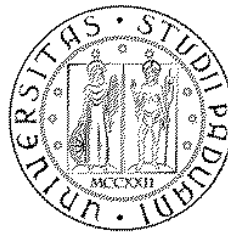


UNIVERSITÀ DEGLI STUDI DI PADOVA

DEPARTMENT OF POLITICAL SCIENCE, LAW,
AND INTERNATIONAL STUDIES

**Master's degree in
Human Rights and Multi-level Governance**



VICTIMS OF FEMALE GENITAL MUTILATION IN
EUROPE:

An Analysis of the Impact of Trial Proceedings in the United
Kingdom

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Table 2: Percentage of Girls and Women Aged 15-49 Years who Have Undergone FGM (by Place of Residence and Household Wealth Quintile).

LIST OF ACRONYMS

AIDOS	Associazione Italiana Donne per Sviluppo
ARFH	Association for Reproductive and Family Health
ASRH	Adolescent Sexual and Reproductive Health
ATC	Advocacy Training Council
CAT	Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
COE	Council of Europe
CRC	Convention on the Rights of the Child
DHS	Demographic and Health Survey
DSM-IV	Diagnostic and Statistical Manual of Mental Disorders – Fourth Edition
ECOSOC	Economic and Social Council
EU	European Union
FGM	Female Genital Mutilation
FORWARD	Foundation for Women’s Health Research and Development
GBV	Gender-Based Violence
GREVIO	Group of Expert on Action Against Violence Against Women and Domestic Violence
HIV / AIDS	Human Immunodeficiency Virus / Acquired Immunodeficiency Syndrome
IAC	Inter-African Committee on Traditional Practices
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICPD	Declaration of International Conference on Population and Development
NGO	Non-Governmental Organization
PTSD	Posttraumatic Stress Disorder
SDG	Sustainable Development Goals
SWU	Sudanese Women’s Union
UDHR	Universal Declaration of Human Rights
UEFGM	United to End Female Genital Mutilation
UK	United Kingdom

UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFPA	United Nations Population Fund
UNICEF	United Nations Children's Fund
WHO	World Health Organization
WSSD	World Summit for Social Development

INTRODUCTION

The Female Genital Mutilation (FGM) or Female Genital Cutting is a cultural practice best known in the African Continent and perpetuated for centuries. The practice consists of cutting off all or a part of the female genitalia for beauty, cleansing, religious, sociological, and sexual purposes, rooted by patriarchal values that guide women's roles in society. As this work will embrace the social, legal and political views on the practice of FGM, both terms: Female Genital Mutilation and Female Genital Cutting will be used according to the circumstances, without judging the victims who have undergone this procedure.

The tradition of FGM is a gross gender-based human rights violation that puts 3 million girls a year at risk of undergoing this procedure worldwide.¹ Moreover, the consequences for women and girls who have been subjected to this practice are lifelong and can compromise the health and psychological conditions of survivors.²

International organizations have been working on measures to fight Female Genital Mutilation and to change the mindset of communities that still practice this tradition by raising their awareness about the impact of FGM on the lives of women and girls. In addition, the European Union has also been striving for recognition from its States about the practice and encouraging them to change their laws and create actions to prevent and protect girls to undergo the tradition and to support women who were subjected to FGM.

Along with international organizations, feminist organizations are also in the struggle against the tradition, with social projects to educate and empower women to have the understanding about the consequences of undergoing FGM and subjecting their daughter to it, as well as to help "circumcised" women deal with the impacts of such harmful procedure on their health and mentality.

Despite all the work the organizations are doing to protect women and girls from Female Genital Mutilation, there is still a gap in supporting victims of this tradition,

¹ World Health Organization, "Female Genital Mutilation | Key Facts," accessed June 7, 2022, <https://www.who.int/news-room/fact-sheets/detail/female-genital-mutilation>.

² World Health Organization, "Eliminating Female Genital Mutilation: An Interagency Statement - OHCHR, UNAIDS, UNDP, UNECA, UNESCO, UNFPA, UNHCR, UNICEF, UNIFEM, WHO," *Eliminer Les Mutilations Sexuelles Féminines: Déclaration Interinstitutions HCDH, OMS, ONUSIDA, PNUD, UNCEA, UNESCO, UNFPA, UNCHR, UNICEF, UNIFEM*, 2008, <https://apps.who.int/iris/handle/10665/43839>.

especially when they have an immigrant or refugee status within Europe. European countries are being challenged to take action to combat this practice from all perspectives, including the legal part.

Regarding the legal part, States have approved legislation with actions to prevent, protect and redress survivors of FGM, however the judicial process does not always address the need of victims, neither prevent the prosecution and trial proceedings from revictimizing women and girls – who are in a vulnerable position due their experiences – to relive the violence they have suffered, not to mention the fact that usually, they have to be face to face with their abuser, who sometimes are their own parents.

This work aims to analyze the judicial process in the United Kingdom on how they deal with vulnerable victims, what are the consequences for women and girls if their abusers are acquitted of the charges, and what reparations will be the best to redress the need of victims. In addition, it will be shared actions by non-governmental organizations to improve the judicial system for a more humanized approach to these sensitive cases.

Chapter I: The Female Genital Mutilation Practice

1. The definition of Female Genital Mutilation

The Female Genital Mutilation (FGM) is a very common practice that removes the female genital organs in a drastic and painful way from women and girls in many communities around the world. Even though the justification for such practice is based on the religion and culture of the local people, the consequences for the women and girls who are subjected to this procedure are lifelong, with psychological traumas, health and physical problems.

According to the World Health Organization (WHO) the FGM “involves the partial or total removal of external female genitalia or other injury to female genital organs for non-medical reasons”.³ The terminology of FGM went through many changes such as Female Genital Cutting, Female Circumcision, and Female Genital Surgery. However, all these terms do not define this practice’s complexity as they should.

The term “Female Genital Surgery” is not clear enough about the reality of how this practice happens. According to Gifford (1994), “this phrase lends to the practice an air of legitimacy, or medical necessity... is to lose sight the fact they use razor blades, scissors, kitchen knives and bits of broken glass to “operate” their daughters”.⁴ Similarly, “Female Genital Cutting” “does not reflect the accurate extent of harm and mutilation caused by all types of FGM... It trivializes the nature of female genital mutilation and the suffering of African women and girls”.⁵

Finally, the term “Female Circumcision” leads to a confusion with male circumcision, since it uses the same word to name different practices, and once again does not “emphasize the gravity and harm of the act”.⁶ The female circumcision cannot be compared to male circumcision since the purpose and result are different as stated by Hosken (1993): “from a biological viewpoint the genital mutilations performed on

³ “Female Genital Mutilation,” accessed February 28, 2022, <https://www.who.int/westernpacific/health-topics/female-genital-mutilation>.

⁴ Eugenie Anne Gifford, “‘The Courage to Blaspheme’: Confronting Barriers to Resisting Female Genital Mutilation,” *UCLA Women’s Law Journal* 4, no. 2 (1994): 329–64, <https://doi.org/10.5070/L342017599>, page 333.

⁵ Hilary Burrage, *Eradicating Female Genital Mutilation: A UK Perspective*, 0 ed. (Routledge, 2016), <https://doi.org/10.4324/9781315256177>, page 5.

⁶ “Female Genital Mutilation,” European Institute for Gender Equality, accessed February 28, 2022, <https://eige.europa.eu/thesaurus/terms/1125>.

females are the equivalent of the amputation of part or all of the penis... A healthy and most sensitive organ is removed".⁷

The term Female Genital Mutilation was initially adopted in 1990 by the Inter-African Committee on Traditional Practices (IAC) and it would be the best expression of the practice, because it clearly refers to any definitive and irremediable removal of a healthy organ",⁸ and "there is absolutely no reason, medical, moral, or aesthetic, to suppress all or any part of [women's] exterior genital organs".⁹

The IAC replaced all the other terms used until then to refer to this practice, being later followed by other organizations. For example, the World Health Organization in 1991 recommended the use of the terminology to the United Nations that has subsequently started to use it in its documents.¹⁰ The United Nations Children's Fund (UNICEF) praised the use of the word "mutilation", declaring that it "reinforces the idea that this practice is a violation of girls' and women's human rights and thereby helps promote national and international advocacy towards its abandonment".¹¹

Despite of the international recognition of the Female Genital Mutilation terminology, some Non-Governmental Organizations, as the Orchid Project, still keep the term Female Genital Cutting. They do it aiming at reducing the negative impact of the term "mutilation".¹² It is recognized the word "mutilation" leads to a certain judgment that can cause stigma and adverse consequences for the victims which were subjected to this procedure.¹³ The term is also refused inside the communities where it happens, because of its negative connotation that leads to the "denial" of the practice

⁷ Fran P. Hosken, *The Hosken Report: Genital and Sexual Mutilations of Females*, 4. revised ed (Lexington, MA: Women's international network news, 1994), page 32.

⁸ Gérard Zwang, "*Mutilations Sexuelles Féminines. Techniques et Resultants', Female Circumcision, Excision and Infibulation*," Minority Rights Group Report (Ed. Scilla Mclean, 1980), **quoted in** Efua Dorkenoo, *Cutting the Rose: Female Genital Mutilation: The Practice and its Prevention*, (London: Minority rights publications, 1994), page 4.

