁰

In many communities, the practice may also be upheld by beliefs associated with religion⁶¹. Even though the practice can be found among Christians, Jews and Muslims, none of the holy texts of any of these religions prescribes female genital mutilation and the practice pre-dates both Christianity and Islam⁶².

The role of religious leaders varies. Those who support the practice tend either to consider it a religious act, or to see efforts aimed at eliminating the practice as a threat to culture and religion. Other religious leaders support and participate in efforts to eliminate the practice. When religious leaders are unclear or avoid the issue, they may be perceived as being in favour of female genital mutilation. The practice of female genital mutilation is often upheld by local structures of power and authority such as traditional leaders, religious leaders, circumcisers, elders, and even some medical personnel. Indeed, there is evidence of an increase in the performance of female genital mutilation by medical personnel.⁶³

In many societies, older women who have themselves been mutilated often become gatekeepers of the practice, seeing it as essential to the identity of women and girls. This is probably one reason why women, and more often older women, are more likely to support the

⁵⁵ *Ibid* at 48.

⁵⁶ *Ibid* at 48.

⁵⁷ Hernlund Y (2003). *Winnowing culture: negotiating female ‘circumcision’ in the Gambia*. PhD thesis. University of Washington, Seattle.

⁵⁸ Johansen REB, *Experiencing sex in exile—can genitals change their gender?* (2007).

⁵⁹ *Ibid*.

⁶⁰ Almroth L, Almroth-Berggren V, Hassanein OM, Al Said SS, Hasan SS, Lithell UB (2001). Male complications of female genital mutilation. *Social Science and Medicine*, 53:1455–1460.

⁶¹ Clarence-Smith WG (2007). *Islam and female genital cutting in Southeast Asia: the weight of the past*. Paper presented at 4th FOKO conference (Nordic Network for Research on FGM), 7–8 October.

⁶² WHO, *Islamic ruling on male and female circumcision*. Alexandria, WORLD HEALTH ORGANIZATION Regional Office for the Eastern Mediterranean, (1996).

⁶³ *Ibid*.

practice, and tend to see efforts to combat the practice as an attack on their identity and culture.⁶⁴

8. CASE STUDIES:

Burkina Faso:

Despite the comparatively low visibility of political Muslim identity in Burkina Faso, the prevalence of female circumcision is higher among Burkinabé Muslims than among adherents of either Christian or traditional religions.⁶⁵

Domestic Legislation:

A radio campaign first raised the issue of FGM/C in 1975,⁶⁶ demanding that the practice cease. Further, in 1985, a recommendation was made during "National Week for Women" to abolish it. The consequence of such initiative was that people of Burkina Faso began to discuss this formerly taboo subject.⁶⁷ Later, in 1996, the Government of Burkina Faso adopted a penal code (Law No. 043/96/ADP) which prohibited the practice of FGM.⁶⁸

*Article 380*⁶⁹ stipulates that anyone who violates or attempts to violate the physical integrity of female genital organs by means of total removal, excision, infibulation, numbing or any other means shall be punished by a term of imprisonment of six months to three years and/or a fine of CFA 150,000 to 900,000 (between \$300 and \$1,800). If the procedure of FGM leads to death, the sentence is imprisonment for 5 to 10 years.⁷⁰

Articles 381 and 382 stipulate the maximum punishment for medical professionals who perform FGM and the possibility of disbarment from practice by the courts for up to five years.⁷¹ Anyone having knowledge of the FGM action who does not notify the authorities is to be punished by a fine of CFA francs 50,000 to 100,000 (around \$100 to \$200).⁷²

⁶⁴Toubia NF & Sharief EH, *Female genital mutilation: Have We Made Progress?* INTERNATIONAL JOURNAL OF GYNECOLOGY AND OBSTETRICS, 82:251–261, (2003).

⁶⁵*Ibid* at 17.

⁶⁶*Country Profile: FGM in Burkina Faso*, 28 TOO MANY (Jun. 22, 11:56 A.M) http://www.28toomany.org/countries/Burkina_Faso.

⁶⁷*Ibid* at 19.

⁶⁸*Child protection: Female Genital Mutation*, UNICEF (Jun. 22, 2017 10:53 A.M) https://www.unicef.org/bfa/english/protection_915.html.

⁶⁹ Law No. 043/96/ADP, Article 380, (1996).

⁷⁰*Ibid* at 22.

⁷¹ Law No. 043/96/ADP, Article 381-382 (1996).

⁷²*Ibid* at 23.

Reporting of Cases:

In 2009, 203 cases of FGM were reported.⁷³The courts in Burkina Faso do not hesitate to sentence people found guilty of practicing FGM on under-age girls. Such arrests are usually the result of anonymous tips.⁷⁴ As early as 1990 the Government established a national telephone hotline, the ‘Green Phone: SOS Excision’, to encourage people to report cases of FGM, even though the practice was not illegal at that time.⁷⁵Although there were no accurate or recent figures, the National Committee for the Fight against Excision (CNLPE) claimed that the practice decreased significantly in recent years.⁷⁶ Cases are also reported at police stations or customs offices, through religious leaders and local administrators, or directly to the SP/CNLPE.⁷⁷

Since the adoption of this law, there have been 60 convictions of both excisors and accomplices, resulting in sentences of imprisonment or fines. Imprisonment for excisors has ranged from one to ten months.

One excisor received a ten-month jail sentence for cutting two girls. Accomplices have also received prison terms. Both have received fines of from 10,000 to 50,000 francs (approximately US\$16-80). In a number of cases, prison sentences were suspended.⁷⁸

Statistics and Recent Trends:⁷⁹

The estimated prevalence of FGM in women aged 15 to 49 is 76% (DHS 2010, p.291). Burkina Faso is classified as a ‘moderately high prevalence country’ (UNICEF, 2013a, p.27). There was little change in the prevalence of the practice since the previous DHS survey in 2003, when it was 77% (DHS 2003, p.204), although the Multiple Indicator Cluster Survey (MICS) carried out in 2006 gave a rate of 73%, which could suggest there was a slight increase between 2006 and 2010 (MICS in UNFPA, 2013b, p.1).⁸⁰ According to DHS 2010 nearly 10% more women aged 15 to 49 are cut in rural areas (78.4%) than urban areas (68.7%) in Burkina Faso. Prevalence of FGM in the capital Ouagadougou is 64.8%.

