FGM Research Collaboration Panel Newsletter
28 Too Many and OxLWOB

Introduction

The Oxford Lawyer's Without Borders (OxLWOB) and 28 Too Many Research Collaborative Panel is in its second year. The 2014/15 panel has shifted focus from an interdisciplinary approach, where research ranged from religion to media to governmental policies, to a study of law and enforcement related to FGM. The aim of this research is to provide comparisons between FGM-practising countries in Africa to support 28 Too Many's research and develop our own sense of civic engagement. We have included an overview of international laws to demonstrate the global stance on FGM, and examine FGM and legislation in the UK as a means of understanding diaspora FGM practises. Our research has helped to better our understanding of how FGM is a global issue, which impacts lives and legislation at home and abroad. Through developing our knowledge of FGM, we take a step further on the journey to the practice's abandonment.

A Brief Note from 28 Too Many

28 Too Many partnered with OxLWOB to create a research panel to harness the passion and commitment of students at Oxford University to help end FGM. Knowledge and understanding of FGM is essential to break through the barriers that prevent the abandonment of this ancient practice. Through our research we can educate others and support local initiatives against FGM to develop effective strategies to end FGM.

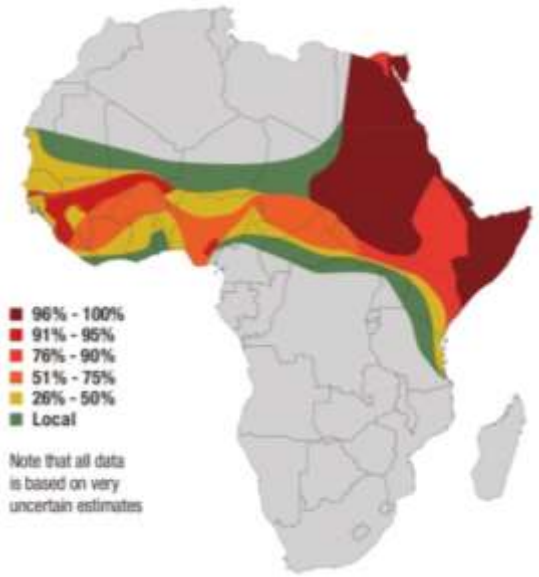
Research by the students contributes to our country profiles on FGM and other research reports, and we are grateful for the time volunteered and dedication of the panel members. The panel is a great example of collaboration with students from different disciplines working together through two organisations to help others. It is by working together that we will end FGM.

About the Panel and Access Information

The 2014-15 FGM Panel Members from the University of Oxford are:

Panel Leader: **Lily Pinder**, Law, St. Edmund's Hall [Senegal]
Panel Members: **Victoria Halsall,** Law, Corpus Christi [Kenya], **Ciar McAndrew,** Law, Hertford College [Laws Relating to FGM], **Lucy Davies**, Philosophy and Theology, St Peter's College [Nigeria and Sierra Leone], **Charlotte De Val**, Women's Studies, Wadham College [Sudan and Uganda], **Lily Johnson**, Philosophy and Theology, Regent's Park College [Tanzania]

Thanks go to Katherine Allen (DPhil History, Wolfson College) for acting as the panel supervisor, editor, and liaison with 28 Too Many, and to **Dr Tobe Levin** for her role as external supervisor to the panel.



FGM Prevalence in Africa (28 Too Many (Afrol News))

Laws Relating to FGM

'We adopt the perspective that laws are significant because of the transcendent principles outside the means-end relationship for which they stand. Law is a key ingredient in the social construction of reality...In this way, laws have real consequences in fuelling eradication efforts regardless of whether local individuals are actually prosecuted under them.'
-Boyle and Preves (2000)

International Laws

Universal Declaration of Human Rights (1948)

- Article 2: *'Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind such as race, colour, sex'*
- Article 3: *'Everyone has the right to life, liberty and security of person'*
- Article 5: *'No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment'*
- Article 25 (1): *'Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including...medical care'*

International Covenant on Civil and Political Rights (1966)

- Article 9(1): *'Everyone has the right to liberty and security of person'*

International Covenant on Economic, Social and Cultural Rights (1966)

- Preamble: *'...recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world'*
- Article 12: *'The States Parties to the present Convention recognise the right of everyone to the enjoyment of the highest attainable standard of physical and mental health'*

Convention on the Elimination of all Forms of Discrimination against Women (1979)

- Article 1: *'"...discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field'*
- Article 5(a): *'States parties shall take all appropriate measures to modify the social and cultural patterns of conduct of men and women, 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'*
- Article 12(1): *'States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning'*
    - General Recommendation No.24, Committee on the Elimination of Discrimination against Women (1999) expands on the content of Article 12, and its inherent obligation to protect rights, which, *'requires States parties...to take action to prevent and impose sanctions for violations of rights by private persons and organisations. Since gender-based violence is a critical health issue for women, States parties should ensure...d) the enactment and effective enforcement of laws that prohibit female genital mutilation and marriage of girl children'*

      'Some cultural or traditional practices such as female genital mutilation also carry a high risk of death and disability...Harmful traditional practices, such as female genital mutilation...may also expose girls and women to the risk of contracting HIV/AIDS and other sexually transmitted diseases'

- General Recommendation No.19 on Violence Against Women, Committee on the Elimination of Discrimination against Women (1992) expands on the content of Article 12: *'States parties are required by article 12 to take measures to ensure equal access to health care. Violence against women puts their health and lives at risk. In some States there are traditional practices perpetuated by culture and tradition that are harmful to the health of women and children. These practices include...female circumcision or genital mutilation'*

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)

- Article 16: *'Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture...when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity'*

Convention on the Rights of the Child (1989)

- Article 2: *'(1): States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's...sex...national, ethnic or social origin; (2) States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members'*
- Article 3(1): *'In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration'*
- Article 3(2): *'States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being'*
- Article 19: *'States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse'*
- Article 24: *'States Parties recognise the right of the child to the enjoyment of the highest attainable standard of health'*
- Article 37: *'The States Parties shall ensure that: (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment'*