⁹ Zwang, **quoted in** Efua Dorkenoo, *Cutting the Rose: Female Genital Mutilation: The Practice and its Prevention*, (London: Minority rights publications, 1994), page 4.

¹⁰ World Health Organization, "Eliminating Female Genital Mutilation: An Interagency Statement - OHCHR, UNAIDS, UNDP, UNECA, UNESCO, UNFPA, UNHCR, UNICEF, UNIFEM, WHO," *Eliminer Les Mutilations Sexuelles Féminines: Déclaration Interinstitutions HCDH, OMS, ONUSIDA, PNUD, UNCEA, UNESCO, UNFPA, UNCHR, UNICEF, UNIFEM*, 2008, <https://apps.who.int/iris/handle/10665/43839>, page 22.

¹¹ UNICEF and Innocenti Research Centre, *Innocenti Digest. [No. 12]. [No. 12]* (Florence, Italy: UNICEF Innocenti Research Centre, 2005), page 01.

¹² Orchid Project is an organization that advocates among governments and global leaders to end Female Genital Mutilation.

¹³ "Why Do We Use the Term Female Genital Cutting and Not Female Genital Mutilation?," *Orchid Project* (blog), April 14, 2012, <https://www.orchidproject.org/why-do-we-use-the-term-female-genital-cutting-and-not-female-genital-mutilation/>.

of cutting girls’ genital organs, resulting in the distancing of women, and making difficult the process of elimination of the tradition.¹⁴ The choice for the word “cutting” aims at a more effective engaging communication without diminishing the impact of the practice.¹⁵

Notwithstanding, both terms “mutilation” and “cutting” can be used “to capture its significance at the policy level and, at the same time, recognize the importance of employing non-judgmental terminology with practicing communities”.¹⁶ Based on that, this work will apply both of them not necessarily interchangeably, but in accordance with the context being presented and analyzed and with the sources of research.

2. Classification of Female Genital Mutilation

The classification and definition of the types of FGM described in older medical literatures about cases of mutilation in Africa and Middle East are informed by Hosken (1993) in three kinds of operation: “Sunna Circumcision¹⁷, Excision/Clitoridectomy and Infibulation (Pharaonic Circumcision)”, as show in figure 1.¹⁸ Later, the World Health Organization (2022) updated the classifications and terms, standardizing four types of Female Genital Mutilation:¹⁹

Type I	Circumcision: it is the partial or total removal of the clitoral glans and/or the prepuce/clitoral hood. It is the mildest type of mutilation.
Type II	Excision: it is the partial or total removal of the clitoral glans and the labia minora and sometimes the labia majora. It is the most widespread type of mutilation.
Type III	Infibulation: it is the removal of the clitoris, labia minora and labia majora, followed by the stitch of the parts, leaving a small opening for the passage of urine and menstrual blood.

¹⁴ World Health Organization, “Eliminating Female Genital Mutilation: An Interagency Statement - OHCHR, UNAIDS, UNDP, UNECA, UNESCO, UNFPA, UNHCR, UNICEF, UNIFEM, WHO,” 2008., page 22

¹⁵ “Why Do We Use the Term Female Genital Cutting and Not Female Genital Mutilation?”

¹⁶ UNICEF and Innocenti Research Centre, *Innocenti Digest*. [No. 12]. [No. 12], page 02.

¹⁷ Sunna means tradition in Arabic.

¹⁸ Hosken, *The Hosken Report : Genital and Sexual Mutilations of Females*, page 33.

¹⁹ “Female Genital Mutilation.”

Type IV	It refers to other harmful types to change to the female genitalia without medical purposes. For example: pricking, piercing, incising, scraping, and cauterizing the genitalia.
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Table 1: Classification of the Female Genital Mutilation types by the World Health Organization.²⁰

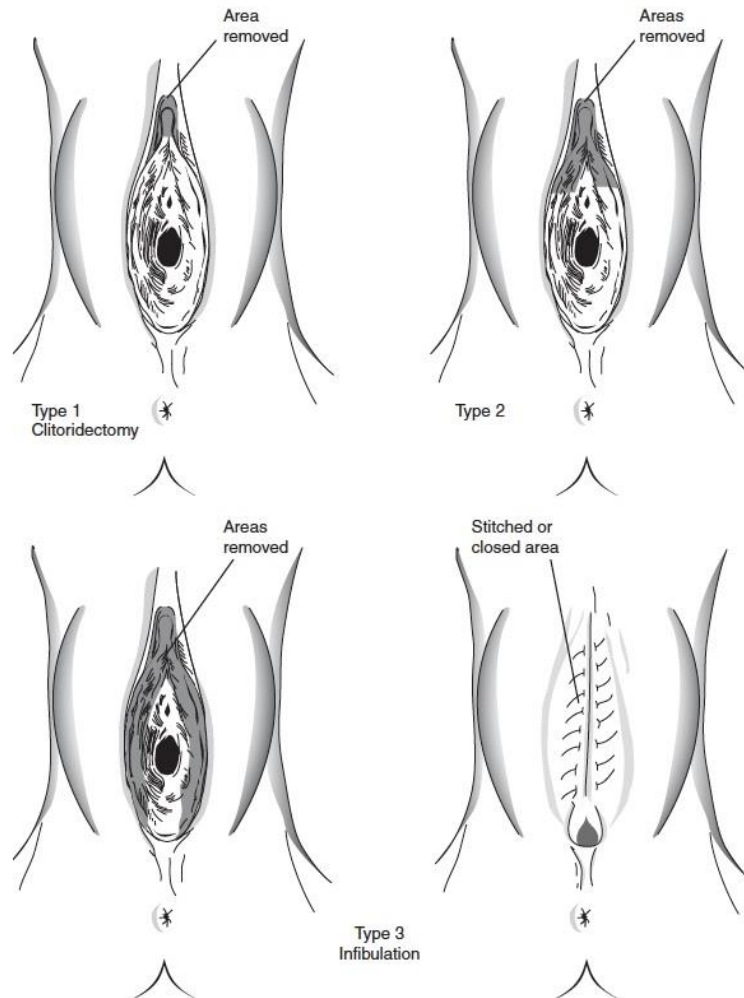


Figure 1: Types of Female Genital Mutilation.²¹

The persons who are responsible to perform these kinds of procedures are defined by the culture and traditions of each country and community, but usually they are elder women and traditional birth attendants.²² The main instruments used to

²⁰ Source: World Health Organization, "Female Genital Mutilation | Key Facts."

²¹ "Types of FGM" in *Female Genital Mutilation*, Comfort Momoh, 1999. (BOCA RATON: CRC Press, 1999).

²² WHO, *Female Genital Mutilation: An Overview* (74: World health organization, 1998), page 6.

perform the practice are knives, razor blades, pieces of glass, scissors, and sharp stones.²³ In urban areas it is common that the FGM is performed by specialized doctors and midwives in the hospitals with the use of general or local anesthesia.²⁴ Regardless, even under such “medical” conditions, it is a harmful and illegal practice against the bodies of women and girls.

The age to carry out the procedures of FGM varies across regions and communities. The practice can be done at a few days’ old child, in adolescence, adult women, widows, and in the extreme cases in died women before the burial takes place.²⁵ Dorkenoo (1994) affirms that the age of mutilation is falling due to greater resistance of older girls. In addition, refugees that are seeking asylum in other regions of the world, such as Europe, decide to submit girls to FGM in earlier ages than usual, in an attempt to overcome legislative norms and social pressures forbidding the practice in the destination countries.²⁶

3. Origin of Female Genital Mutilation

Although the origins of the FGM are still to be unknown, many speculations came out to try to identify the beginning of this practice. DeMeo believes that when militant pastoral nomads with specific characteristics and rituals based in a patriarchal culture invaded the Nile Valley around 3100 BC, they brought with them the culture of genital mutilations.²⁷

Hosken (1993) affirms that FGM is directly related to the male circumcision and, because “male circumcision operations are represented in a relief of the Egyptian tomb of Ankh-Ma Hor of the Sixth Dynasty in 2340-2180 BC”, it is plausible to believe that female excision has been practiced since then as well.²⁸ Ploss and Bartels (1935), based on a document from 163 BC, suggest that “though male circumcision was

²³ Efua Dorkenoo, *Cutting the Rose : Female Genital Mutilation : The Practice and Its Prevention* (London: Minority rights publications, 1994), page 8.

²⁴ Comfort. Momoh, *Female Genital Mutilation* (BOCA RATON: CRC Press, 1999), page 7.

²⁵ Dorkenoo, *Cutting the Rose : Female Genital Mutilation : The Practice and Its Prevention*, page 12.

²⁶ Dorkenoo, page 12.

²⁷ James DeMeo, “The Geography of Male and Female Genital Mutilations,” in *Sexual Mutilations: A Human Tragedy*, George C. Denniston and Marilyn Milos (New York: Plenum Press, 1997), 1–15, page 4.