⁷³ UNFPA, *Implementation of the International and Regional Human Rights Framework for the Elimination of Female Genital Mutilation*, UNFPA (Jun. 24, 2017) <https://www.unfpa.org/sites/default/files/pub-pdf/FGMC-humanrights.pdf>.

⁷⁴*Ibid* at 26.

⁷⁵*Ibid* at 26.

⁷⁶<https://www.state.gov/documents/organization/220297.pdf> (June 21, 2016 3:19 P.M).

⁷⁷ UNFPA, *Implementation of the International and Regional Human Rights Framework for the Elimination of Female Genital Mutilation*, (Nov 2014) <https://www.unfpa.org/sites/default/files/pub-pdf/FGMC-humanrights.pdf>.

⁷⁸<https://2001-2009.state.gov/g/wi/rls/rep/crfgm/10047.htm> (June 22, 2017 11:54 A.M) (2001 Data)

⁷⁹ Data of 2014.

⁸⁰ The Demographic and Health Surveys Program (2012), *Enquête Démographique et de Santé et à Indicateurs Multiples 2010*, <http://dhsprogram.com/pubs/pdf/FR256/FR256.pdf>

A 2008 UNIFEM study raised concerns that laws against FGM in countries like Burkina Faso were potentially driving the practice underground and across borders, meaning that families were taking their daughters to countries where such laws did not exist or the enforcement of such laws was less strict.⁸¹In Burkina Faso the most common type of FGM reported among women aged 15 to 49 is Type II (cut, with flesh removed), at 77%. Type I FGM (cut, no flesh removed) is reported by 17% and Type III (sewn closed) by only 1%.⁸²

RELIGION and FGM: Table: Prevalence of FGM among women aged 15 to 49 according to their religion⁸³

RELIGION	FGM PREVALENCE
Muslim	81.4%
Traditional/Animist	75.5%
Catholic	66.1%
Protestant	60.0%
No religion	62.1%

Present scenario: Development and further challenges

Unlike some African countries, NGOs in Burkina Faso are able to work openly on anti-FGM programs with support from Government departments, and there has been an increase in prosecutions for FGM in recent years.⁸⁴In 2005 only 25% of girls in Burkina Faso underwent FGM, compared to 66.35% in 1996—a 40% decrease in less than a decade.⁸⁵

However, during a recent research conducted in 2015 by an organization⁸⁶, evidence exists in both the media and from NGOs working on the ground which suggests that girls are being cut younger (as infants and babies) and that they are being taken across borders to countries where there are no laws in place or where enforcement is less stringent.⁸⁷

⁸¹Ibid at 48.

⁸²Ibid at 48.

⁸³ The Demographic and Health Surveys Program (2012), *Enquête Démographique et de Santé et à Indicateurs Multiples 2010*, <http://dhsprogram.com/pubs/pdf/FR256/FR256.pdf>

⁸⁴ Dr Ann-Marie Wilson, http://28toomany.org/media/file/profile/Burkino_Faso_v4_Low.pdf

⁸⁵UNICEF, https://www.unicef.org/bfa/english/protection_915.html (June 22, 2017 10:30 A.M)

⁸⁶ 28 Too Many (2017) Country Profile: FGM in Egypt. Available at http://www.28toomany.org/countries/Burkina_Faso.

⁸⁷*Ibid.*

Some serious challenges in the fight against FGM in Burkina Faso:

- Cross border migration of populations from countries in which the practice is still common means there are portions of the population whose children still undergo FGM/C.
- A new element of FGM/C in infants has arisen. This de-linking of the practice from the initiation rites which would have occurred later is attributable to the far-reaching effects of the new law banning FGM. Parents are aware of and afraid of the consequences of breaking the law and have their daughters circumcised before they are able to talk and draw the attention of the authorities.
- The persistence of taboos, as well as cultural tendencies, even among some who are in charge of the welfare of children, which tend to trivialize violence against children.
- One of the negative consequences of laws against FGM being introduced in Burkina Faso is evidence that FGM is increasingly being performed on young babies instead of older girls so that cutters and parents may avoid detection and possible prosecution. During the first three months of 2008 there were 70 reported cases of newborns nationwide being admitted to hospital for emergency treatment after FGM had gone wrong (IRIN News, 2009).

Egypt:

Egypt is classified by the World Bank⁵ as a ‘lower middle income country’, with 28% of the population living below the poverty line in 2015.⁸⁸

Domestic Legislation:

A new Constitution was introduced in Egypt in 2014, following the suspension of the 2012 constitution during the removal of President Morsi in July 2013. Two relevant articles in the Constitution against FGM are: Article 60 which reads as following: “*The human body is inviolable and any assault, deformation or mutilation committed against it shall be a crime punishable by Law;*” and Article 80 “*The State shall provide children with care and protection from all forms of violence, abuse, mistreatment and commercial and sexual exploitation;*”⁸⁹

⁸⁸ The World Bank (2016) Egypt: Overview, 1 October. <http://www.worldbank.org/en/country/egypt/overview>.

⁸⁹ Constitution of The Arab Republic of Egypt 2014 (unofficial translation) <http://www.sis.gov.eg/Newvr/Dustor-en001.pdf>.

In 1999, responsibilities in relation to FGM were taken over by The National Council for Childhood and Motherhood (NCCM).

In 2007, following the death of two girls due to FGM, the Egyptian Ministry of Health and Population (MOHP) issued a ministerial decree banning medical practitioners from performing FGM.⁹⁰

On 16 June 2008, FGM was outlawed in Egypt. Two amendments were made.