General Recommendation No.14, Committee on the Elimination of Discrimination against Women (1990)

- *'Noting with satisfaction that Governments...national women's organisations, non-governmental organisations, and bodies of the United National system...remain seized of the issue having particularly recognised that such traditional practices as female circumcision have serious health and other consequences for women and children...Noting with grave concern that there are continuing cultural, traditional and economic pressures which help to perpetuate harmful practices, such as female circumcision'*
- *'Recommends that States Parties:*
  (a) Take appropriate and effective measures with a view to eradicating the practice of female circumcision... [including]...the encouragement of politicians, professionals, religious and community leaders at all levels, including the media and the arts, to co-operate in influencing attitudes towards the eradication of female circumcision...[and] include in their national health policies appropriate strategies aimed at eradicating female circumcision in public health care. Such strategies could include the special responsibility of health personnel, including traditional birth attendants, to explain the harmful effects of female circumcision'

Regional Laws in Africa

African Charter on Human and Peoples' Rights (1981)

- Article 2: *'Every individual shall be entitled to the enjoyment of the rights and freedoms recognised and guaranteed in the present Charter without distinction of any kind such as...sex'*
- Article 4: *'Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right'*
- Article 5: *'...All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited'*
- Article 16: *'(1): Every individual shall have the right to enjoy the best attainable state of physical and mental health. (2) States parties to the present Charter shall take the necessary measures to protect the health of their people and to ensure that they receive medical attention when they are sick'*
- Article 18(3): *'The State shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions'*
- Article 27 (2):*'The rights and freedoms of each individual shall be exercised with due regard to the rights of others, collective security, morality and common interest'*

African Charter on the Rights and Welfare of the Child (1990)

- Article 1(3): *'Any custom, tradition, cultural or religious practice that is inconsistent with the rights, duties and obligations contained in the present Charter shall to the extent of such inconsistency be discouraged'*
- Article 3: *'Every child shall be entitled to the enjoyment of the rights and freedoms recognised and guaranteed in this Charter irrespective of the child's or his/her parents' or legal guardians'...sex'*
- Article 4(1): *'In all actions concerning the child undertaken by any person or authority the best interests of the child shall be the primary consideration'*
- Article 14(1): *'Every child shall have the right to enjoy the best attainable state of physical, mental and spiritual health'*
- Article 16(1): *'States Parties to the present Charter shall take specific legislative, administrative, social and educational measures to protect the child from all forms of torture, inhuman or degrading treatment and especially physical or mental injury or abuse, neglect or maltreatment'*
- Article 21(1): *'States Parties...shall take all appropriate measures to eliminate harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child and in particular: (a) those customs and practices prejudicial to the health or life of the child; and (b) those customs and practices discriminatory to the child on the grounds of sex or other status'*

African Charter on Human and Peoples' Rights, Protocol on the Rights of Women in Africa (2003)

- Article 1(f): *'"Discrimination against women" means any distinction, exclusion or restriction or any differential treatment based on sex and whose objectives or effects compromise or destroy the recognition, enjoyment or the exercise by women, regardless of their marital status, or human rights and fundamental freedoms in all spheres of life'*
- Article 1(j): *'"Violence against women" means all acts perpetrated against women which cause or could cause them physical, sexual, psychological and economic harm'*
- Article 5: *'States Parties shall prohibit and condemn all forms of harmful practices which negatively affect the human rights of women and which are contrary to recognised international standards. States parties shall take all necessary legislative and other measures to eliminate such practices, including...(b) prohibition, through legislative measures backed by sanctions, of all forms of female genital mutilation, scarification, medicalisation and para-medicalisation of female genital mutilation and all other practices in order to eradicate them'*
- Article 14(1): *'States Parties shall ensure that the right to health of women, including sexual*

and reproductive health is respected and promoted'

African Union: Solemn Declaration on Gender Equality in Africa (2004)

- Paragraph 6: The States Parties hereby agree to: *'Ensure the active promotion and protection of all human rights for women and girls including the right to development by raising awareness or by legislation where necessary'*

****

Kenya

In Kenya, the prevalence of FGM for women and girls aged 15-49 is 27.1% (28 Too Many, 2013). This figure, however, varies between geographical areas, with UNICEF classifying Kenya as a group 2 country as only certain ethnic groups practise FGM at varying rates (UNICEF, 2005). The rate of FGM prevalence has decreased steadily from 37.6% in 1998, but rates vary between 0.8% in the west to over 97% in the north-east (DHS, 2009). FGM is more prevalent in rural as opposed to urban areas.

Type of FGM performed also varies; the most common types being Type I or Type II (some form of clitoridectomy or excision, although a percentage breakdown between the two categories is not known), which is around 83% of cases (28 Too Many, 2013). The reasons for performing FGM vary between ethnic groups. Some groups, like the Maasai, see it as a rite of passage, while others link FGM to concepts of family honour or to control women's sexual desires. FGM is performed mostly on girls between the ages of 12 and 18, although there is an increasing tendency to cut girls earlier (between the ages of 7 and 12) (28 Too Many, 2013).

Turkana mother and child (© 28 Too Many)

International Treaties

In 2001 Kenya signed and ratified the African Charter on the Rights and Welfare of the Child, adding to its human rights obligations as already undertaken in 1992 by the signing and ratifying of the African Charter on Human and Peoples' Rights.

National Laws

In 2011 the laws relating to FGM were replaced and consolidated into the Prohibition of Female Genital Mutilation Act 2011. This law criminalises all forms of FGM performed on anyone, aiding FGM, taking someone abroad to have FGM and any form of stigmatisation for women who have not had FGM. Anyone convicted of these offences can go to prison for between three and seven years, and be fined Sh500,000 (around 5,500 US dollars, or £3500). If a girl dies as result of FGM, those responsible can be convicted of murder, which carries a life sentence. An offence is also committed when a person is aware that FGM has occurred, is in the process of occurring, or intends to be carried out or fails to report accordingly to a law enforcement officer. These provisions emphasise that it is a citizen's duty to report FGM (Kenya Law, 2011).