²⁸ Hosken, *The Hosken Report : Genital and Sexual Mutilations of Females*, page 71.

reserved for the priestly and military castes in Egypt, excision was practiced on all girls at puberty when they were ready to receive their dowries”.²⁹

According to the Associazione Italiana Donne Per lo Sviluppo (AIDOS)’ documentary the origin of Female Genital Mutilation could have arisen as an old African rite taken to Egypt by diffusion. The infibulation process was enforced by black African women in areas as the northern and central Sudan, Somalia, Djibouti and it was considered a chastity belt made of flesh in the ancient Arab slave trades.³⁰

Dorkenoo believes that “the female genital mutilation was transmitted from one region to the other by virtue of diffusion, and by phases of military conquests of culture who do not mutilate by invading cultures which do, or by ‘voluntary adoption’ of those assimilated cultures”.³¹ AIDOS explain this process quoting the case of Southern Sudan – where FGM is not practiced. In this country, African women who got married into the dominant groups as Sudanese Arabs have had to undergo infibulation to keep the tradition of her new husband. In addition, the infibulation practice is a mark of distinction between Black Africans and the Arab groups.³²

Even though the Female Genital Mutilation is more widespread in Africa, it occurs also in countries within Asia, Oceania, Europe, and America. In the West the FGM “used to be practiced as a cure for various medical conditions... by qualified doctors for allegedly legitimate medical indications”. Nowadays, however, the practice is no longer openly performed in the Western cultural mainstream.³³

Despite significant cultural changes and social transformation reducing the perpetuation of this practice, it is still widely performed in many countries, where 3 million of girls and women are at risk of FGM 3 million every year.³⁴

²⁹ Hermann Heinrich Ploss et al., *Woman: An Historical, Gynecological and Anthropological Compendium*, 3 vols. (London: W. Heinemann Ltd., 1935), <https://wellcomecollection.org/works/bzafr9x5>, page 343.

³⁰ AIDOS, documentary of FGM, *Seven Drops of Blood*, Rome, Italy, **quoted in** Efua Dorkenoo, *Cutting the Rose: Female Genital Mutilation: The Practice and its Prevention*, (London: Minority rights publications, 1994), page 33.

³¹ Dorkenoo, *Cutting the Rose: Female Genital Mutilation: The Practice and Its Prevention*, page 33.

³² AIDOS, documentary of FGM, *Seven Drops of Blood*, Rome, Italy, **quoted in** Efua Dorkenoo, *Cutting the Rose: Female Genital Mutilation: The Practice and its Prevention*, (London: Minority rights publications, 1994), page 33.

³³ S K Hellsten, “Rationalising Circumcision: From Tradition to Fashion, from Public Health to Individual Freedom--Critical Notes on Cultural Persistence of the Practice of Genital Mutilation,” *Journal of Medical Ethics* 30, no. 3 (June 2004): 248–53, <https://doi.org/10.1136/jme.2004.008888>, page 252.

³⁴ World Health Organization, “Female Genital Mutilation: Report by the Secretariat” (Geneva: World Health Organization, 2008), EB122/15, <https://apps.who.int/iris/handle/10665/23194>, para 2.

To sum up, there is no consensus about the origin of the practice. Some associate it with invasion from other cultures and peoples, while others claim that it has always been there. Either way, it is possible to conclude that it is a very old practice deeply rooted in the cultures and tradition of the various practicing-communities, causing a great obstacle to eradicate this custom.

4. Reasons of the Female Genital Mutilation's practice

There are several different reasons that justify the perpetuation of the practice of Female Genital Mutilation. Girls and women are subjected to this harmful practice based on religious, psychosexual, sociological, hygienic, and aesthetic purposes, all of which supported by gendered cultures and traditions of communities enforcing this practice.³⁵ It is important to note that in many parts of the world, such reasons, cultures and traditions have already been dispelled as myths or have been medically discredited.³⁶ Unfortunately, this has not been enough to end this practice and to ensure girls and women their rights over their bodies.

4.1 Religious justification of FGM

One of the most expressive reasons related to the Female Genital Mutilation's practice is religion, which is the one of the first elements evoked by the practitioners.³⁷ It is not restricted to only one or to just a few religions, but Christians and Muslims are the most well-known communities who maintain the tradition.³⁸

According to a research that WHO did in six African countries with 28.393 women who were subjected to at least one of the four types of FGM recognized by the World Health Organization, 59% are Muslims, 37% are Christians and 5% has other (non-specified) religion.³⁹

³⁵ Jean-Pierre Baud, "An Update on WHO's Work on Female Genital Mutilation (FGM)" (World Health Organization, 2011), page 4.

³⁶ Momoh, *Female Genital Mutilation*, page 9.

³⁷ Building Bridges to End FGM, "Is Female Genital Mutilation a Matter of Religion?," *Religion & FGM* (blog), accessed March 10, 2022, <https://copfgm.org/religion-fgm>.

³⁸ Building Bridges to End FGM.

³⁹ World Health Organization, "Female Genital Mutilation and Obstetric Outcome: WHO Collaborative Prospective Study in Six African Countries," *The Lancet* 367, no. 9525 (June 3, 2006): 1835–41, [https://doi.org/10.1016/S0140-6736\(06\)68805-3](https://doi.org/10.1016/S0140-6736(06)68805-3), page 1838. The study was realized between November 2001 and March 2003 at 28 obstetric center at Burkina Faso, Ghana, Kenya, Nigeria, Senegal, and Sudan.

With respect to Muslim, there is a common belief that “the removal of the foreskin is an absolute religious requirement demanded by the Koran and it is also a requirement for ‘manhood’ throughout tribal Africa”. However, if one reads the Koran, there is no explicit mention to Female Genital Cutting, in a way that “women who can neither read nor write have no choice but to accept what these men of religion claim”.⁴⁰

To better understand the requirements of the Koran, its necessary to clarify its structure. According to Aldeeb Abu-Sahlieh (1994) “the Muslim law has two main sources: the Koran and the *sunnah* (tradition: words and actions) of Mohammed, to which one must add the *igtihad*, tenets of the schools of Muslim law through the centuries”, and none of them put the Female Genital Mutilation as a mandatory practice against women and girls.⁴¹ The prophet Mohammed was against this practice and advised his followers to “do not go deep; this is enjoyable to the woman and preferable to the man... circumcision is an ordinance in men and an embellishment in women”.⁴²

“While there is unanimous agreement among Muslim religious leaders and scholars that infibulation is forbidden in Islam, their interpretations and positions regarding the excision of girls remain ambiguous”.⁴³ The differences of these interpretations depend on local customs. In societies that the patriarchal power is supported by religious leaders, the limit imposed on women’s freedom and their access to education is more noticeable, to manipulate them to male’s desires.⁴⁴ Considering the circumstances of distinct interpretations, and without the support of the religious leaders to struggle against FGM, it is a great challenge to convince the believers of the Islam who promote the excision to stop it and to eradicate the practice.⁴⁵

With respect to Christianist view on Female Genital Mutilation, “the Christian authorities unanimously agree that FGM has no foundation in the religious texts of Christianity”.⁴⁶ This practice is not mentioned in the Bible, yet many of the groups that

⁴⁰ Hosken, *The Hosken Report : Genital and Sexual Mutilations of Females*, page 32.

⁴¹ S.A Aldeeb Abu-Sahlieh, “To Mutilate in the Name of Jehovah or Allah: Legitimization of Male and Female Circumcision,” *Medicine and Law* 13, no. 7–8 (1994): 575–622, page 579.

⁴² Hosken, *The Hosken Report : Genital and Sexual Mutilations of Females*, page 76.

⁴³ Dorkenoo, *Cutting the Rose : Female Genital Mutilation : The Practice and Its Prevention*, page 37.

⁴⁴ Hosken, *The Hosken Report : Genital and Sexual Mutilations of Females*, page 77.

⁴⁵ Dorkenoo, *Cutting the Rose : Female Genital Mutilation : The Practice and Its Prevention*, page 38.

⁴⁶ I. El-Damanhoury, “The Jewish and Christian View on Female Genital Mutilation,” *African Journal of Urology* 19 (September 1, 2013): 127–29, <https://doi.org/10.1016/j.afju.2013.01.004>, page 128.

carry out this procedure “may consider a religious obligation, as female sexual purity plays an important role”.⁴⁷

Even though the Christianity does not see the female circumcision/mutilation as mandatory by the Bible, the Roman Catholic Church does not give importance to the circumcision issues of the girls, since the Christians who circumcise girls are not excommunicated,⁴⁸ probably because Churches try to avoid losing its converts.⁴⁹

Despite the connection of FGM with religion, Boddy clarifies that “for Sudanese women, religion is nothing less than their entire way of life; religion and tradition are not merely intertwined, they are one and the same. So, it would be misleading to assume that pharaonic ‘circumcision’ is in any way casually related to the practices of that faith, since the pharaonic operation antedates the arrival of Islam in Sudan and likely, too, the adoption of Christianity. Its relationship to Islam and the attendant Arab social system of patrilineality, family honor, and modesty for women can only be a functional one”.⁵⁰

In conclusion, the reasons of Female Genital Mutilation/Cutting should not be related to religion itself, but to tradition. The sacred books of Muslims and Christians do not allege the obligation of these operations; however, their religious leaders do not reject the practice, resulting in its continuation in their communities.