Firstly, the Child Act No. 12 of 1996 was amended by Law No. 126 of 2008, which added Article 7- bis (a):

“With due consideration to the duties and rights of the person who is responsible for the care of the child, and his right to discipline him through legitimate means, it is prohibited to intentionally expose the child to any illegitimate physical abuse or harmful practice.”⁹¹

Secondly, Law No. 126 of 2008 added Article 242-bis to the Penal Code:

“Without prejudice to the provisions of Article (61) of the Penal Code and notwithstanding any severer punishment in any other law, any person causing injury stipulating punishment as per article 241 and 242 of the Penal Code through female circumcision shall be punished by imprisonment for no less than 3 months and at no more than 2 years or a fine at no less than one thousand pounds and at no more than 5 thousand pounds.”

However, the specific reference to Articles 241 and 242 in relation to FGM meant that, in the drafting of this legislation, FGM was considered a ‘lesser’ injury, not an injury that could potentially cause permanent disability or death, or one that involved cutting or separating a member.

Between 2007 and 2013, a number of girls died undergoing FGM, causing public concern that laws were insufficient, and calls to strengthen and enforce the law with increased sentences.

Therefore, in September 2016, a further amendment was made (by Law No. 126 of 2016) to the Penal Code. It replaces Article 242-bis and adds Article 242-bis (A): 242-bis: With consideration to Article (61) of the Penal Code, and without prejudice to any harsher penalty

⁹⁰ Gerard Molleyway and Lillian Franse; (2009) The struggle for Abandonment of Female Genital Mutilation/cutting ;FGM/C in Egypt, pg. 59, Global Health Promotion, Vol 16(1), pp.57-60.

⁹¹ Law No. 12 of 1996 Promulgating the Child Law Amended by Law No. 126 of 2008 (1996). https://www.unodc.org/res/cld/document/egy/2002/egypt_child_act_english_html/Egypt_Child_Act_English.pdf.

stated by any other law, any person who committed acts of female genital mutilation, by removing any of the external female genital organs, whether in part or in whole, or by inflicting any injuries to these organs without medical justification, shall be punished by imprisonment for a period not less than 5 years and not exceeding 7 years. The penalty shall be Aggravated Imprisonment [minimum 3 years and maximum 15 years], if such act has resulted in a permanent disability or death. 242-bis (A): Any person who requested a female genital mutilation and the female has been mutilated accordingly and in the manner mentioned in Article 242-bis of this law, shall be jailed for a minimum period of one year and a maximum period of 3 years.

Reporting of cases and conviction:

The first conviction for conducting FGM was against a doctor, Raslan Fadl, following the death of Soheir al-Batea in June 2013. Fadl denied manslaughter and said he was removing genital warts, and that death was due to an allergic reaction to penicillin. After eighteen months, during which he continued to practise medicine, Fadl turned himself in and, following a lengthy appeals process, was convicted of manslaughter in January 2015 and sentenced to two years' imprisonment. In addition, his licence to practise medicine was revoked. Fadl came to a financial arrangement with the family, however, and only served three months of his sentence. Al-Batea's father was also convicted, but on appeal was given a fine and a suspended sentence.⁹²

**THE NATIONAL FGM ABANDONMENT
STRATEGY 2016-2020**

The National FGM Abandonment Strategy 2016-2020 is the State's official strategy for eradicating FGM. The Strategy document provides an analysis of the key achievements to date and the present gaps in terms of (a) institutional change, (b) socio-cultural change, and (c) change in follow-up and evaluation. It concludes that the required focus is to ensure that campaigns and advocates focus on the cultural and social issues associated with FGM, not merely religious or health issues. Its overall objective is to reduce FGM prevalence by 10-15% in the next generation by supporting families to make the decision

⁹² Equality Now (undated) Justice for Soheir al-Batea. <http://www.equalitynow.org/actionalerts/justice-soheir-al-batea-fgm-egypt> (Jun 28, 2017).

not to cut their daughters. Its key strategies are to enforce existing laws against FGM, build a culture that supports human rights and develop a system to monitor the abandonment process.

Present Scenario:

Since 2008, there has been a shift in Egypt away from traditional practitioners and towards health professionals (particularly doctors) performing FGM.⁹³ The primary focus on health issues by early anti-FGM campaigns has been suggested as a contributory factor in families turning to medical staff and facilities, which are perceived as ‘safer’. Additionally, doctors, as professionals, are seen as having more ‘power’ in society than the traditional midwife, and thus are less likely to be punished for performing FGM. Thus, the medicalization of FGM in Egypt is a huge challenge in the campaign to end the practice; currently, 78.4% of incidences of FGM are carried out by a health professional.⁹⁴

Medicalized FGM is most common in the Urban Governorates and Lower Egypt, perhaps because easy access to health professionals and the funds to pay them is more common for families living there.⁹⁵ Nearly two-thirds (64.5%) of girls and women aged 13-35 who have been cut underwent FGM either at home or at another house. 11.5% of those living in urban areas underwent FGM in a private hospital, compared to 2.7% of those living in rural areas.⁹⁶ A study as recent as 2016 noted that ‘physicians are not discouraging the practice, giving legitimacy to a procedure that has serious medical risks.’⁹⁷ Medical professionals have an economic incentive to continue performing FGM, especially those in rural areas.

Challenges faced in Implementation of Anti-FGM laws:

Specific challenges that need to be addressed include:

⁹³ Demographic and Health Survey (2008) p.198 <https://dhsprogram.com/pubs/pdf/fr220/fr220.pdf>

⁹⁴ Egypt health issue survey (2015), Pg 106-107; <https://dhsprogram.com/pubs/pdf/FR313/FR313.pdf>

⁹⁵ *Ibid* at 53.

⁹⁶ Rania Roushdy & Maia Sieverding, *Panel Survey of Young People in Egypt (SYPE) 2014: Generating Evidence for Policy and Programs*, p.26. NEW YORK AND CAIRO: POPULATION COUNCIL https://www.popcouncil.org/uploads/pdfs/2015PGY_SYPE-PanelSurvey.pdf.