Enforcement

Statistics from a 2014 report on FGM by Kenya's Inspector General of Police shows relatively few convictions. Between 2011 and 2014, a total of 71 cases were taken to court. Of those, only 16 resulted in convictions. There were 18 acquittals, four cases were withdrawn, and 33 are pending (*The Guardian*, 2014). One such pending case is that of Jackson Lesale Lanoi and his wife, Eunice Sintana Lesale, who are charged with murder after 13-year-old Raima Ntagusa died when her FGM procedure went wrong. They were her guardians and had already dug a shallow grave nearby in case of any issues with the procedure. The longest prison sentence given so far was handed down to a father and his accomplice, who were jailed for 10 years for manslaughter after a 12-year-old girl bled to death (Thomson Reuters Foundation, 2014).

While it is evident some success can be seen in the prosecution of FGM, the low rates of cases taken to court shows that the sheer size of Kenya and a lack of enforcement at a local police level have made widespread prosecution of the crime difficult.

In addition there are a number of challenges that make implementation of the 2011 legislation difficult. FGM is a highly entrenched cultural practice and belief, making any attempts to change widespread opinion difficult. Dissemination of information is moreover made challenging by the high levels of illiteracy within the country. Furthermore, the police have had problems ensuring adequate protection and enforcement, due to the massive geographical expanse and practicalities of reaching the remote population.

Since many politicians fear losing their seats if they oppose FGM, there is a lack of political support, meaning no real examination of whether the laws are being enforced by the police, and resources and opportunities to educate and inform the population are often limited to those provided by initiatives such as non-governmental organisations (28 Too Many, 2013).

****

Tanzania

FGM in Tanzania has decreased in prevalence from 17.7% among women and girls aged 15-49 in 1996 to 14.6% in 2004 (28 Too Many, 2013). The prevalence has, however, remained static between 2004 and 2010 and this decrease has mainly been concentrated around urban areas. Of the regions with the highest prevalence, four increased in prevalence from 2004 to 2010.

In the Manyara region, for example, 81% of women and in Dodoma 68% of women have undergone the procedure (Makoye, 2013). The other regions with the highest rates of FGM are Arusha, Kilimanjaro, Mara and Singida, all of which have prevalence rates of between 20% and 70% (28 Too Many, 2013). As well as location, prevalence is related to ethnicity, with 20 of Tanzania's 130 ethnic groups practising FGM (United Nations, 2009).

International Treaties

Tanzania has ratified the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, meaning that they are mandated to legally prohibit the practice of FGM (Legal and Human Rights Centre, 2009).

National Laws

The Sexual Offences Special Provisions Act of 1998 Article 169A prevents FGM from being performed on girls under the age of 18, but it offers no protection for women once they pass that age threshold. This is because the prohibition of FGM comes under the section of the law focused on child protection. The law is phrased as such:

- '*Any person who, having the custody, charge or care of any person under eighteen years of age… causes female genital mutilation… commits the offence of cruelty to children*.'

- '*Any person who commits the offence of cruelty to children is liable on conviction to imprisonment*' (National Assembly of Tanzania, 1998)

In addition to this, the Tanzanian Government currently has in place the National Plan of Action to Combat FGM 2001-2015 (Legal and Human Rights Centre, 2009).

Enforcement

At least 52 cases of violation of this law have been reported, filed and prosecuted, resulting in 10 convictions (United Nations, 2009). Despite these successful prosecutions, there have been reports that some regions are not willing to follow up on FGM cases. For example, there are reports that police in the Babati district of the Manyara region ignored a report that a 12-year-old girl had undergone FGM, and they did not take action against the circumciser (Legal and Human Rights Centre, 2009). Remote areas, in particular, are fairly untouched by the laws as there is a lack of sufficient knowledge of the law in these areas.

As 46% of girls who have undergone FGM were cut before they were aged four, there are fears that the threat of punishment has led to girls undergoing FGM at an even younger age. Reports show that some infants being subjected to FGM by midwives at birth (28 Too Many, 2013). FGM on infants causes problems in terms of prosecutions because most of those who are cut are too young to speak out. Girls also find it difficult to speak out against influential members of their community for fear of reprisals.

One of the main limitations on the effectiveness of the anti-FGM law is that it makes no provision for the protection of women over the age of 18, leaving them vulnerable to societal and familial pressure (Makoye, 2013). This is especially problematic as FGM remains part of the traditional preparation for marriage in some areas, making older girls vulnerable.

Masaii Women, Arusha (© 28 Too Many)

****

Uganda

FGM rates in Uganda are among the lowest of the 28 African nations where it is practised. UNICEF estimates that 1% of Ugandan women and girls aged 15 to 49 have undergone FGM (UNICEF, 2013). There is a high prevalence of FGM within a number of minority ethnic groups. In Uganda, the ethnic groups practising FGM are found mostly in the north east. Among the Sabiny in the east the prevalence is 50%, and among the Pokot in the North-Eastern Karamoja Region the prevalence is 95% (28 Too Many, 2013). Regionally, the prevalence of FGM in Karamoja is 4.5%, compared to 2.3% in the Eastern Region and 2% elsewhere. The national prevalence rose from 0.6% in 2006 to 1.4% in 2011, with the rate decreasing in the main regions where practised (particularly in the Eastern Sabiny region) but increasing in other areas (28 Too Many, 2013).

