

FEMALE GENITAL MUTILATION (FGM)

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. Medically trained personnel also perform FGM.

FGM is recognized internationally as a violation of the human rights of girls and women. The practice 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.

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.

Who and Why

- FGM procedures are mostly carried out on young girls between infancy and age 15, and occasionally on adult women.
- The practice is most common in the western, eastern, and north-eastern 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.
- The causes of FGM include a mix of cultural, religious and social factors
- 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.
- Though no religious scripts prescribe the practice, practitioners often believe the practice has religious support.
- If practising communities decide to abandon FGM, it can be eliminated rapidly.

International Law

The issue of FGM was raised at the United Nations (UN) for the first time in 1952. In 1984, a seminar on “Traditional Practices Affecting the Health of Women and Children,” recommended that the practice be abolished. In 1997, the WHO issued a joint statement with UNICEF against the practice of FGM. A new statement, with wider UN support, was reissued in February 2008 to increase advocacy efforts for the abandonment of FGM.

The UN adopted the Convention on the Rights of the Child (CRC) in 1989 (adopted in 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.

Additional international law that speaks against FGM includes the Convention on the Elimination of all Forms of Discrimination against Women and the African Charter on the Rights and Welfare of the Child.

Domestic Law

Canada plays a prominent role in the international arena as a supporter and promoter of women's human rights. The Criminal Code is used as the means to address FGM. In May 1997, the federal government amended the Criminal Code and included the performance of FGM as aggravated assault under s. 268(3). A parent who performs FGM on their child may be charged with aggravated assault. Where the parent does not commit the act but consents to have it performed by another party, the parent can still be convicted as a "party" to the offence under s. 21(1) of the Code. Aggravated assault is an indictable offence and individuals convicted can face a term of imprisonment for up to 14 years. Further, under s. 273.3 it is a crime to remove a child under 18 from Canada in order to preform FGM.

Canada also recognized fear of gender persecution as a ground for claiming refugee status in 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. 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. 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.

Sources

- *Female Genital Mutilation / Cutting: A Statistical Examination*, UNICEF, 2005.
- *Minister of Employment & Immigration v Farah* (IRB Toronto, Doc 93-2198, May, 1994).
- Omayma Gutbi, "Preliminary Report on Female Genital Mutilation (FGM)" (Violence Against Women Prevention Section of the Ontario Women's Directorate, April 10, 1995).
- *Policy on Female Genital Mutilation (FGM)*, (Ontario Human Rights Commission: Toronto, 2009).

- Ss. 268(2), 273.3 and 21(1), *Criminal Code*, RSC 1985.
- *The Dynamics of Social Change: Toward the Abandonment of Female Genital Mutilation / Cutting in Five African Countries*, (UNICEF Innocenti Research Centre: Florence, 2010).
- World Health Organization, "Female Genital Mutilation," Fact Sheet #241 (May, 2008), online: <<http://www.who.int/mediacentre/factsheets/fs241/en/>>.