⁹⁷ Stanford University Medical Centre (2016) ‘*Egyptian women say Doctors don’t discourage female genital cutting, Study finds*’, *Eureka Alert!* (25 August) https://www.eurekaalert.org/pub_releases/2016-08/sumc-ews082516.php.

- combating the ongoing community pressures, traditions, beliefs about religion and FGM, and misunderstandings due to the lack of sex education;
- the medicalization of FGM, despite laws forbidding it;
- the implementation and enforcement of anti-FGM laws;
- educating and maintaining influential leaders and role models, especially religious leaders;
- the decline in press freedom potentially making dissemination of information more difficult, or journalists more wary of reporting on sensitive issues;

Ethiopia:

One of the world's oldest civilizations, Ethiopia is also one of the world's poorest countries.⁹⁸

Domestic legislation:

In 2005 the Parliament endorsed the revised penal code of Ethiopia. Articles 568 and 569 of the revised code have provisions on circumcision and infibulation respectively.

In Article 568 penalty for circumcision ranges from 3 months imprisonment to 3 years and a fine of no less than Birr 500 to 10000 or both imprisonment and fine.⁹⁹ Article 569 which focuses on infibulation states; "Anyone if engaged in stitching the genital part of a woman shall be punished by rigorous prison term of 3 to 5 years.¹⁰⁰ If the practice causes physical or health injury notwithstanding the severe punishment provided in the Penal Code, the penalty will be rigorous prison term of 5 to 10 years.¹⁰¹

National statistics:

Most frequent are FGM Type I and II with type III being common among Somali and Afar ethnic groups. The "Gesellschaft für Technische Zusammenarbeit" (GTZ) estimates that 6 % of Ethiopian women affected by FGM have been infibulated.

⁹⁸<http://www.worldbank.org/en/country/ethiopia/overview> (June 23, 2017 11:01A.M)

⁹⁹The Criminal Code of the Federal Democratic Republic of Ethiopia, Article 568.

¹⁰⁰The Criminal Code of the Federal Democratic Republic of Ethiopia, Article 569.

¹⁰¹*Ibid* at 61.

Reporting of cases:

In Ethiopia, 13 cases violating national FGM laws were prosecuted in 2013, compared to 1 case in 2012.¹⁰² In 2012, in the Afar region, a traditional cutter and the parents of six girls were arrested, tried and sentenced. The cutter received a six-month prison sentence and the parents were fined 500 Birr (US\$ 27) each. This case received wide coverage on Ethiopian television, thus acting as a deterrent and awareness-raising tool.¹⁰³

However, according to UNFPA, although the law may bring perpetrators to court, in practice, the guilty often receive a pardon.¹⁰⁴

Present scenario:

There exists some local organizations that are trying to help in awareness of the FGM like Rohi Weddu Pastoral Women Development Organization and Ogaden Welfare and Development Association (OWDA) but have their own limitations. In spite of robust anti-FGM law and its enforcement the rates of FGM has not reduced drastically.

Some challenges faced by the organizations are:

- Entrenched religious and cultural beliefs.
- The scale and geographical reach of FGM.
- The transition from infibulation to ‘sunna’, leading to harm-reduction but not a change of social norms and eradication.
- FGM being undertaken secretly.
- Challenges in law enforcement, with law enforcement officials sometimes being reluctant to enforce the law and impose appropriate sanctions, and lack of capacity in the law enforcement sector.
- Lack of resources/capacity.
- Environmental challenges, with drought disrupting anti-FGM activities for months. Ethnic conflict disrupting anti-FGM activities in Oromia.
- Fragmentation of interventions

¹⁰² Ethiopia country Annual Report 2013 of the UNFPA-UNICEF Joint Programme on FGM/C.

¹⁰³ UNICEF Annual Report, 2012.

¹⁰⁴ Integrated Regional Information Networks, *Ethiopia, Empowering women to fight FGM/C*, (Aug. 19, 2010).

Kenya:

Domestic Legislation:

Kenya passed its first anti-FGM law in 2001 by the passing of the Children's Act which made FGM illegal for girls under 18.¹⁰⁵ There were however few reported cases and there was widespread criticism that the Act offered inadequate protection, did not apply to adult women, was poorly implemented and failed to curb FGM.¹⁰⁶

On 30 September 2011 the Prohibition of Female Genital Mutilation Act 2011 was passed by parliament and was signed into law on 6 October 2011.¹⁰⁷ The Act criminalizes all forms of FGM performed on anyone, regardless of age or status, and banned the stigmatizing of a woman who had not undergone FGM in an attempt to tackle social pressure.¹⁰⁸ The penalties include three-seven years' imprisonment, or life imprisonment for causing death by performing FGM and fines of nearly US\$6,000.¹⁰⁹

Statistics:

In Kenya, an estimated 27.1% of girls and women aged 15-49 years have undergone FGM (DHS 2008- 09), a figure that has decreased from 37.6% % in 1998, and 32.2% in 2003. There are significant regional variations, with prevalence ranges from 0.8% in the west to over 97% in the north-east.¹¹⁰

FGM in Kenya has shown a decline from almost 40% in 1998 to 27% in 2008-09 (DHS)

Reporting of cases: In Kenya 7 cases were reported to the police, 3 cases went to court and 1 was prosecuted.¹¹¹

¹⁰⁵Country Profile: FGM in Kenya, 28 TOO MANY, (2013)
http://28toomany.org/media/uploads/final_kenya_country_profile_may_2013.pdf.

¹⁰⁶Ibid.

¹⁰⁷Ibid.

¹⁰⁸ Ibid at 69

¹⁰⁹ Article 29, Prohibition of Female Genital Mutilation Act, 2011.

¹¹⁰ Kenya Demographic and Health Statistics, KENYA NATIONAL BUREAU OF STATISTICS (2008-09)
<https://dhsprogram.com/pubs/pdf/fr229/fr229.pdf>.

¹¹¹Integrated Regional Information Networks, *Ethiopia, Empowering women to fight FGM/C*, (Aug. 19, 2010).