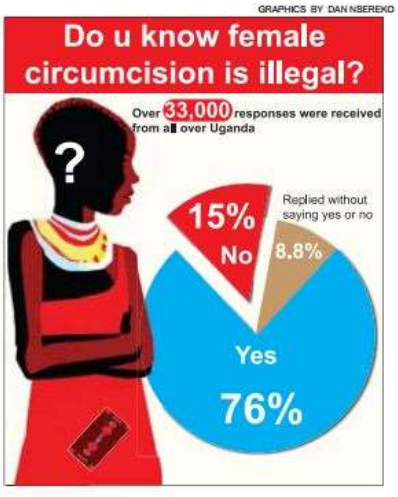
International Treaties

- Convention on the Elimination of Discrimination Against Women (CEDAW) (signed 1980, ratified 1985)
- African Charter on Human and People's Rights (the 'Banjul Charter') (ratified 1986)
- International Covenant on Economic, Social and Cultural Rights (ICESR) (ratified 1987)
- Convention on the Rights of the Child (CRC) (ratified 1990)
- African Charter on the Rights and Welfare of the Child (signed 1992, ratified 1994)
- Maputo Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the 'Maputo Protocol') (ratified 2010)

National Laws

Before 2010, the Penal Code Act prohibited grievous harm, unlawful wounding, assault and actual bodily harm. These complex and ambiguous laws proved ineffective in prosecuting FGM, however, particularly when FGM is not considered harmful or a form of assault. After a series of district by-laws, including in the eastern region of Kapchorwa, between 2006 and 2008, the 2010 anti-FGM law made FGM unconstitutional, disallowing culture, religion or consent as defences.

The law also made it illegal to discriminate or stigmatise a woman who has not undergone FGM and included an extra-territorial clause (15), stating that the act '*shall apply to offences under this Act committed outside Uganda where the girl or woman upon whom the offence is committed is ordinarily a resident in Uganda*.' The maximum penalty for the crime is life imprisonment (applicable for aggravated FGM) and the normal sentence is ten years (28 Too Many, 2013).



Public attitudes to FGM in relation to law and culture (UNICEF, 2012 © 28 Too Many)

Enforcement

In 2011, ten legal actions were brought against perpetrators of FGM. By July 2012, 20 arrests were pending investigation, two prosecutions had been made and one successful prosecution was made with a sentence of a caution (UNFPA/UNICEF, 2011). Three people found conducting FGM on 20 women in Bukwo District were arrested in December 2012, with the case pending hearing at the end of the year (United States Department of State, 2013).

In 2012, 15 cases were dismissed for want of prosecution. There was one successful prosecution of a traditional circumciser in 2012, and she stated her intention to reform and pronounced her abandonment of practising FGM after four months imprisonment. However, she was soon suspected of secretly cutting 11 girls and was wanted by police (UNFPA/UNICEF, 2013). In November 2014, five men and women in Kapchorwa were sentenced to four years in prison for carrying out FGM for procuring, aiding and abetting FGM after telling court they had cut themselves (*Daily Monitor*, 2014).

These prosecutions suggest relative success of the 2010 Act. The 'swift enforcement' reported by UNICEF-UNFPA in 2012 was attributed to capacity built from training and disseminating information about the law. The convictions in Kapchorwa appear particularly significant as a region where legislation was introduced before the national act, perhaps suggesting that successful prosecutions are possible with longer-term, regional engagements with FGM legislation.

In 2012, 228 professionals trained in enforcement and 15,388 individuals were informed about the law. The government, however, reported difficulties in enforcing legislation (UNFPA/UNICEF, 2013). FGM is increasingly practised underground or by travelling over the border to Kenya, making prosecution and gathering statistics difficult despite the extra-territorial clause in the 2010 Act. Criminalising has also resulted in fewer patients receiving medical treatment after FGM for fear of punishment (28 Too Many, 2013).

The regions where FGM is more prevalent are remote and historically resistant to outside intervention, making it difficult to form constructive relationships for education and healthcare in the communities. This is in addition to a high turnover of police officers in these areas due to hardship of working conditions, further reducing the ability to form trust (28 Too Many, 2013). Many of these issues are being addressed through local programmes, such as monitors circulating villages to identify families planning on carrying out the procedure during summer holidays (28 Too Many, 2013). Public abandonment of FGM by respected figures in the community, furthermore, contributes to the enforcement of legislation and preventative measures through education.

****

Senegal

It is estimated that about 28.2% of girls and women aged 15 to 49 years have undergone FGM in Senegal. The most prevalent types of FGM practiced are Types I and II which are used in about 82.7% of cases. There are considerable differences between FGM prevalence in urban and rural areas: prevalence among girls and women aged 15 to 49 in rural areas is about 34.4%, compared with 21.7% in urban areas (28 Too Many, 2013).

International Treaties

- Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (ratified, 2004)
- African Charter on the Rights and Welfare of Children (ratified, 1998)
- Convention on the Rights of the Child (ratified, 1990)
- Convention on the Elimination of all Forms of Discrimination Against Women (ratified, 1985)
- African Charter on Human and People's Rights (ratified, 1982)
- International Covenant on Economic, Social and Cultural Rights (ratified, 1978)
- International Covenant on Civil and Political Rights (ratified, 1978)

National Laws

Even without the direct requirement that State parties legislate and take measures to eliminate FGM in Article 5 of the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, Senegal legislated against FGM in January 1999. Article 299 of the Amended Penal Code says that '*Any person who violates or attempts to violate the integrity of the genital organs of a female person by total or partial*

ablation of one or several of the organ's parts, by infibulations, by desensitization or by any other means shall be punished by imprisonment from six months to five years.' The offence further provides that FGM results in death then the punishment will be 'hard labour for life'.

Enforcement

President Diouf (the second President of Senegal) fought for the 1999 Legislation claiming: '*we must fight relentlessly…a specific law might be necessary in order to show government commitment…governments and NGOs should join efforts to convince the populations of the danger…and induce attitudinal changes…Every village should initiate debates on excision in excision in order to make everybody realize that the time has come to ban such traditional practices forever*'.

This attitude continued following the accession to power of a new President, President Abdoulaye Wade in March 2000, when the new Minister of Family and National Solidarity began a study of the practice in Senegal, focusing on encouraging activist groups to work together and reviewing the effect of the 1999 Law. Further surveys were carried out in 2005 (the first national household survey in the country on FGM) and 2010-2011 (data was collected on girls under 10 for the first time using the first combined Senegal DHS/MICS).

