



## **Beyond Borders Fact Sheet on Female Genital Mutilation** **July, 2009**

### **Synopsis**

Female genital mutilation (FGM) comprises all procedures that involve partial or total removal of the external female genitalia, or other injury to the female genital organs for non-medical reasons. Traditional circumcisers, who often play central roles in their local communities, mostly carry out the practice. Increasingly, however, medically trained personnel are also performing FGM.

FGM is recognized internationally as a violation of the human rights of girls and women. It reflects deep-rooted inequality between the sexes and constitutes an extreme form of discrimination against women. It is nearly always carried out on minors and is a violation of the rights of children. The practice also violates the rights to health, security and physical integrity, the right to be free from torture and cruel, inhuman or degrading treatment, and the right to life when the procedure results in death.

### **Who and Why**

- FGM procedures are mostly carried out on young girls sometime between infancy and age 15, and occasionally on adult women.
- The practice is most common in the western, eastern, and northeastern regions of Africa, in some countries in Asia and the Middle East, and among certain immigrant communities in North America and Europe.
- The World Health Organization (WHO) reports that between 100 and 140 million girls and women worldwide are living with the consequences of FGM.<sup>i</sup> In Africa alone, about 92 million girls age 10 years and above are estimated to have undergone FGM and about three million girls are at risk for FGM annually.<sup>ii</sup>
- The causes of FGM include a mix of cultural, religious and social factors within families and communities.
- FGM may be considered a necessary part of raising a girl properly, and a way to prepare her for adulthood and marriage. FGM can be motivated by beliefs about what is considered proper sexual behaviour, linking procedures to premarital virginity and marital fidelity.
- FGM is also associated with cultural ideals of femininity and modesty, which include the notion that girls are “clean” and “beautiful” after removal of body parts that are considered “male” or “unclean”.
- Though no religious scripts prescribe the practice, practitioners often believe the practice has religious support.
- Research shows that, if practising communities themselves decide to abandon FGM, the practice can be eliminated very rapidly.<sup>iii</sup>
- FGM is often referred to as “female circumcision”. This term implies a comparable practice to male circumcision. However, the degree of excision and trauma involved in FGM is generally much more extensive, including the actual removal of genital organs.



## The Law

***International:*** The issue of FGM was raised at the United Nations (UN) for the first time in 1952. However, it took some 20 years before the UN began official discussion of the issue. In 1984, a seminar in Dakar on “Traditional Practices Affecting the Health of Women and Children”, recommended that the practice be abolished. In 1997, WHO issued a joint statement with UNICEF and the UNFPA against the practice of FGM. A new statement, with wider UN support, was re-issued in February 2008 to increase advocacy efforts for the abandonment of FGM.

FGM is clearly a violation of the rights of the child guaranteed in treaties adopted by the UN. The *Convention on the Rights of the Child* (CRC) has direct implications for the human rights of the child. The UN General Assembly adopted the Convention in 1989 and it was ratified by Canada in 1990. The CRC asserts that children should have the possibility to develop physically in a healthy and normal way and be protected from all forms of cruelty. The CRC establishes the rights of children to gender equality (Art. 2), to freedom from all forms of mental and physical violence and maltreatment (Art.19.1) and to the highest attainable standard of health (Art. 24.1). Article 24.3 of the CRC explicitly requires States to take all effective and appropriate measures to abolish traditional practices prejudicial to the health of children.

***Domestic:*** Canada plays a prominent role in the international arena as a supporter and promoter of women's human rights. In 1995, at the 9<sup>th</sup> UN Congress on the Prevention of Crime and the Treatment of Offenders, Canada introduced a resolution on the “Elimination of Violence Against Women”. The resolution, which was passed by the Congress, strongly urged States to take measures to “... prevent, prohibit, eliminate and impose effective sanctions against rape or sexual assault, sex abuse and all practices harmful to women and girl children, including female genital mutilation.” International conventions, covenants and declarations which Canada has signed recognize that human beings have the inherent right to life, equality, freedom and security, the right not to suffer discrimination, the right to the best possible state of physical and mental health, and the right not to be subjected to torture or to cruel and degrading punishment or treatment.