9. FUNDS AND CAPACITY BUILDING:

Programs and research studies concerned with the elimination of FGM require sustainable funding in order to be effective. Continued publicity of current FGM practices at a global level, particularly through the UN and WHO, is crucial for ensuring that NGOs and charities are given support and resources long term. Prioritizing charitable aid and grant funding for anti-FGM is inherently challenging, and programs for ending FGM are given less attention than those related to the health and poverty crises.¹¹²

While the international community has urged countries to allocate resources for implementation of policies, programs and legislative frameworks, the funds have mainly come from donors and United Nations agencies.¹¹³ States' contributions have mainly been in the form of human resources to support implementation of activities and program. A challenge facing major FGM practicing countries and others is delayed disbursement of donor funds and poor predictability of funding, which have hampered long-term planning and timely implementation of activities.¹¹⁴ Despite the progress achieved in curtailing the practice of FGM, more funding is required to sustain momentum in the concerned countries and to further strengthen, develop and scale up existing programs.

In particular, resources are needed to build monitoring and evaluation capacities to determine which interventions are effective and which are not. The international community has underscored the need for more financial resources that will both help accelerate the abandonment of FGM globally and contribute to sustainable social change.¹¹⁵

¹¹² Slack, A. *Female circumcision: a critical approach*. *Human Rights Quarterly*, (10), 439–486 (1988).

¹¹³ UNFPA-UNICEF, *Joint Programme on Female Genital Mutilation/Cutting. 2011, Annual Report: Accelerating Change*, <http://www.unfpa.org/publications/unfpa-unicef-joint-programme-female-genital-mutilationcutting-annual-report-2012> (Jun. 24, 2017).

¹¹⁴ UNDP, Human Development Index: <http://hdrstats.undp.org/en/countries/profiles/ken.html> (Jun. 24, 2017)

¹¹⁵ UNICEF *Changing a Harmful Social Convention: Female Genital Mutilation/Cutting*, <https://www.unicef-irc.org/publications/396/> (2005).

10. DOMESTIC LEGISLATIONS OF DIFFERENT COUNTRY:

Name of the country	<u>Domestic Legislation</u>
Central African Republic	<p>In 1996, the President issued an Ordinance prohibiting FGM throughout the country. It has the force of national law.</p>
Benin	<p>FGM is criminalized by passing of the Act, “Law on repression of the practice</p> <p><i>Article 1:</i> The purpose of this law is to outlaw female genital mutilation in the Republic of Benin.</p> <p><i>Article 2:</i> All types of female genital mutilation performed by anyone, in whatever capacity, are prohibited.</p> <p><i>Article 4:</i> Any person who performs female genital mutilation of any form whatsoever, shall be punished by imprisonment of six (06) months and three (03) years and a fine of one hundred thousand (100,000) to two million (2,000,000) francs.</p> <p><i>Article 5:</i>When genital mutilation is practiced on a minor under 18 years, the offender will be punished with imprisonment of three (03) to five (05) years and a fine ranging up to three million (3,000,000) francs.of Female Genital Mutilation (FGM), 2003”</p> <p><i>Article 7:</i> Any person who has helped, assisted, or solicited the circumciser, has provided the means or instructed, will be treated as an accomplice and sentenced to penalties by the author principal.</p>

<p>Botswana</p>	<p>Female Genital Mutilation is criminalized by amending the provisions of Children’s Act, 2009. <i>Section 62 (1)</i> :Subject to section 61 (3), and section 90, every child has a right not to be subjected to social, cultural and religious practices which are detrimental to his or her well-being. (2) A child shall not be subjected, by any person, to — (a) a forced marriage; (b) a child betrothal; (c) genital mutilation or female circumcision; or (d) any other cultural rite, custom or tradition which may inflict physical, emotional or psychological pain or harm to the child, or otherwise violate or endanger his or her bodily integrity, life, health, dignity, education or general well-being. (3) Unless it is in the interest of the child, no person shall circumcise a male child except where (a) the circumcision does not expose the child to any harm and does not conflict with any regulations made under this or any other Act; (b) the circumcision is performed for medical reasons on the recommendation of a medical practitioner; and (c) proper counseling of the child is obtained, subject to the child’s age, maturity and level of understanding. (4) A child above the age of 16 may be circumcised only if he consents thereto, has received proper counseling, and it has been certified by a medical practitioner that the procedure is unlikely to cause him any harm taking into consideration his maturity and state of health. (5) Any person who coerces, pressures or deludes a child into participating in any of the practices referred to in this section shall be guilty of an offence and liable to a fine of not less than P10 000 but not more than P30 000, or to imprisonment for a term of not less than 12 months but not more than three years, or both.</p>
<p>Cameroon</p>	<p>Second periodic report on the Convention on the Rights of the Child: Cameroon, 2008 National Plan of Action to Combat Female Genital Mutilation (FGM), 2009</p>
<p>Chad</p>	<p>Criminalized Law Relating to the Promotion of Reproductive Health, 2002 Article 9: Everyone has the right not to be subjected to torture and to cruel, inhuman or degrading his body in general and the reproductive organs in particular All forms of violence such as mutations genital mutilation (FGM), early marriage, domestic violence and sexual abuse of the human person are prohibited. Article 18: any person who, in practice, writing, speeches, publicity or violates the provisions of this Act shall be punished by imprisonment of five (5) months to five (5) years and a fine of one hundred thousand (100,000) francs CFA to five hundred thousand (500,000) francs or one of these penalties.</p>
<p>Congo Brazzaville</p>	<p>Criminalized Child Protection Code, 2010 Article 62: acts prohibited: -Female genital mutilation; - The honor killing; -The forced marriage of children. Under this law, female genital mutilation shall include any partial or total removal external genitalia and /or other operations on these organs. Surgery on genitalia performed on medical prescriptions are excluded from this category Article 116: a person who engages in harmful practices prohibited under section 62 of this Act shall be punished under the Penal Code.</p>
	<p>Code on Child Protection, 2009 Article 153: Sexual mutilation of a child is punishable by two to five years penal servitude sentence and a fine of 200 thousand to one million Congolese francs. When the</p>