In 2008, the Prime Minister with the help of UNFPA-UNICEF Joint Programme on FGM/FGC launched a 'National Action Plan for the Acceleration of the Abandonment of FGM' for 2010 to 2015. In the same year they also hosted a sub-regional meeting with Gambia, Guinea, Guinea-Bissau, Mali and Mauritania to share advice on how to reach this goal.

****

Sierra Leone

With 89.6% of women and girls between the ages of 15-49 years reportedly having been cut, FGM prevalence in Sierra Leone is among the highest rates in the 28 practising African nations (DHS, 2013). The prevalence of FGM is higher in rural areas at 94.3%, compared to 80.9% in urban areas. Correspondingly, FGM prevalence is highest in the Northern (rural) districts and lowest in the Western (urban) districts (28 Too Many, 2014). Though the most common types of FGM are Type I and Type II, there has been a reported increase in Type III (infibulations) in Sierra Leone (28 Too Many, 2014). Overall, the current statistics show a slight reduction in the rates of FGM from 91.3% reported in 2008 (DHS, 2008).

The practice of FGM in Sierra Leone has strong ties with membership to the Bondo secret women's societies, whose initiation ceremonies often include FGM. As part of Bondo society, FGM is linked to marriageability, a rite of passage to womanhood and sexual control. 90% of women (from all ethnic backgrounds except Krio) are members of Bondo (28 Too Many, 2014).

Girls from Kailahun District during the 'wash hands' ritual at the end of the initiation (©NMDHR via 28 Too Many)

International Treaties

- African Charter on Human and People's Rights (signed 1981, ratified 1983)
- Convention on the Rights of the Child (ratified 1990)
- African Charter on the Rights and Welfare of the Child (signed 1992, ratified 2002)
- International Covenant on Economic, Social and Cultural Rights (ratified 1996)
- Maputo Protocol to the African Charter on Human and Peoples' Rights on the Rights of the Women in Africa (signed 2003)
- Convention on the Elimination of Discrimination Against Women (signed 2007)

National Laws

The Sierra Leonean Government has not yet passed any legislation that criminalises FGM. They have, however, implemented national laws which may provide grounds for prohibiting FGM. Within the Constitution certain clauses require the State to '*discourage discrimination [based] on... sex*' (Article 6(2)), protect '*the dignity'* and *'sanctity of the human person'* (Article 8(2)), maintain

right to '*life, liberty, [and] security'* (Articles 15) and stipulates that *'care and welfare of the...young...shall be actively promoted and safeguarded*' (Article 8(3)).

Following the UN Convention on the Rights of the Child, The Child Rights Act (2007) prohibits '*cruel, inhuman or degrading'* treatment of children (The Sierra Leonean Web, 2007) including cultural practices with severe health consequences. Yet, the ban on harmful traditional practices, interpreted as effectively a ban on FGM, was removed by Parliament from the final version due to its widespread cultural acceptance (28 Too Many, 2014).

The Government also adopted The Sierra Leone National Action Plan on Gender-Based Violence (2012-2016) and other policies aimed at ending gender inequality (28 Too Many, 2014). Increasing awareness of GBV issues, including FGM, could provide the groundwork for introducing legislation to prohibit FGM.

In 2012, the Memorandum of Understanding set up to criminalise FGM among children. Though it was signed by eight of the country's 14 districts, FGM continues in many of these areas as it is perceived as a positive, important cultural tradition with health and hygiene benefits (IRIN Africa, 2012).

As a result of the Ebola crisis in West Africa in 2014, the Sierra Leonean Government temporarily banned FGM until the virus is eradicated. Sowies, women responsible for many activities of Bondo societies, are the primary practitioners of FGM and perform it as part of initiation. As of November 2014, a fine of Le500, 000 (US $113.65) was imposed on dissenters in order to prevent transmission of Ebola between sowies and initiates (*Awareness Times*, 2014).

Enforcement

Attempts to criminalise and eradicate FGM in Sierra Leone are difficult due to the social power and centrality of Bondo. Approximately 60% of women of voting age have undergone FGM. Their subsequent political leverage and social influence hinders the passing and enforcing of anti-FGM laws (IRIN Africa, 2012). FGM is also perpetuated in part because of its appeal to young women with few economic prospects. For example, Musu Sankoh worked, like her mother, as a sowie for 15 years earning an average salary of Le50, 000 (US $11.36) per girl. Yet, once aware of the detrimental physical and psychological effects of FGM, Sankoh joined the National Movement for Emancipation and Progress, which aims to find alternative sources of income for sowies (Al Jazeera, 2014)

Legislating against FGM is further complicated by Sierra Leone's dualistic legal system, whereby 85% of districts are under the jurisdiction of customary as well as (and often above) formal law. Customary law divides Sierra Leone's 14 districts into 149 chiefdoms led by Paramount Chiefs, further sub-divided into Chief-run towns and villages, resulting in possible by-laws and decentralisation of authority (28 Too Many, 2014).

Nevertheless, we are beginning to see gradual change in attitudes in the new generation. Within the 45-49 age range 75.4% of women and 51.5% of men are in favour of FGM, as opposed to 52.9% of women and 43.5% of men in the 15-19 age range (DHS, 2008). This indicates that the number of international and local initiatives, movements and NGOs that are dedicated to eradicating FGM in Sierra Leone are having an impact.

Though the taboo remains some, like Priscilla Karim who underwent FGM at age nine, are speaking out and publically expressing their experience of an excruciating ordeal they felt forced to keep secret (*BBC*, 2014). Many women and girls no longer see FGM as a beneficial and indispensable tradition, but as detrimental to their health and happiness. In breaking down societal support and spreading awareness of its negative impact, this allows for an increasing possibility of legislating against FGM in Sierra Leone.

****

Nigeria

Due to its large population, Nigeria accounts for the highest absolute number of FGM cases worldwide. Prevalence of FGM among women aged 15-49 was estimated at 24.8% in 2013 (DHS), which has declined from an estimated 27% in 2011 (MICS). In Nigeria, FGM is typically undergone at a young age with 82% having had the procedure before their fifth birthday. The proportion of women who have had FGM varies between religious and ethnic groups (lowest among Muslim women (20%) and highest among traditionalist women (35%)). It is also more common in urban areas at 32%, than rural areas at 19%. Overall, the most prevalent types of FGM undergone are Type I and Type II, cutting where flesh is removed.