4.2 Psychosexual drivers of FGM

Besides the religious justification for the support of the practice, the psychosexual arguments are very deep-rooted in the communities, and it is based on the social conventions and beliefs that make girls and their families to easily accept the practice.

Epelboin described some of these beliefs transmitted to descendants. For example, in Burkina Faso, it is believed that the clitoris is dangerous for the children during childbirth, because it could lead to the child’s death when in contact with his/her head. In Ethiopia, the clitoris, if not excised, is expected to grow and dangle between

⁴⁷ El-Damanhoury, page 128.

⁴⁸ Rev. Canon Ephantus Josiah, *Female Circumcision*, Uzima Press, Nairobi, undated, **quoted in** Efua Dorkenoo, *Cutting the Rose: Female Genital Mutilation: The Practice and its Prevention*, (London: Minority rights publications, 1994), page 39.

⁴⁹ Dorkenoo, *Cutting the Rose : Female Genital Mutilation : The Practice and Its Prevention*, page 39.

⁵⁰ Janice Boddy, “Body Politics: Continuing the Anticircumcision Crusade,” *Medical Anthropology Quarterly* 5, no. 1 (1991): 15–17, page 15.

the legs like a penis.⁵¹ In other countries the clitoris is considered as intolerable for men, since it is viewed as a rival to the male sexual organ, or it can result in his own death at the moment of contact with his penis, because the clitoris would throw a poisonous secretion.⁵²

Diallo reported that among the Dogon and Bambara communities' beliefs, both sexes (male and female) exist in each person since their birth. "The clitoris represents the masculine element in a young girl, and the foreskin represents the femininity in a boy, so must both be excised to clearly demarcate the sex hermaphroditic human nature and of women's sexuality".⁵³ Ahmadu adds that the Kono people (residents in Sierra Leone) believes that all children have ambiguous sex status. So, they are seen as a neutral gender and in somehow androgynous.⁵⁴ The rites of mutilation are "the occasion for the social and cultural construction of "male" and "female" beings, and removing the clitoris is ultimately what symbolizes the separation of women from men physically, psychologically and spiritually".⁵⁵

Other reasons regarding women's sexuality emerged with the goal to protect their virginity, their excessive sexual emotions, their oversexed nature, saving them from temptation, and increasing the possibility to get married, as well to preserve their morality, chastity and fidelity.⁵⁶

In Egypt and Sudan it is claimed that women have an inherently wanton character centered in the clitoris making them unable to control their sexuality. Thus, the only solution is to subject them to excision and infibulation, aiming to reduce their sexual wildness, preserve their virginity, chastity and the family honor.⁵⁷ In some societies where polygamy is accepted and men have several wives, it is considered to be an

⁵¹ Sylvie Epelboin and Alain Epelboin, "Ancient Beliefs and Obscure Origins," *People* 6, no. 1 (1979), **quoted in** Efua Dorkenoo, *Cutting the Rose: Female Genital Mutilation: The Practice and its Prevention*, (London: Minority rights publications, 1994), page 34.

⁵² Ibid.

⁵³ Diallo, *L'Excision En Milieu Bambara*, n.d, **quoted in** Efua Dorkenoo, *Cutting the Rose: Female Genital Mutilation: The Practice and its Prevention*, (London: Minority rights publications, 1994), page 35.

⁵⁴ Fuambai Ahmadu, "Rites and Wrongs: An Insider/Outsider Reflects on Power and Excision," in *Female "Circumcision" in Africa: Culture, Controversy and Change*, Bettina Shell-Duncan, Ylva Hernlund (London: Lynne Rienner, 2001), 283–312, page 297.

⁵⁵ Ahmadu, **quoted in** Bettina Shell-Duncan and Ylva Hernlund, *Female "Circumcision" in Africa: Culture, Controversy, and Change*, Directions in Applied Anthropology (Boulder London: Lynne Rienner, 2001), page 21.

⁵⁶ Dorkenoo, *Cutting the Rose: Female Genital Mutilation: The Practice and Its Prevention*, page 35; UNICEF, "Changing a Harmful Social Convention: Female Genital Mutilation/Cutting", page 12.

⁵⁷ Hosken, *The Hosken Report: Genital and Sexual Mutilations of Females*, page 75.

issue that the husband cannot satisfy all his wives, so the circumcision becomes necessary due the inability of women to control their sexual desires, avoiding their chances to straying.⁵⁸

For some communities, the untouched clitoris can lead to an incessant masturbation and sexual insatiability, besides the beliefs that the clitoris could continue growing and become a penis. Both “consequences” for the untouched clitoris can be an obstacle to women’s fertility, since an oversized clitoris would be an obstruction for the intercourse and the masturbation is regarded as an avoidance to conclude the coitus.⁵⁹

From a medical standpoint, removing a woman’s genitalia does not interfere with her sexual desire, because such desire is psychological and not determined by physical structures of the body. The removal of the clitoris can only lead to a reduction of women’s sensibility to achieve orgasms.⁶⁰ Dorkenoo (1994) further analyzes that the frustration for women who could not achieve the sexual pleasure could lead them to search for their sexual satisfaction in other partners, provoking promiscuity and nullifying the infibulation’s purpose, which would have the aim to protect women’s virginity and prevent them of the immorality.⁶¹ Shandall completes the argument affirming that “Infibulation does not confer any protection or deterrent action on females. Moreover, the vulval skin diaphragm, being an artificially constructed device, can always be reconstructed without any suspicion that this is not the original infibulation. In the writer’s opinion, infibulation would encourage immorality rather than protect against it”.⁶²

⁵⁸ Dorkenoo, *Cutting the Rose : Female Genital Mutilation : The Practice and Its Prevention*, page 35.

⁵⁹ Fuambai Ahmadu, “Rites and Wrongs: An Insider/Outsider Reflects on Power and Excision,” in *Female “Circumcision” in Africa: Culture, Controversy and Change*, Bettina Shell-Duncan, Ylva Hernlund (London: Lynne Rienner, 2001), 283–312, page 297.

⁶⁰ Dorkenoo, page 35.

⁶¹ Dorkenoo, page 36.

⁶² Dr Ahmed Abu-el-Futuh Shandall, “Circumcision and Infibulation of Females,” *Sudanese Medical Journal* 5, no. 4 (n.d.) **quoted in** Efua Dorkenoo, *Cutting the Rose: Female Genital Mutilation: The Practice and its Prevention*, (London: Minority rights publications, 1994), page 36.

4.3 Sociological reasons of FGM

The continuity of FGM can be also justified as a social convention or rule for marriage, a ritual of passage to adulthood,⁶³ to ensure the girl's or woman's status and the honor of the family.⁶⁴

The initiation rites of passage of girls to adulthood are characterized by ceremonies with songs, dances and chants aiming to teach the girls about their duties for the role of a desirable wife and mother.⁶⁵ Ahmadu (1995) complements that the most responsible to put into practice the ceremonies of the initiation rite are the "female elders" – the grandmothers, who spend a lot of time with their grandchildren since the moment of birth and play a key role by controlling moral and emotionally their married daughters in order to pressure for their granddaughters' ceremonies.⁶⁶

Female Genital Mutilation is perceived, in these societies, as the legal recognition of girls as persons and subjects of rights and responsibilities within the communities.⁶⁷ Also, the circumcised girls are regarded as an example to other girls as a symbol of respect for the authority of the circumcised elders.⁶⁸ This social convention is so strong that "the parents who submit their daughters to the practice do so because they are honorable members of society who want the best for their children".⁶⁹

The ceremonies also aim to prepare the girl to the marriage and to bless them for their prospects as wife. More than that, the girls' social status after they get married is defined on the quantity of blood shed during the cutting.⁷⁰

⁶³ Gerry Mackie and John LeJeune, "Social Dynamics of Abandonment of Harmful Practices: A New Look at the Theory," Special Series on Social Norms and Harmful Practices (UNICEF - Innocenti Research Centre, 2009), <https://www.unicef-irc.org/publications/558-social-dynamics-of-abandonment-of-harmful-practices-a-new-look-at-the-theory.html>, page 19.

⁶⁴ UNICEF, "Changing a Harmful Social Convention: Female Genital Mutilation/Cutting" (Innocenti Digest, 2005), <https://www.unicef-irc.org/publications/396-changing-a-harmful-social-convention-female-genital-mutilation-cutting.html>, page 11.

⁶⁵ Dorkenoo, *Cutting the Rose : Female Genital Mutilation : The Practice and Its Prevention*, page 39.

⁶⁶ Ahmadu, "Rites and Wrongs: An Insider/Outsider Reflects on Power and Excision, page 300."

⁶⁷ Ahmadu, page 300.

⁶⁸ Bettina Shell-Duncan et al., "Dynamics of Change in the Practice of Female Genital Cutting in Senegambia: Testing Predictions of Social Convention Theory," *Social Science & Medicine* (1982) 73, no. 8 (October 2011): 1275–83, <https://doi.org/10.1016/j.socscimed.2011.07.022>, page 1275.

⁶⁹ UNICEF, "Changing a Harmful Social Convention.", page 12

⁷⁰ Meiwita Budiharsana, Lila Amaliah, and Budi Utomo, "Female Circumcision in Indonesia. Extent, Implications and Possible Interventions to Uphold Women's Health Rights" (Population Council, 2003), https://knowledgecommons.popcouncil.org/departments_sbsr-rh/34, page 37.