<p>Democratic Republic of Congo</p>	<p>sexual mutilation causes the death of the child without the author is punishable by ten to twenty years of penal servitude Sexual mutilation is an act prejudicial to the physical or functional integrity of the genital organ. Circumcision is genital mutilation or a bodily integrity</p>
<p>Djibouti</p>	<p>Penal Code,1995 <i>Article333.</i>Theviolence causing genital mutilation is punishable by five years imprisonment and1,000,000 Francs fine</p>
<p>Equatorial Guinea</p>	<p>Penal Code, 1963 Section 419: mutilation of an organ shall be punished with the penalty of reclusion or less. Any other mutilation shall be punished with simple imprisonment</p>
<p>Eritrea</p>	<p>Proclamation to Abolish Female Circumcision, 2007 <i>Article 4:</i> Punishment (1) Whosoever performs female circumcision shall be punishable with imprisonment of two to three years and a fine of five to ten thousand (5,000.00 to 10,000.00) Nakfa. If female circumcision causes death, imprisonment shall be from five to ten years. (2) Whosoever requests, incites or promotes female circumcision by providing tools or by any other means shall be punishable with imprisonment of six months to one year and a fine of three thousand (3,000.00) Nakfa. (3) Where the person who performs female circumcision is a member of the medical profession, the penalty shall be aggravated and the court may suspend such an offender from practicing his/her profession for a maximum period of two years. (4)Whosoever, knowing that female circumcision is to take place or has taken place, fails, without good cause, to warn or inform, as the case may be, the proper authorities promptly about it, shall be punishable with a fine of up to one thousand (1,000.00) Nakfa</p>
<p>Gambia</p>	<p>Children’s Act, 2005 Section 19 harmful social and customary practices No child shall be subjected to any social and cultural practice that affect the welfare, dignity, normal growth and development of the child and in particular those customs and practices that are a) prejudicial to the health and life of the child and b) discriminatory to the child on the grounds of sex or other status</p>
<p>Ghana</p>	<p>Penal Code, 1960 Section 69A.—Female Circumcision. (1) Whoever excises, infibulates or otherwise mutilates the whole or any part of the labia minora, majora and the clitoris of another person commits an offence and shall be guilty of a second degree and liable on conviction to imprisonment of not less than three years. (2) For the purposes of this section "excise" means to remove the prepuce, the clitoris and all or part labia minora; "infibulate" includes excision and the additional removal of the labia majora</p>

<p>Guinea</p>	<p>Criminalized Penal Code, 1988 Article 305:- Castration is a removal or mutilation of genital organs, both on the man and the woman. Any person guilty of this crime shall be punished with life imprisonment. If death ensued within forty days following this crime, the criminal shall be punished with death. Child Code, 2008 Article 405: Female genital mutilation means any partial or total removal of external genitalia of a girl or women and / or any other operations on these organs. Article 406: All forms of female genital mutilation by any person regardless of their quality are prohibited in the Republic of Guinea. Article 407: Anyone using traditional or modern methods has practiced favored or female genital mutilation or will participate is guilty of intentional violence on the person of the cut. Any such act is punished by imprisonment from 3 months to 2 years and a fine of 300,000 to 1, 000,000 Guinean francs or one of these penalties only. Ascendants or any other person having authority over the child or the custodial who have authorized female genital mutilation shall be punished with the same penalties as authors.</p> <p><i>Article 410:</i> The heads of health facilities, both public and private, are required to ensure that victims of female genital mutilation received in their centers or institutions the most appropriate care. The public authorities shall be informed without delay to allow them to monitor the status of the victim and expedite proceedings provided for in the foregoing provisions.</p>
<p>Lesotho</p>	<p>Children's Protection and Welfare Act, 2011 Section 17; A child not to be subjected to harmful cultural rites, custom and traditional practices A child shall not be subjected to any cultural rites, customs or traditional practices that are likely to negatively affect the child's life, health, welfare, dignity or physical, emotional, psychological, mental and intellectual development.</p>
<p>Mali</p>	<p>International Parliamentary Union, Article 166 of the Penal Code prohibits voluntarily cutting or injuring a person as well as committing any violence on a person. <i>Article 171</i> states that any person who administers willingly any procedure or substance to an individual without consent and causes an illness or disability is punishable by six months' to 3 years' imprisonment. Code of Child Protection, 2002 <i>Article 50:</i> exposing the child to practices adversely affecting health is considered, in particular, as difficult situation threatening the health of the child, its physical or moral development.</p>
<p>Mauritania</p>	<p>Ordinance on the Judicial Protection of the Child, 2005</p> <p><i>Article 12:</i> The act of violating or attempting to violate the genitals a female child, infibulation, desensitization or by any other means is punishable by one to three years imprisonment and a fine of 120,000 to 300,000. When UM has resulted in harm to it. The penalty is increased to four years imprisonment and a fine of 160,000 to 300,000 ouguiyas when the offender reports to the medical profession or paramedics.</p>
	<p>Law on Reproductive Health, 2006</p> <p><i>Article 19 -</i> A law determines the conditions of criminalization and repression of acts violating the rights of sexual health and reproduction as well as violations of the relevant provisions of this Act. Include criminal offending and repressed: - All forms of violence against women and children</p>

Niger	victims in general, and female genital mutilation and pedophilia in particular; - Willful transmission of HIV / AIDS; - Exploitation in all its forms of prostitution and trafficking women and children.
Senegal	Law Amending Certain Provisions of the Penal Code on Female genital mutilation, 1999 <i>Article 299</i> : who so ever who have worn or tried to undermine the integrity of the genitalia of a female person by partial or total removal of one or more of its elements, infibulation, desensitization or by any other means shall be punished with imprisonment from six months to five years The maximum penalty will be applied when the sexual mutilation have been carried out or promoted by a person in the medical or paramedical staff. When they have caused the death, the sentence of penal servitude for life will always be pronounced. Any person who, by gifts, promises, influences, threats, intimidation, abuse of authority or power, caused the genital mutilation or given instructions for committing shall incur the same penalties.
Sierra Leone	Child Right Act, 2007 <i>Article 2</i> : “female genital mutilation” includes the cutting or removal of any part of the female genitalia; <i>Article 11(2)(e)</i> :function of the National Commission for Children: to undertake the wide dissemination of the Convention and the Charter generally and through professional training, adult education and child rights promotional activities aimed especially at the registration of births, elimination of forced marriages for girls, female genital mutilation, sexual abuse and economic exploitation of children. <i>Article 33(1)</i> : No person shall subject a child to torture or other cruel, inhuman or degrading treatment or punishment including any cultural practice which dehumanizes or is injurious to the physical and mental welfare of a child.