The *Canadian Criminal Code* (Code) has traditionally been used as the means to address the issue of FGM domestically. In May 1997, the federal government amended the Code and included the performance of FGM as aggravated assault under section 268(3).<sup>iv</sup> Under the Code, any person who commits an aggravated assault is guilty of an indictable offence and liable to imprisonment for a term not exceeding 14 years. A parent who performs FGM on their child may be charged with aggravated assault. Where the parent does not commit the act but agrees to have it performed by another party, the parent can still be convicted as a “party” to the offence under section 21(1) of the Code. Further, s.273.3 of the Code states, “No person shall do anything for the purpose of removing from Canada a person who is ordinarily resident in Canada and who is under the age of eighteen years, with the intention that an act be committed outside Canada that if it were committed in Canada would be an offence against section [...] 268.”<sup>v</sup> As a result, if a parent or guardian arranges for a girl to leave Canada for the purpose of committing FGM, the parent or guardian can be charged either as a summary

conviction or the harsher indictable offence.

Canada has also recognized fear of gender persecution as a ground for claiming refugee status since the early 1990s. In May 1994, the Immigration and Refugee Board granted refugee status to a woman whose 10-year old daughter would have been subjected to FGM if she had been forced to return to her country of origin.<sup>vi</sup>

In many Canadian provinces, a duty to report FGM exists under the policies of the provincial College of Physicians and Surgeons and under the various child welfare acts.

For most Canadians, FGM is a vaguely understood practice usually associated with “distant” and “tradition bound” cultures. Most people know very little about what is involved in the procedure or about the health and sociological implication for the women and girls who are subjected to it. For some time now, Canada has experienced immigrant and refugee movements from countries in which FGM is commonly practised. In Toronto, community groups have estimated that there are 70,000 immigrants and refugees from Somalia and 10,000 from Nigeria, both of which are countries in which FGM is commonly practised.<sup>vii</sup> As already noted, because of the nature of FGM, reliable statistics on the incidence of its practice are not available. However, based on discussions with members of the communities that are at risk, there is some evidence to indicate that FGM is practised in Ontario and across Canada. There is also evidence that suggests that in some cases, families from those communities send their daughters out of Canada to have the operation performed.<sup>viii</sup>

#### Recommendations

1. Create education and prevention programs in schools, targeting in particular districts with high populations of children from countries where FGM has traditionally been committed.
2. Develop information campaigns directed at new Canadians, articulating the Canadian law and societal expectation with respect to FGM.
3. Ensure each province has legislated a duty to report under the provincial College of Physicians and Surgeons or child welfare legislation.
4. Law enforcement, Crown and judiciary to strategize on best practices to ensure implementation of the legislation.
5. Devote space at the new Canadian Museum of Human Rights, exploring FGM as a human rights issue.

<sup>i</sup> World Health Organization. “Female Genital Mutilation,” Fact Sheet #241 (May, 2008). [Available online at: [www.who.int/mediacentre/factsheets/fs241/en/print.html](http://www.who.int/mediacentre/factsheets/fs241/en/print.html).]

<sup>ii</sup> *Ibid.*

<sup>iii</sup> *Ibid.*

<sup>iv</sup> *Ibid.*, s.268 (2), *Criminal Code*, R.S.C. 1985, c. C-46, as am. S.C. 1993, c. 45, s. 3, as am. S.C. 1997, c. 18, s. 13.

<sup>v</sup> *Ibid.*, s. 273.3

<sup>vi</sup> *Minister of Employment and Immigration v. Farah* (I.R.B. Toronto, Doc. 93-2198, May 10, 1994).

<sup>vii</sup> Omayma Gutbi. “Preliminary Report on Female Genital Mutilation (FGM)” (Ontario Violence Against Women Prevention Section of the Ontario Women's Directorate, 10 April 1995).

<sup>viii</sup> *Ibid.*