The social outcomes for the girls who are subjected to the Female Genital Mutilation come with rewards such celebrations, public recognition, and gifts.⁷¹ Meanwhile the girls who did not participate of the ceremony suffer from social punishments such as social sanctions and exclusion, with the girls being called rude, for example,⁷² and the community believing they are promiscuous.⁷³

This social pressure over the girls and their parents is so strong that makes the whole family be connivant with the ceremony of FGM and its perpetuation. According to UNICEF - “in all cases parents cannot choose to abandon the practice without depriving their daughters, and perhaps the entire family, of the opportunity to become full and recognized members of the community”.⁷⁴ Furthermore, the girls themselves “may desire to undergo the procedure because of fear of stigmatization and rejection by their communities if they do not follow the tradition”.⁷⁵ Adhering to the community’s social norms is therefore important, not only to maintain an individual’s acceptance and social status in the community, but also to preserve the status of the individual’s family”.⁷⁶

The expectations after the conclusion of the ceremonies for the girls and women are related to the sense of pride, the coming of age and a feeling of community membership, and to the rewards that come with the practice. On the other hand, there is a great amount of fear of sanctions for non-adherence, and such fear leads girls to act against their own will and interests. In addition, for the men, the expectations to

⁷¹ World Health Organization, “Eliminating Female Genital Mutilation: An Interagency Statement - OHCHR, UNAIDS, UNDP, UNECA, UNESCO, UNFPA, UNHCR, UNICEF, UNIFEM, WHO,” *Eliminer Les Mutilations Sexuelles Féminines: Déclaration Interinstitutions HCDH, OMS, ONUSIDA, PNUD, UNCEA, UNESCO, UNFPA, UNCHR, UNICEF, UNIFEM*, 2008, <https://apps.who.int/iris/handle/10665/43839>, page 11.

⁷² Tahereh Pashaei et al., “Daughters at Risk of Female Genital Mutilation: Examining the Determinants of Mothers’ Intentions to Allow Their Daughters to Undergo Female Genital Mutilation,” ed. Ignacio Correa-Velez, *PLOS ONE* 11, no. 3 (March 31, 2016): e0151630, <https://doi.org/10.1371/journal.pone.0151630>, page 7.

⁷³ E. L. Ahanonu and O. Victor, “Mothers’ Perceptions of Female Genital Mutilation,” *Health Education Research* 29, no. 4 (August 1, 2014): 683–89, <https://doi.org/10.1093/her/cyt118>, page 687.

⁷⁴ UNICEF, “Changing a Harmful Social Convention.”, page 12.

⁷⁵ World Health Organization, “Eliminating Female Genital Mutilation: An Interagency Statement - OHCHR, UNAIDS, UNDP, UNECA, UNESCO, UNFPA, UNHCR, UNICEF, UNIFEM, WHO; page 6”

⁷⁶ UNICEF, “The Dynamics of Social Change: Towards the Abandonment of FGM/C in Five African Countries” (Innocenti Digest, 2010), <https://www.unicef-irc.org/publications/618-the-dynamics-of-social-change-towards-the-abandonment-of-fgm-c-in-five-african-countries.html>, page 6-7.

have a proper marriage can be achieved only with women who have undergone the practice.⁷⁷

Another important factor driving the FGM in many communities is the bride price or dowry. Circumcised girls are often offered a higher bride price and in face of economic vulnerabilities, families adhere to the mutilation to secure a higher income for the family with the girl's marriage.⁷⁸ Besides that, "no amount of suffering would be worse than the shame that would result from one's daughter's morality being questioned".⁷⁹

These attitudes toward the FGM are more common in communities where traditional societies are based on a patriarchal system and where the women have low social status, lack of education and no decision-making power.⁸⁰ Such conditions bring up a great challenge to abandon the practice and such ceremonies, as well as to change the social norms and patriarchal system that rule these societies.

4.4 Hygiene and Aesthetic

The reasons to continue the practice of FGM derives from each community with its traditional aesthetic values of the women body and its own hygienic conceptions related to sexual and reproductive functions, producing a pattern of beauty and the sexual desirability of women.⁸¹ These aesthetic values can cause the repulse of some forms of bodies and confer the status of indecency and immorality if the women's body is not in accordance with the society's standard of beauty.⁸² "Body shaping, alteration,

⁷⁷ UNICEF, "Changing a Harmful Social Convention: Female Genital Mutilation/Cutting", page 12; World Health Organization, "Eliminating Female Genital Mutilation: An Interagency Statement - OHCHR, UNAIDS, UNDP, UNECA, UNESCO, UNFPA, UNHCR, UNICEF, UNIFEM, WHO; page 6.

⁷⁸ UNICEF, "Changing a Harmful Social Convention.", page 12.

⁷⁹ Ellen Gruenbaum, "Sexuality Issues in the Movement to Abolish Female Genital Cutting in Sudan," *Medical Anthropology Quarterly* 20, no. 1 (2006): 121–38, <https://doi.org/10.1525/maq.2006.20.1.121>. Page 131.

⁸⁰ Hellsten, "Rationalising Circumcision: From Tradition to Fashion, from Public Health to Individual Freedom--Critical Notes on Cultural Persistence of the Practice of Genital Mutilation.", page 252.

⁸¹ Gruenbaum, "Sexuality Issues in the Movement to Abolish Female Genital Cutting in Sudan, page 125."

⁸² Gruenbaum, page 125.

mutilation, and adornment are influenced by these aesthetic values and by ideas of decency, propriety, and morality”.⁸³⁸⁴

Some of the conceptions that lead to the practice of Female Genital Mutilation are defined by Momoh (1999) “as the clitoris is considered unpleasant and ugly to sight and touch; the female circumcision maintains the women’s physical and mental health; and the removal of the “unsightly” female genitalia is deemed a sign of maturity”⁸⁵ that “can promote hygiene and provide aesthetic appeal”.⁸⁶ Gruenbaum (2006) informs that “an open body orifice” is a symbol of the abnormal, and in some countries the girls are called with immoral adjectives as slut.⁸⁷ Although all these conceptions, the main purpose of the communities to infibulate the girls is to make them physically “clean”.⁸⁸

Karim; Ammar (1965) and Hosken (1994) describe that in the cases where the clitoris is more protuberant, it is seen as a shameful deformity that can bring overexcitement and excessive sexual intercourse for the women, and the only way to prevent the clitoris from growing is to remove it.⁸⁹⁹⁰ Dorkenoo (1994) notes that many states of Africa consider that female genitals are dirty and reports that in Egypt “the unexcised girl is called *nigsa* (unclean) and bodily hairs are removed to attain a smooth and clean body”, as well as in Sudan and Somalia “where the aim of infibulation is to produce a smooth skin surface”.⁹¹

Despite the idea of cleanliness, the infibulation procedure brings the opposite effects as “the difficult of urine and menstrual blood escape, resulting in discomfort,

⁸³ Ellen Gruenbaum, *The Female Circumcision Controversy: An Anthropological Perspective* (University of Pennsylvania Press, 2001), **quoted in** Ellen Gruenbaum, “Sexuality Issues in the Movement to Abolish Female Genital Cutting in Sudan,” *Medical Anthropology Quarterly* 20, no. 1 (2006): 121–38, <https://doi.org/10.1525/maq.2006.20.1.121>, page 125.

⁸⁴ Frances E. Mascia-Lees and Patricia Sharpe, *Tattoo, Torture, Mutilation, and Adornment: The Denaturalization of the Body in Culture and Text* (State University of New York Press, 1992), **quoted in** Ellen Gruenbaum, “Sexuality Issues in the Movement to Abolish Female Genital Cutting in Sudan,” *Medical Anthropology Quarterly* 20, no. 1 (2006): 121–38, <https://doi.org/10.1525/maq.2006.20.1.121>, page 125.

⁸⁵ Momoh, *Female Genital Mutilation*, page 10.

⁸⁶ Budiharsana, Amaliah, and Utomo, “Female Circumcision in Indonesia. Extent, Implications and Possible Interventions to Uphold Women’s Health Rights.”

⁸⁷ Gruenbaum, “Sexuality Issues in the Movement to Abolish Female Genital Cutting in Sudan.”, page 126.

⁸⁸ UNICEF, “Changing a Harmful Social Convention.”, page 12.

⁸⁹ Hosken, *The Hosken Report: Genital and Sexual Mutilations of Females*, page 77.

⁹⁰ Dr. Mahmoud Karim and Dr. Roshdi Ammar, “Female Circumcision and Sexual Desire,” *Ain Shams University, Faculty of Medicine*, 1965, 3–4, **quoted in** Fran P. Hosken, *The Hosken Report: Genital and Sexual Mutilations of Females*, 4. revised ed (Lexington, MA: Women’s international network news, 1994), page 77.