South Sudan	Child Act, 2008 <i>Article 5</i> : “Female circumcision” means the cutting and removal of part or all of the female genitalia and includes the practices of clitoridectomy, excision, infibulations or other practice involving the removal of part, or of the entire clitoris or labia of a female child; <i>Article 26</i> Rights of the Female Child: Every female child has a right to be protected from sexual abuse and exploitation and gender-based violence, including rape, incest, early and forced marriage, female circumcision and female genital mutilation. <i>Article 30</i> Penalties of Infringing any of the Rights of a Child: Notwithstanding penalties contained in any other law, anyone who willfully or as a result of culpable negligence infringes any right of a child commits an offence and shall, on conviction, be sentenced to imprisonment for a term not exceeding seven years or with a fine or with both, and may be liable to pay such compensation to the child as the Court deems fit and just
	Child Act, 2005 Social, cultural and religious practices “Genital mutilation”, in relation to a female child, means the partial or complete removal of any part of the genitals, and includes circumcision of female children; <i>Art 12. (1)</i> Every child has the right not to be subjected to social, cultural and religious child practices which are detrimental to his or her well-being. (3) Genital

South Africa	mutilation or the circumcision of female children is prohibited. Protection of Equality of Unfair Discrimination Act, 2000 Prohibition of unfair discrimination on ground of gender 8. Subject to section 6, no person may unfairly discriminate against any person on the ground of gender, including— (a) gender-based violence:
Tanzania	Child Act, 2009 <i>Section 158(1)</i> : General prohibition No person shall: (a) perform or cause to be performed female genital mutilation to a child; (2) A person who contravenes any of the provisions of subsection (1) commits an offence and shall on conviction be liable to a fine of not less than five hundred thousand shillings or to imprisonment for a term of six months or to both.
Togo	<p>Law on the Prohibition of Female Genital Mutilation, 1998 <i>Section 1</i>. General provisions <i>Article 1</i>. All forms of genital mutilation (FGM) practiced by anyone, whatever the type may be, are prohibited in Togo <i>Article 2</i>. Under this law, female genital mutilation is understood to mean all sorts of partial or total removal of the external organ of girls, young girls or women and/or all other operations concerning these organs. This category does not include surgical operations of genital organ, performed with medical prescription. <i>Section 2</i>. Sanctions</p> <p><i>Article 3</i>: Whoever, with traditional or modern methods, have practiced or promoted female genital mutilation or have taken part in such act, is to be held guilty of voluntary assault on the excised.</p> <p><i>Article 4</i>: Everyone who is going to be held guilty of voluntary violence within the meaning of article 3 shall be punished from two to five years of imprisonment and with fine from 100,000 to 1,000,000 Francs or one of the two penalties.</p> <p><i>Article 7</i>. The official of both the public and private the healthcare institutions are responsible to make sure to the victims of FGM are provided with the best possible care. The competent public officials are informed without delay to monitor the status of the victim and to expedite prosecution under this law.</p>
United Kingdom	<p>FGM has been a criminal offence in the UK since 1985 (Prohibition of Female Circumcision Act 1985). In 2003 it also became a criminal offence for UK nationals or permanent UK residents to take their child abroad to have female genital mutilation.</p> <p>Anyone found guilty of the offence faces a maximum penalty of 14 years in prison.</p>
United States of America	The federal law addressing FGM in the U.S.: 18 <i>U.S. Code § 116</i> ‘Female Genital Mutilation’ makes it illegal to: Perform FGM in the U.S. Knowingly transport a girl out of the U.S. for the purpose of inflicting FGM
Uganda	Children’s Act, 1997 <i>Article 7</i> Harmful customary practices: It shall be unlawful to subject a child to social or customary practices that are harmful to the child’s health. The Prohibition of Female Genital Mutilation Act 2010 <i>Section 2</i> : Offence of female genital mutilation. A person who carries out female genital mutilation commits an offence and is liable on conviction to imprisonment not exceeding ten years.
	The Penal Code (Amendment) Act 15 of 2005 <i>Article 157 (1)</i> : Any person who conducts or causes to be conducted a harmful cultural practice on a child commits a felony and is liable, upon conviction, to imprisonment for a term of not less than fifteen year and may be liable to

<p>Zambia</p>	<p>imprisonment for life. (2) In this section “harmful cultural practice” included sexual cleansing, female genital mutilation or an initiation ceremony that results in injury, the transmission of an infectious or life threatening disease or loss of life to a child but does not include circumcision on a male child.</p>
<p>Zimbabwe</p>	<p>Domestic Violence Act, 2006 Meaning of domestic violence and its scope <i>Section 3</i>: (1) For the purposes of this Act, domestic violence means any unlawful act, omission or behavior which results in death or the direct infliction of physical, sexual or mental injury to any complainant by a respondent and includes the following— (L)abuse derived from the following cultural or customary rites or practices that discriminate against or degrade women— (i) forced virginity testing; or (ii) female genital mutilation <i>Section 4</i>: Offence of domestic violence and acts excluded from its scope (1) Subject to subsection (2), any person who commits an act of domestic violence within the meaning of section 3 shall be guilty of an offence and liable to a fine not exceeding level fourteen or imprisonment for a period not exceeding ten years or to both such fine and such imprisonment.</p>