Though awareness of FGM in Nigeria is widespread (68% of women and 62% of men aged 15-49 have

heard of FGM), attitudes to it vary. The predominant reasons given for FGM include it being a cultural (not religious) dictate and good tradition (FGM Network, 2010), aimed to reduce women's sexual desire and stimulation in order to preserve virginity and marital fidelity (Nnorom, 2007). FGM is also linked to perceived benefits such as increased beauty and health (including the belief that removal of the clitoris prevents vaginal cancer, infertility and bad odour), and safety for babies and partners (for instance, the belief that a baby will die if its head touches the clitoris during birth) (Nnorom, 2007).

Moreover, the majority of women and men in Nigeria (64 % (or 66% (MICS 2011)) and 62 % respectively) do not think FGM should continue. This is due, in part, to changing cultural attitudes towards FGM and an increasing awareness of medical complications associated with it (Nnorom, 2007).

International Treaties

- African Charter on Human and People's Rights (signed 1982, ratified 1983)
- Convention on the Elimination of All Forms of Discrimination against Women (signed 1984, ratified 1985)
- Convention on the Rights of the Child (signed 1990, ratified 1991)
- International Convention of Economic, Social and Cultural Rights (ratified 1993)
- African Charter on the Rights and Welfare of the Child (signed 1999, ratified 2001)
- Maputo Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (signed 2003, ratified 2004)

National Laws

The Nigerian Government has not passed legislation criminalising FGM. However, certain national laws used alongside international treaties, provide grounds for prohibiting FGM. Section 34(1)(a) of the Constitution states that none *'shall be subjected to torture or inhuman or degrading treatment'* which is applicable to FGM in light of its severe health risks. Further, the Child's Rights Act (2003) provides a legal framework for prosecuting those violent against children; Part III (21-40) requires protection against discriminatory, harmful and exploitative practices, as well as infliction of skin marks, and under which FGM can be categorised (Federal Ministry of Women's Affairs, 2004).

In addition, twelve of Nigeria's 36 states have banned FGM with local laws, including Abia, Bayelsa, Cross River, Delta, Ebonyi, Edo, Ogun, Osun and Rivers. The prison terms and fines stipulated by each state vary. For instance, the law in Edo (1999) subjects offenders to six months imprisonment and a fine of 1000 Naira (US$10)) (US Dept. of State, 2001), whereas in Cross River offenders receive a fine and prison sentence of two years with an extra three years for each repeated offence. Likewise, the Sharia Penal Codes of Zamfara, Kano, Kebbi, Kaduna and Sokoto States protect children against various forms of physical and psychological violence (Federal Ministry of Women's Affairs, 2004).

In 2002 the Government implemented the National Policy and Plan of Action on elimination of FGM, under which FGM is considered a form of violence against female children and an infringement on their right to life, health, dignity and integrity. Further, since 2005, Nigeria officially observes the annual International Day for Zero Tolerance to Female Genital Mutilation (AFROL News, 2004).

Enforcement

The eradication of FGM in Nigeria is slowly progressing. However, even with the support of national Government policies, action plans and outright bans by some Nigerian states, prosecutions are rare. Sectors of the Government, the Inter-African Committee (IAC) on Harmful Traditional Practices, UNICEF, the WHO Nigerian Office, and international and local organisations are working together to change attitudes and beliefs towards FGM. Initiatives include improving education about and awareness of FGM's potentially harmful, and sometimes fatal, consequences. Nonetheless, enforcement in states with either general or specific legislation prohibiting FGM is complex. This is particularly the case when strong cultural belief in and widespread acceptance of FGM is coupled with inadequate implementation of anti-FGM laws, and insufficient fines and prison sentences (FGM Network, 2010), which can lead to a relaxed and even contemptuous attitudes towards enforcement among FGM practitioners (UN Women's Watch, 2009). Further difficulties arise with the documentation of prosecutions and the impact of laws when implemented, initially detecting cases of FGM, gathering sufficient evidence, reluctance to report crimes and a general lack of knowledge about the nature and practise of FGM (IQ4 News, 2014). Similarly, although parents of girls who have undergone FGM are

able to lodge complaints at the police stations of states which, by law, prohibit FGM, few pursue this option as it is regarded as a family issue (Immigration and Refugee Board of Canada, 2012).

Young woman at a Fistula Rehabilitation Centre, Nigeria (© 28 Too Many)

****

Sudan

Sudan is considered a very high prevalence country for FGM, with the estimated national rate at 65.5%. Eighty-eight percent of girls and women aged 15 to 49 have undergone FGM, compared to 37% of girls aged 0-14. This is in comparison to neighbouring Egypt, Chad and Ethiopia who have prevalence rates of 91%, 44% and 74% respectively among girls and women aged 15-49. In Sudan, prevalence varies regionally, with rates at less than 80% in the regions of Gadarif, Blue Nile and West Darfur, but more than 90% in the north western states such as North Kordofan (UNICEF, 2009).

Approval rates differ across educational background; girls and women with no education are nearly four times more likely to support the continuation of FGM than those with secondary or higher education (UNICEF, 2013). Unlike many FGM-practising countries, however, in Sudan, daughters of uneducated mothers are *not* more likely to have undergone FGM. In fact, the percentage of girls who have undergone FGM who have mothers with secondary or higher education stands at 75%, compared to 20% of girls with mothers of no education (UNICEF, 2013).

FGM is not limited to a particular religious group; while 90% of Muslim girls and women aged 15-49 have undergone FGM, the rate of girls and women aged 15-49 categorised under 'Other Christians' (as distinct from Roman Catholics) stands at just over 45%. Religious affiliation is nonetheless a factor in the *type* of FGM. While Type III (infibulation) is more common among Muslim women, Type I (sunna) is mainly practised by Christians (UNICEF, 2000 cited in LandInfo, 2008).