⁹¹ Dorkenoo, *Cutting the Rose: Female Genital Mutilation: The Practice and Its Prevention*, page 40.

odor and infection as the believe that female genitals are dirty or ugly is not confined to those who practice female genital mutilation”.⁹²

4.5 Patriarchy

The Female Genital Mutilation is a practice originated in patriarchal societies with the aim to control the sexuality and fertility of women,⁹³ in places with high levels of inequality between both sexes, and where the motivation of the male domination⁹⁴ is to subjugate women⁹⁵ through resources and power.⁹⁶

Although the FGM is directly connected to the patriarchal society, it is not adequate to affirm that all societies built upon a patriarchal system are willing to perform the practice.⁹⁷ However, in the communities that still practice FGM, it is done due to the rituals that are a prerequisite for marriage of women, taking advantage of the “limited control and power over their lives [that] consigns many of these women to a life where marriage and motherhood becomes the only route ensuring survival and a secure future”.⁹⁸

The marriage, in most cases, is the only way to survive for these women, who received little education and were prepared to fulfill a role as “sources of labor and producers of children”, making them totally dependent of a husband who will pay the bride price and will maybe allow her to have the rights to work and to have a child – “she herself has no right to or control over either”.⁹⁹ In communities that have patriarchal economic customs and institutions, families with daughters are responsible

⁹² Dorkenoo, page 40.

⁹³ Frances A. Althaus, “Female Circumcision: Rite of Passage Or Violation of Rights?,” *International Family Planning Perspectives* 23, no. 3 (1997): 130–33, <https://doi.org/10.2307/2950769>, page 131.

⁹⁴ Mackie and LeJeune, “Social Dynamics of Abandonment of Harmful Practices.”, page 5.

⁹⁵ Momoh, *Female Genital Mutilation*, page 139.

⁹⁶ Dorkenoo, *Cutting the Rose : Female Genital Mutilation : The Practice and Its Prevention*, page 45.

⁹⁷ Mackie and LeJeune, “Social Dynamics of Abandonment of Harmful Practices.”, page 5.

⁹⁸ Hanny Lightfoot-Klein and Evelyn Shaw, “Special Needs of Ritually Circumcised Women Patients,” *Journal of Obstetric, Gynecologic, and Neonatal Nursing JOGNN*. 20, no. 2 (March 1991), **quoted in** Comfort. Momoh, *Female Genital Mutilation* (BOCA RATON: CRC Press, 1999), page 139.

⁹⁹ Frances A. Althaus, “Female Circumcision: Rite of Passage Or Violation of Rights?,” *International Family Planning Perspectives* 23, no. 3 (1997): 130–33, <https://doi.org/10.2307/2950769>, page 131.

for preparing them for marriage in a way to satisfy their future husbands, bringing to the family financial and social security.¹⁰⁰¹⁰¹

Notwithstanding the purposes of the marriageability, the future husbands have the right to inspect the girls before the marriage arrangements to certify if she is within his standards to be a good wife, describing: “during the preliminaries of the match, the man meets the girl to be his bride in a hut, then he bids her to strip and proceeds to critically examine the whole of her nude form. Subsequently, the bride-price is negotiated and during the time, the husband-to-be is allowed private meetings with his fiancé, for each of which he has to pay a fixed price”.¹⁰² Morelato (2004) adds that the husband searches a pure, unblemished, and closed (or excised) woman in a way to avoid pre-marital desires and relationships by his future wife.¹⁰³ And in another way, the women are led to accept that the clitoridectomy and infibulation are more pleasant to the husband, so they consider it one of the most important steps before the marriage.¹⁰⁴

The atrocities committed against women and girls based on men’s desires start therefore before the marriage and are highly likely to continue after its ceremonies. Hosken (1994) reports cases where the husband has the right to choose how his wife’s genitalia should be or to infibulate the woman again after the delivery of the child as a reaffirmation of the patriarchal society that the women’s productiveness is also a propriety of husbands.¹⁰⁵¹⁰⁶

The father of the families is conniving with all the procedures regarding the Female Genital Mutilation, since it can bring a good marriage for their daughters and

¹⁰⁰ Gruenbaum, *The Female Circumcision Controversy: An Anthropological Perspective*, **quoted in** Gerry Mackie and John LeJeune, “Social Dynamics of Abandonment of Harmful Practices: A New Look at the Theory,” Special Series on Social Norms and Harmful Practices (UNICEF - Innocenti Research Centre, 2009), <https://www.unicef-irc.org/publications/558-social-dynamics-of-abandonment-of-harmful-practices-a-new-look-at-the-theory.html>, page 8.

¹⁰¹ Mackie and LeJeune, “Social Dynamics of Abandonment of Harmful Practices.”, pages 7-8.

¹⁰² Hosken, *The Hosken Report : Genital and Sexual Mutilations of Females.*, page 82.

¹⁰³ Camilla Morelato, “Diritti Umani al Femminile La Mutilazione Genitale Femminile Quale Violazione dei Diritti Umani Fondamentali”, my translation, (Padova, Università degli Studi di Padova, 2004), page 31.

¹⁰⁴ Ellen Gruenbaum, “The Movement against Clitoridectomy and Infibulation in Sudan: Public Health Policy and the Women’s Movement,” *Medical Anthropology Newsletter* 13, no. 2 (1982): 4–12, page 7.

¹⁰⁵ Deborah Balk, “To Marry and Bear Children? The Demographic Consequences of Infibulation in Sudan,” in *Female “Circumcision” in Africa: Culture, Controversy and Change*, Bettina Shell-Duncan, Ylva Hernlund (London: Lynne Rienner, 2001), 55–72, page 69.

¹⁰⁶ Hosken, *The Hosken Report : Genital and Sexual Mutilations of Females*, page 81-82.

honor for the family. As explained by Dorkenoo (1994),¹⁰⁷ “the most dishonourable experience for a man is the sexual impropriety of a female member of the family, and it is his responsibility to meet out the severe punishment it incurs. Once a woman’s honour is lost it cannot be restored... making the honour a propriety of the family and if one person loses her honour, the entire family is dishonoured”.

Thus, the responsibility to maintain the honor of the family is also carried out by the mothers, who support the rituals because of their concern to make their daughters marriageable and due to the belief that the physical and moral benefits of the operations can guarantee to their daughters a secure future life.¹⁰⁸ Furthermore, it is possible to cite the social benefits for the family who decide to subject their daughter to the rituals, as confirm Hosken (1994): “According to the Arab traditions, the only way to guarantee the family honor is to excise and infibulate girls to protect them and ensuring their purity and virginity, since they cannot control their sexuality”.¹⁰⁹

The necessity of men to control the women’s body and its sexuality is the main reason for the continuance of the practice.¹¹⁰ Hosken (1994) explains that in the historic past, cases of rape were punished by the loss of virile organ. However, with the difficulties to prove the crime, the women ended up having to be mutilated, infibulated, and segregated in name of the purity and with the excuse with the impossibility to control themselves.¹¹¹ Additionally, she affirms that rape is a crime of power that cannot be controlled – “that is, patriarchal societies do not wish to control it (rape) – to keep women in fear and dependent on “male protection” supplying the rationale for genital mutilation and especially infibulation”.¹¹² Even so, “to imply the women suffer the same oppression simply because we are women is to lose sight of the many varied tools of patriarchy. It is to ignore how those tools are used by women without awareness against each other”.¹¹³

¹⁰⁷ Dorkenoo, *Cutting the Rose : Female Genital Mutilation : The Practice and Its Prevention*, page 47.

¹⁰⁸ Mackie and LeJeune, “Social Dynamics of Abandonment of Harmful Practices.”, page 7.

¹⁰⁹ Hosken, *The Hosken Report : Genital and Sexual Mutilations of Females*, page 75.

¹¹⁰ Mackie and LeJeune, “Social Dynamics of Abandonment of Harmful Practices.”, page 6.

¹¹¹ Fran P. Hosken, *The Hosken Report : Genital and Sexual Mutilations of Females*, 4. revised ed (Lexington, MA: Women’s international network news, 1994), page 83.

¹¹² Hosken. Page 84.

¹¹³ Audre Lorde, *Sister Outsider 67: Essays and Speeches - An Open Letter to Mary Daly*, 1984, **quoted in** Eugenie Anne Gifford, “The Courage to Blaspheme’: Confronting Barriers to Resisting Female Genital Mutilation,” *UCLA Women’s Law Journal* 4, no. 2 (1994): 329–64, <https://doi.org/10.5070/L342017599>, page 332.

5. The Impacts of the Female Genital Mutilation

The complications and psychological and health consequences for the women and girls subjected to the Female Genital Mutilation are lifelong,¹¹⁴ and the level of gravity of these consequences depends on the type of cutting, the hygienic conditions under which the procedure was done, the skill and eyesight of the operator and the resistance of the child.¹¹⁵ All of this can trigger the chance of child's death due to inappropriate cutting methods, that can be further exacerbated by the health conditions of the girls prior to FGM.¹¹⁶ Dr. Mark Belsey (1993) concludes that "... there is no single practice which has such a dramatic negative effect on health in the broadest sense as Female Genital Mutilation".¹¹⁷

5.1 Physical Impacts

The physical impacts of the practice are a serious consequence for all the four types of Female Genital Mutilation, that aim at removing partial or totally the female genitalia and have as results the alteration of its normal functioning, bringing physical and health complications.¹¹⁸

The consequences can vary between mild and severe, depending on the context in which the practice was carried out and by whom, and on the physical conditions of the girl who are being subjected to the FGM.¹¹⁹ The World Health Organization (1998) divided the health and physical consequences in two categories: immediate complications and long-term complications – that it could occur in any type of the mutilation.¹²⁰

The Immediate complications are considered the primary fatalities resulted from the practice of FGM¹²¹ and they can take up to 10 days to appear after the girl was

¹¹⁴ World Health Organization, "Eliminating Female Genital Mutilation: An Interagency Statement - OHCHR, UNAIDS, UNDP, UNECA, UNESCO, UNFPA, UNHCR, UNICEF, UNIFEM, WHO," *Eliminer Les Mutilations Sexuelles Féminines : Déclaration Interinstitutions HCDH, OMS, ONUSIDA, PNUD, UNCEA, UNESCO, UNFPA, UNCHR, UNICEF, UNIFEM*, 2008, <https://apps.who.int/iris/handle/10665/43839>, page 11.