11. LANDMARK PROSECUTION:

Fakhruddin Attar, 53, and his wife, Farida Attar, 50, who run a clinic in the Detroit suburb of Livonia, are accused of conspiring with Nagarwala, a Detroit emergency room doctor, by allowing the doctor to use their premises to perform the illegal procedures after hours. Farida Attar, the office manager at her husband’s clinic, is also accused of assisting Nagarwala during the operations.¹¹⁶

All defendants in the case are members of the Dawoodi Bohra, a religious Muslim group. One of the girls who underwent the procedure was reportedly told that she was going on a “special girls’ trip” to “get the germs out.” On 11 April, a medical examiner in Minnesota inspected both girls and confirmed they had undergone genital surgery, which caused them much pain.¹¹⁷ The arrest and prosecution of the Michigan perpetrators is a groundbreaking moment for women’s rights activists in the United States and globally.¹¹⁸

Defendants asserted the practice should not be classified as FGM, but rather as a religious practice. A lawyer for Dr Nagarwala, who was arrested on 12 April, has claimed the

¹¹⁶THE GUARDIAN, (2017) <https://www.theguardian.com/us-news/2017/apr/13/michigan-doctor-charged-female-genital-mutilation-fgm>.

¹¹⁷ Rita Rubin, THE FORBES, (2017) <https://www.forbes.com/sites/ritarubin/2017/04/14/doctor-charged-with-female-genital-mutilation-has-published-research-overseen-residents/#49a51e262241>.

¹¹⁸*Ibid.*

procedure was not FGM, but rather a religious ceremony to wipe off a small amount of mucous membrane, which was given to the family on a gauze pad for burial.

U.S. Magistrate Elizabeth Stafford denied bond stating that religion would not be used “as a shield” in the case. However, it is likely that as the case continues, religious freedom will be argued again.¹¹⁹

What remains to be seen at the trial is that will women’s rights be asserted or will they be diluted in favor of political correctness? Can Islamophobia be used as a defense for FGM?

12. MATTER OF KASINGA:

The 1996 Board of Immigration Appeals decision in the Matter of Kasinga was the first precedent decision establishing that women fleeing gender-based persecution, in this case specifically female genital cutting, could be eligible for asylum in the United States.

Facts:

Fauziya Kassindja fled her home in Togo when she was 17 to escape female genital cutting and life in a forced polygamous marriage. Her father had been protecting her from female genital cutting, a widespread practice among their tribe in Togo, but after his death, Fauziya’s paternal aunt took over their household. Her aunt forced Fauziya into marriage with a much older man who already had several wives, and told her she would soon be forced to undergo female genital cutting. Fauziya fled first to Ghana, then to Germany. She arrived in the United States in 1994, immediately requested asylum, and was placed in detention, where she remained for over a year.

Decision: In this case, FGM was held to be a valid reason for granting asylum to the woman. Though this decision was criticized because it was argued that gender specific reasons cannot be used for granting asylum.

13. CONCLUSION:

Human rights violations against women and girls include harmful practices, such as child, early and forced marriage, and FGM; lack of reproductive rights and reproductive health care; and women’s and girls’ unequal access to education, employment, leadership and decision-

¹¹⁹ *Ibid.*

making. The post-2015 international sustainable development agenda recognizes the key importance of gender equality, both in its own right and in achieving all sustainable development goals. A major barrier to equality is women's and girls' lack of control over their bodies, and violations of sexual and reproductive health and rights.

There is compelling information for the need to continue accelerating and scaling up the abandonment of harmful practices such as FGM. **If programmatic interventions and financial resources remain the same or decline, over 15.2 million girls will be subjected to FGM by 2020. This number is staggering. However, if the 17 target countries achieve their targets, 4 million girls will be protected from FGM.**

Approximately 130 million girls and women have undergone FGM in countries from where data is available. Over the past five years, prevalence has decreased due to targeted efforts, encompassing strengthened national ownership, capacity and leadership for abandonment; partnerships and coordination among national and community level actors; and the integration of programmatic approaches, strategies and initiatives into national interventions. These efforts are rooted in a comprehensive, human rights based, culturally sensitive approach, with consistent focus on changing value attributed to girls and women affected by FGM.

As female genital mutilation becomes better understood as a form of gender violence that perpetuates inequality, survivors, human rights advocates and governments in the countries where FGM is most commonly practiced have formed a global community of voices calling for an eradication of the custom.

An important observation to be taken into account while addressing the vices of the practice, is its effect on the society's economy. Women who are FGM victims usually need more health care to deal with complications, which is a burden on the health service system run by the state. Women with FGM use a considerable share of the funds allocated for government hospitals in treating side effects caused by FGM. Women and girls are also the backbone of the economy, especially when it comes to labor in the traditional agricultural industry that is so prevalent in rural societies in countries like Sudan. Many women who have had to undergo FGM, experience long-term side effects, chronic infections, and pain that prevents them from participating in the economy or workforce. Therefore the side effects of the FGM and the health deterioration that follows in most cases impede economic growth in such areas. This is true for both rural settings, as well as for urban jobs. When women are not able to participate fully in the workforce due to debilitating FGM-related health problems, it hurts the economy as a whole.

On 20 December 2012, the United Nations General Assembly adopted a Resolution to Ban FGM worldwide. The Resolution [A/RES/67/146] was cosponsored by two thirds of the General Assembly, including the entire African Group, and was adopted by consensus by all UN members. The resolution, which was hailed by the **Ban FGM Campaign**, reflects universal agreement that female genital mutilation constitutes a violation of human rights, which all countries of the world should address through “all necessary measures, including enacting and enforcing legislation to prohibit FGM and to protect women and girls from this form of violence, and to end impunity”.

The adoption of a worldwide ban on FGM by the United Nations General Assembly constitutes a paradigm shift in the fight against this widespread and systematic human rights violation, committed against millions of girls and women in Africa and around the world.

The majority of countries in the world lack legislation to protect these women and girls; where laws have been enacted, political will to implement them effectively seldom follows. Therefore, the adoption of the Resolution is not an end in itself: it is just the beginning of a new chapter in the fight against FGM. It is now up to all States and all of us to work together, so that the women and girls of tomorrow will be free from the threat of FGM.

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