Traditionally carried out among the women in northern regions and in the Nile Valley north of Khartoum, the practice has spread to other ethnic groups with no prior tradition, caused partially by the spread of cultural influence through migration and internal displacement (LandInfo, 2008).

International Treaties

- Convention on the Elimination of Discrimination Against Women (CEDAW) (1981, not signed, not ratified)
- African Charter on Human and People's Rights (the 'Banjul Charter') (signed 1982, ratified 1986)
- International Covenant on Economic, Social and Cultural Rights (ICESR) (ratified 1986)
- Convention on the Rights of the Child (CRC) (ratified 1990)
- African Charter on the Rights and Welfare of the Child (ratified 2005)
- Maputo Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the 'Maputo Protocol') (signed, not ratified)

National Laws

Sudan was the first African country to legislate against FGM. Infibulation (Type III) was declared illegal in the 1946 Penal Code, and this was upheld through independence in 1957. Under this law, practitioners could be charged with a fine and/or imprisonment of up to seven years. The law against Type III was dropped with the instatement of Sharia Law in 1983.

The Second Sudanese Civil War (1983 – 2005) has framed much of the legal reform in Sudan. Following the signing of the peace agreement between the Government of Sudan and the Sudan's People's Liberation Army, legislative reform has been long and complex. Both the North and South governments endorse bans on FGM and

while 'constructive discussions' have taken place, there is currently no national law in Sudan against FGM (UNICEF, 2009).

National legislation exists to classify FGM as a violation of professional medical standards: Medical Council Resolution Number 366 prohibits doctors from conducting FGM, and midwives and hospitals may be punished if caught performing Type III (UNFPA and UNICEF, 2013). Despite commitments to eradication, The Council of Ministers withdrew Article 13 of a draft national Children's Act of 2009, which prohibited FGM. In 2013 it was reported that a FGM bill had been in parliament for review since 2007, which would prohibit the practice and set a maximum sentence of 10 years (*Women's ENews*, 2013).

While there is no national legislation against FGM, in November 2008 state-level laws were passed in South Kordofan (the Child Law, which contains an article criminalising FGM, and the Female Genital Mutilation/Cutting Law, which criminalises both the practice and its promotion) (UNICEF, 2009). Furthermore, the Gedaref Child Rights Act 2008/2009 banned all forms of FGM and joins South Kordofan and West Darfur in endorsing state-wide child laws criminalising FGM (UNFPA and UNICEF, 2013). These laws, however, are not enforced.

Enforcement

With a history of legislation against infibulation, the greatest changes in FGM practise observed in Sudan relate to a transition from Type III to Type I, rather than eradication (LandInfo, 2008). The state-level laws are not enforced and, while there are reports that some practitioners had been arrested under the general physical injury law, there is little information available (US Dept. of State, 2001). The governing party has stated plans to end FGM (2007-2018), but there lacks a comprehensive, rights-based plan of action for full implementation (UN, 2010). The main barriers for passing and enforcing legislation against FGM are the on-going legal reform and years of conflict in the region.

Coming up against strong traditional roots, initiatives such as the *Saleema* campaign are leading the abolishment efforts at a grassroots level. The *Born Saleema* (meaning whole) campaign includes training facilitators to carry out community discussions about FGM, and by 2013 1,280 community discussions had taken place in six Sudanese states (UNFPA-UNICEF, 2013). This campaign, however, omits the term FGM, reflecting wider social conservatism and attempts to reconcile abolition with traditional practice. Commitment to national legislation against FGM is needed, in addition to projects to increase knowledge and awareness.

****

The United Kingdom

In addition to the 28 African countries where FGM exists, countries with African diaspora populations like the UK face challenges regarding the practice. Women who have had FGM while previously living abroad are now UK residents, and women and girls residing the UK can be taken abroad to undergo FGM. FGM is also illegally practised in the UK.

It is estimated that 170,000 women and girls living in the UK have had FGM and 65,000 girls aged 13 and under are at risk of FGM in the UK. In the last five years, over 200 national FGM-related cases have been investigated by the police (Home Affairs Committee, 2014).

International Laws

The UK has signed and ratified both the Convention on the Elimination of All Forms of Discrimination against Women 1979 and the UN Convention on the Rights of the Child 1984. Evidence from the Bar Human Rights Committee and the Equality and Human Rights Commission suggests that failure to protect adequately women and girls from FGM may constitute a breach of the UK's obligations under these treaties (Home Affairs Committee, 2014).

National Laws

- **Prohibition of Female Circumcision Act, 1985**

FGM has been a specific offence criminal offence in the UK since 1985. Under the Act it is an offence to commit FGM or to 'aid, abet, counsel or procure' the performance of FGM by another. This Act continues to

apply to offences committed before the subsequent Act came into force in March 2004.

- **Female Genital Mutilation Act, 2003**

There are three offences under this Act:

> Section 1 - 'female genital mutilation' Section 2 - 'assisting a girl to mutilate her own genitalia'
>
> Section 3 - 'assisting a non-UK person to mutilate overseas a girl's genitalia'.
>
> Section 3 had the effect of closing a loophole in the 1985 Act, which did not prohibit the taking of girls settled in the UK to other countries to undergo FGM. In addition, the maximum sentence was increased from five years (under the 1985 Act) to 14 years.

Enforcement

First referral to the Criminal Prosecution Service (CPS) from police took place in 2010. To date the CPS has examined 14 cases, only two of which have resulted in prosecution. Reasons cited by the CPS for discontinuing cases include insufficient or unreliable evidence and victim withdrawal. In January 2015, both prosecutions resulted in a verdict of not guilty.

The first prosecution against Dr Dhanuson Dharmasena, related to an alleged repair of an FGM on a woman following childbirth. The prosecution was criticised by a group of consultant obstetricians and gynaecologists in a letter to *The Guardian* (2014), suggesting that the prosecution of healthcare professionals for 'so-called FGM' were a distraction from the 'real issues'.