¹¹⁵ Dorkenoo, *Cutting the Rose : Female Genital Mutilation : The Practice and Its Prevention*, page 13.

¹¹⁶ Burrage, *Eradicating Female Genital Mutilation*, page 113.

¹¹⁷ "Scarred for Life," *Day One Show - ABC News*, 1993, **quoted in** Efua Dorkenoo, *Cutting the Rose : Female Genital Mutilation : The Practice and Its Prevention* (London: Minority rights publications, 1994), page 13.

¹¹⁸ WHO, *Female Genital Mutilation : An Overview*, page 25.

¹¹⁹ Burrage, *Eradicating Female Genital Mutilation*, page 113.

¹²⁰ WHO, *Female Genital Mutilation : An Overview*, page 25.

¹²¹ Hosken, *The Hosken Report : Genital and Sexual Mutilations of Females*, page 37.

subjected to the cutting/mutilation.¹²² The consequences can include “violent pain; hemorrhage from the rupture of the blood vessels; post-operative shock; damage of some organs based on the resistance and struggling of the child as the urethra, the anal sphincter, vaginal walls, and including some broken bones;¹²³ urine retention due to pain and fear of passing urine; the instruments which were not properly sterilized can cause infections as tetanus and HIV; and death”.¹²⁴

The long-term complications are the results felt after 10 days have passed.¹²⁵ They can be described as: abscess formation; dermoid cyst; keloids; urinary tract infection; scar neuroma; painful sexual intercourse; HIV/AIDS, hepatitis B and other bloodborne diseases; pseudo-infibulation; dysmenorrhea; reproductive tract infections; chronic urinary tract obstruction; urinary incontinence; stenosis of the artificial opening to the vagina. The FGM is also related to complications during labor and delivery.¹²⁶

The Infibulation (Type IV) is the most harmful practice of all types of FGM, with serious chances of having the small opening of the vagina closed completely, refraining the urine and the menstrual blood to escape and turning the sexual intercourse impossible.¹²⁷ Moreover, it is most likely to increase the possibilities of the women to get infections with the reopening of the vulva after marriage and with the use of unsterile tools.¹²⁸

Although the Infibulation is known as causing the most painful consequences, the Excision can be as painful as the Infibulation, and this fact cannot be disregarded. For example both have as similar complication the complete closing of the vagina by adherence of the excision wound,¹²⁹ and the creation of a neuroma, that is “a tumor composed of nerve tissue at the point of section of the dorsal nerve of the clitoris”.¹³⁰ Despite the complications of the practice, the women who were subjected to FGM

¹²² Burrage, *Eradicating Female Genital Mutilation*, page 114.

¹²³ Burrage, page 111.

¹²⁴ Dorkenoo, *Cutting the Rose : Female Genital Mutilation : The Practice and Its Prevention*, page 13-14.

¹²⁵ Burrage, *Eradicating Female Genital Mutilation*, page 114.

¹²⁶ WHO, *Female Genital Mutilation : An Overview*, page 27-30.

¹²⁷ M.A. Dirie and G. Lindmark, “The Risk of Medical Complications after Female Circumcision,” *East African Medical Journal* 69, no. 9 (1992): 479–82, **quoted in** WHO, *Female Genital Mutilation : An Overview* (74: World health organization, 1998), page 30.

¹²⁸ Dorkenoo, *Cutting the Rose : Female Genital Mutilation : The Practice and Its Prevention*, page 14.

¹²⁹ Hosken, *The Hosken Report : Genital and Sexual Mutilations of Females*, page 37.

¹³⁰ Dorkenoo, *Cutting the Rose : Female Genital Mutilation : The Practice and Its Prevention*, page 15.

consider this condition as normal, since almost all the women they know in their communities have been through the same suffering.¹³¹

Even with all these painful complications, seeking medical support is not the first option for women, as Shell-Duncan et al (2001) affirm: health services are not accessible to them, they cannot afford with the medical expenses, they live in rural settings with little to no access to health systems, or even in some cases where the practice of FGM is illegal, they fear possible legal repercussions and consequences.¹³²

5.2 Sexual Impacts

The Female Genital Mutilation has a huge impact on the women's sexuality. Burrage (2016) cites some of the consequences for the women's sexual health, including anxiety resulting in vaginal dryness; greater risk of HIV; infertility; less (reported) sexual desire/lack of arousal; less sexual satisfaction/difficult to reach orgasm; morbidity due to anal intercourse, where vaginal access is difficult; shame or embarrassment about intimacy; and dyspareunia and pain during intercourse, making the only possibility the anal intercourse; vulvodynia (unexplained vulvar pain).¹³³¹³⁴¹³⁵

All types of mutilation cause injuries to the women's body and has sexual implications, since that the most important part of the body to sexual enjoyment is amputated.¹³⁶ This damage is greater when it's performed in younger girls, since the infantile and adolescent masturbation will have the purpose to teach the organism and create a consciousness to the girls about the proper function of their bodies and sexual organs.¹³⁷ The removal of such organs makes the women unaware of their sexual

¹³¹ Bettina Shell-Duncan, Walter Obungu Obiero, and Leunita Auko Muruli, "Women Without Choices: The Debate over Medicalization of Female Genital Cutting and Its Impact on a Northern Kenyan Community," in *Female "Circumcision" in Africa: Culture, Controversy and Change*, Bettina Shell-Duncan, Ylva Hernlund (London: Lynne Rienner, 2001), page 123.

¹³² Shell-Duncan, Obiero, and Muruli. Page 122.

¹³³ Burrage, *Eradicating Female Genital Mutilation*, page 115.

¹³⁴ Jennifer Jo Connor et al., "Understanding Women's Responses to Sexual Pain After Female Genital Cutting: An Integrative Psychological Pain Response Model," *Archives of Sexual Behavior* 50, no. 5 (July 1, 2021): 1859–69, <https://doi.org/10.1007/s10508-019-1422-9>, page 1860.

¹³⁵ Rigmor C Berg, "Psychological, Social and Sexual Consequences of Female Genital Mutilation/Cutting (FGM/C): A Systematic Review of Quantitative Studies," *Kunnskapssenteret*, no. 13 (2010): 79, page 50.

¹³⁶ Dorkenoo, *Cutting the Rose : Female Genital Mutilation : The Practice and Its Prevention*, page 20.

¹³⁷ Dorkenoo, page 20.

behavior and they will further feel more difficulties to accept that intercourse can be pleasurable for them.¹³⁸

To exemplify the unawareness of the women regarding their sexuality, Shandall (1967) affirm that in his research, he discovered there are women who has no idea at all of the existence of orgasm. Koso-Thomas (1998) adds that women who were subjected to FGM did not have intense arousal experience and none of them had experienced orgasm.¹³⁹

Notwithstanding the lack of understanding of the women about their sexual responses, the World Health Organization (1998) states that despite the cut of their genitalia, it did not abolish at all the possibility for these women achieve sexual pleasure and climax, through other parts with sensitive tissues, because “some studies suggest that others erogenous zones in the body may become more sensitized in women with genital mutilation”.¹⁴⁰ In this sense, Ahmadu (1995) affirms that women from the communities that practice FGM believe the clitoris is redundant, since the “real” sexual pleasure is in the “internal” vagina, and the operation to cut the female genitalia does not reduce their enjoyment of sexual pleasure.¹⁴¹

Although the divergent opinions regarding the sexual pleasure of women, another aspect that embrace the sexual consequences for the women is the pain. Many infibulated women describe their first intercourse as abnormal, terrifying, and traumatized experience¹⁴² with systematic discomfort, burning sensation or bleeding.¹⁴³

The sexual pain women suffer during the intercourse is not pleasurable for their husband neither. Lightfoot-Klein describes the testimony of a Sudanese man’s first sexual experience of his bride as a nightmare and abnormal. He felt guilty and like an

¹³⁸ Hosken, *The Hosken Report : Genital and Sexual Mutilations of Females*, page 37.

¹³⁹ Olayinka Koso-Thomas, *The Circumcision of Women: A Strategy for Eradication* (London: Zed Press, 1987), **quoted in** WHO, *Female Genital Mutilation : An Overview* (74: World health organization, 1998), page 35.

¹⁴⁰ WHO, *Female Genital Mutilation : An Overview*, page 35.

¹⁴¹ Ahmadu, “Rites and Wrongs.”