Proposals for Reform

Extension of Criminal Offences

The Home Affairs Committee, in their 2014 report on FGM, suggested that the criminal offences under the 2003 Act should be extended to women and girls with temporary residency status, such as students and refugees.

The Serious Crime Bill contains provision to remove the requirement of permanent residency under Section 4 of the 2003 Act for 'an individual who is habitually resident in the United Kingdom'. As of 26 February 2015 the Bill is still before Parliament.

Mandatory Reporting

Between 5 December 2014 and 12 January 2015, the Home Office undertook a consultation process as to introduction of a requirement of mandatory reporting FGM cases. In the Summary of Responses, the Home Office expressed an intention to introduce a new mandatory reporting duty through amendments to the Serious Crime Bill to apply to disclose cases of FGM to victims under the age of 18. This duty would apply to all regulated healthcare and social care professionals and teachers. Duty-holders would have to report the case within one month of disclosure with failure to do so addressed by existing disciplinary procedures.

The proposal has been criticised by the Royal College of Paediatrics and Child Health as unlikely to reduce the prevalence of FGM and as potentially dissuading families from seeking medical help (*The Guardian, 2015*).

Bibliography

Kenya

28 Too Many. 2013. Country Profile: FGM in Kenya.

28 Too Many. 2013. Blog Post, What does our new report reveal and how can country profiles help eradicate female genital mutilation?

DHS. 2009. Kenya Demographic and Health Survey 2008-09.

Kenya Law. 2011. Prohibition of Female Genital Mutilation Act.

Thomson Reuters Foundation. 2014. Kenya Raising Stakes of FGM with almost 50 cases in court.

UNICEF. 2005. Female Genital Mutilation/Cutting: a Statistical Exploration.

Tanzania

28 Too Many. 2013. Country Profile: FGM in Tanzania.

Legal and Human Rights Centre. 2009. The Situation of Women's Rights in Tanzania: Tanzania Human Rights Report 2008.

Makoye. 2013. Thomson Reuters Foundation. In Tanzania, Maasai women who reject FGM are refused as brides.

National Assembly of Tanzania. 1998. The Sexual Offences Provisions Act.

United Nations. 2009. Legislation to address the issue of female genital mutilation.

Uganda

28 Too Many. 2013. Country Profile: FGM in Uganda.
Daily Monitor. 2014. Five Convicted for Aiding FGM.
UNFPA. 2013. UNFPA-UNICEF Joint Programme on Female Genital Mutilation/Cutting: Annual Report 2012.
UNFPA/UNICEF. 2011. UNFPA-UNICEF Joint Programme on Female Genital Mutilation/Cutting: Annual Report 2011.
UNFPA/UNICEF. 2013. Female Genital Mutilation/Cutting: A Statistical Overview and Exploration of the Dynamics of Change.

Senegal

28 Too Many. 2013. Senegal: Key Country Statistics.

Sierra Leone

28 Too Many. 2014. Country Profile: FGM in Sierra Leone.
Al Jazeera. 2014. Ebola Fears Bring Female Genital Mutilation to near halt in Sierra Leone.
Awareness Times. 2014. CODEP & Build on Books Conclude Ebola Sensitization with Community Leaders.
BBC. 2014. FGM Summit: Cameron calls for end 'in this generation'.
DHS. 2008. Sierra Leone Demographic and Health Survey.
DHS. 2103. Sierra Leone Demographic and Health Survey.
IRIN Africa. 2012. Sierra Leone. The Political Battle on FGM/C.
The Sierra Leonean Web. 2007. The Child Rights Act.

Nigeria

AFROL News. 2004. Nigeria Adopts Anti-Female Genital Mutilation Day.
DHS. 2013. Nigeria Demographic and Health Survey.
FGM Network. 2010. The Female Genital Cutting Education and Networking Project. Nigeria: Nigerian Govt. Should Act, Female Genital Mutilation must be Abolished.
Immigration and Refugee Board of Canada. 2012. Nigeria: Whether parents can refuse female genital mutilation for their daughters; protection available to the child.
IQ4News. 2014. Nigeria: Female Genital Mutilation, a Continuing Fight.
MICS. 2011. Nigeria Multiple Indicator Cluster Survey.
Nnorom. 2007. Female Genital Mutilation Practice in Nigeria: Patterns, Prevalence and Remedies.
The Federal Ministry of Women Affairs. 2004. Country Report on Violence Against Children.
UN Women's Watch. 2009. Legislation to Address the Issue of Female Genital Mutilation (FGM).
US Dept. of State. 2001. Nigeria: Report on Female Genital Mutilation (FGM) and Female Genital Cutting (FGC).

Sudan

LandInfo. 2008. Report: Female Genital Mutilation in Sudan and Somalia.
UN. 2010. United Nations Convention on the Rights of the Child. Committee on the Rights of the Child: Fifty-fifth Session, CRC/C/SDN/CO/3-4.
UNFPA-UNICEF. 2013. Joint Programme on Female Genital Mutilation/Cutting: Annual Report, 2012.
UNFPA and UNICEF. 2013. Sudan Case Study: Joint Evaluation of the UNFPA-UNICEF Joint Programme on Female Genital Mutilation/Cutting (FGM/C): Accelerating Change (2008-2012).
UNICEF. 2009. Sudan: An in-depth analysis of the social dynamics of abandonment of FGM/C.
UNICEF. 2013. Female Genital Mutilation/Cutting: A Statistical Overview Exploring the Dynamics of Change.
US Dept. of State. 2001. Sudan: Report on Female Genital Mutilation (FGM) or Female Genital Cutting (FGC).
Women's ENews. 2013. Sudan's Anti-FGM Campaign Avoids Using the Term.

United Kingdom

Home Affairs Committee. 2014. Female Genital Mutilation: the Case for a National Plan.
The Guardian. 2014. FGM charges against doctor criticised by obstetricians and gynaecologists.
The Guardian. 2015. Theresa May's new FGM reporting rule 'will stop families seeking help'.