¹⁴² L. Catania et al., “Pleasure and Orgasm in Women with Female Genital Mutilation/Cutting (FGM/C),” *Journal of Sexual Medicine* 4, no. 6 (n.d.): 1666–78, **quoted in** Jasmine Abdulcadir and Lucrezia Catania, “Conceptualizing Sexual Pain in Women with Female Genital Mutilation/Cutting,” *Archives of Sexual Behavior* 50, no. 5 (July 1, 2021): 1871–74, <https://doi.org/10.1007/s10508-020-01691-1>, page 1872 .

¹⁴³ Catania et al, **quoted in** Armelle Andro, Emmanuelle Cambois, and Marie Lesclingand, “Long-Term Consequences of Female Genital Mutilation in a European Context: Self Perceived Health of FGM Women Compared to Non-FGM Women,” *Social Science & Medicine* 106 (April 2014): 177–84, <https://doi.org/10.1016/j.socscimed.2014.02.003>, page 183.

animal to hurt someone he loves. It was an experience he would rather not remember. This kind of pain can bring a “sexual dysfunction for both men and women, which leads to disharmony and the break-up of marriages and relationships”.¹⁴⁴

5.3 Childbirth Impacts

There are many consequences that women feel throughout all their pregnancies until the delivery of their babies. These consequences depend on the type of FGM they suffered¹⁴⁵ and include complications during the delivery as well as the possibility to be infertile due to infections originated from the mutilation’s practice or from her first intercourse with her husband, especially in the case of Infibulation.¹⁴⁶

Considering that most part of women who were subjected to FGM live in vulnerable countries without a good infrastructure for health, the consequences are likely to be even more severe.¹⁴⁷ For women who undergone to Excision Type, it is possible to observe as impacts: tears, hemorrhage, infections, delay in labor, obstructed labor, brain damage or death of the baby due to lack of oxygen.¹⁴⁸

For women who undergone the Infibulation Type, unassisted childbirth are impossible, because it is necessary to have a specialized person to perform the defibulation.¹⁴⁹ More than that, the chances of obstructed labor due the infections acquired at the moment of the practice are high, thus also requiring specialized assistance during the labor.¹⁵⁰ Balk (2001) also notes other occurrences as pregnancy loss, stillbirths, and primary and secondary sterility.^{151 152}

¹⁴⁴ Dorkenoo, *Cutting the Rose : Female Genital Mutilation : The Practice and Its Prevention*, page 23.

¹⁴⁵ Armelle Andro, Emmanuelle Cambois, and Marie Lesclingand, “Long-Term Consequences of Female Genital Mutilation in a European Context: Self Perceived Health of FGM Women Compared to Non-FGM Women,” *Social Science & Medicine* 106 (April 2014): 177–84, <https://doi.org/10.1016/j.socscimed.2014.02.003>, page 180; 182.

¹⁴⁶ Lars Almroth et al., “Primary Infertility after Genital Mutilation in Girlhood in Sudan: A Case-Control Study,” *The Lancet* 366, no. 9483 (July 30, 2005): 385–91, [https://doi.org/10.1016/S0140-6736\(05\)67023-7](https://doi.org/10.1016/S0140-6736(05)67023-7), page 385.

¹⁴⁷ World Health Organization, “Female Genital Mutilation and Obstetric Outcome: WHO Collaborative Prospective Study in Six African Countries.”, page 1840.

¹⁴⁸ Hosken, *The Hosken Report : Genital and Sexual Mutilations of Females*, page 37.

¹⁴⁹ Hosken, page 38.

¹⁵⁰ Shell-Duncan, Obiero, and Muruli, “Women Without Choices: The Debate over Medicalization of Female Genital Cutting and Its Impact on a Northern Kenyan Community.”, page 124.

¹⁵¹ Primary sterility is a woman who is “unable to conceive despite exposure over a prolonged period”; Secondary sterility is a woman who is “infertile after a known pregnancy” – Balk, “To Marry and Bear Children? The Demographic Consequences of Infibulation in Sudan”, page 58.

¹⁵² Balk, “To Marry and Bear Children? The Demographic Consequences of Infibulation in Sudan.”, page 58.

The Female Genital Mutilation also has risks for the infant. According to WHO (2011) the death rates for babies born from women who have FGM is higher than for women with no FGM, as 15% higher for Type I, 32% for Type II and 55% for Type III.¹⁵³

Furthermore, the Infibulation process can make women infertile. Mustafa (1966) affirms that “20% to 25% of the cases of infertility are due to infibulation”¹⁵⁴ because it interferes in the intercourse performance for the reason of small opening of the vulva and ends up forcing the husband to reopen it, with the use of unsterile instruments, increasing the risk of infections.¹⁵⁵ These consequences turn out to being contradictory with psychosexual reasons that lead some communities to claim that circumcision enhance fertility by making the girl less masculine.¹⁵⁶

The impact of the infibulation on the childbirth can lead also to a sociological consequence, with the impossibility of the women bear children and the decision of divorce from the husband because of her “inability” to get pregnant.¹⁵⁷ Therefore, women who had the most serious complications of the FGM are the least likely to continue with the practice, since they tend to be divorced or if married, they have fewest children to submit to circumcision.¹⁵⁸

5.4 Psychological Impacts

Although a lot of research about the impacts on women who undergone Female Genital Mutilation has been done, the physical consequences are more observed because they are more tangible and receive more attention by medical experts than psychological consequences, that are still discussed about its impact and its longevity.¹⁵⁹ One of the reasons of the difficulty to trace psychological impacts on girls and women with FGM is because of social taboos that restrain women to talk about

¹⁵³ Baud, “An Update on WHO’s Work on Female Genital Mutilation (FGM).”, page 3.

¹⁵⁴ Asim Zaki Mustafa, “Female Circumcision and Infibulation in the Sudan,” *Journal of Obstetrics and Gynecology* 73, no. 2 (1966): 302–6, <https://doi.org/10.1111/j.1471-0528.1966.tb05163.x>, page 304.

¹⁵⁵ Balk, “To Marry and Bear Children? The Demographic Consequences of Infibulation in Sudan.”

¹⁵⁶ Almroth et al., “Primary Infertility after Genital Mutilation in Girlhood in Sudan: A Case-Control Study.”, page 389.

¹⁵⁷ Balk, “To Marry and Bear Children? The Demographic Consequences of Infibulation in Sudan.”, page 70.

¹⁵⁸ Balk, page 71.

¹⁵⁹ Hosken, *The Hosken Report : Genital and Sexual Mutilations of Females*. Page 38.

the practice for fear of stigmatization, of being branded as promiscuous or as prostitutes.¹⁶⁰

For a long time, the psychological consequence of the FGM tradition on women and girls was ignored by medical experts and organizations as a violation of women's physical integrity, however, nowadays the practice is classified as a "psychological trauma according to Diagnostic and Statistical Manual of Mental Disorders Fourth Edition (DSM-IV) and a potential cause of Posttraumatic Stress Disorder (PTSD)".¹⁶¹ According to Ba'asher (1979) "It is quite obvious that the mere notion of surgical interference in the highly sensitive genital organs constitutes a serious threat to the child and that the painful operation is a source of major physical as well as psychological trauma".¹⁶²

The most recent results of studies indicate as psychological consequences for women subjected to FGM emotional distress such as guilt and shame;¹⁶³ phobia, low self-esteem;¹⁶⁴ negative impacts on brain function like sleeplessness, nightmares, appetite or weight loss or excessive gain, post-traumatic stress, panic attacks, mood instability, difficulties in concentration and learning.¹⁶⁵

The experiences girls had with the mutilation of their genitalia can be described as their major experience of fear, submission, humiliation, helplessness, anger – feelings that are very similar to rape victims.¹⁶⁶ Older women have reported the experience of the practice was much more painful and stressful than pregnancy, childbirth, painful sexual intercourse, and periods.¹⁶⁷

¹⁶⁰ Dorkenoo, *Cutting the Rose: Female Genital Mutilation: The Practice and Its Prevention*. Page 26.

¹⁶¹ Alice Behrendt and Steffen Moritz, "Posttraumatic Stress Disorder and Memory Problems after Female Genital Mutilation," *The American Journal of Psychiatry* 162, no. 5 (May 2005): 1000–1002, <https://doi.org/10.1176/appi.ajp.162.5.1000>. Page 1001.

¹⁶² Dr Taha Ba'asher, *Psychosocial Aspects of Female Circumcision*, paper presented to the Symposium on the Changing Status of Sudanese Women, 23 February 1979, **quoted in** Efua Dorkenoo, *Cutting the Rose: Female Genital Mutilation: The Practice and Its Prevention* (London: Minority rights publications, 1994), page 24.

¹⁶³ Connor et al., "Understanding Women's Responses to Sexual Pain After Female Genital Cutting," page 1860.

¹⁶⁴ Berg, "Psychological, Social and Sexual Consequences of Female Genital Mutilation/Cutting (FGM/C): A Systematic Review of Quantitative Studies." Page 49.

¹⁶⁵ World Health Organization. Division of Family Health, "Female Genital Mutilation: Report of a WHO Technical Working Group." (Geneva: World Health Organization, 1995), WHO IRIS, <https://apps.who.int/iris/handle/10665/63602>. Page 10.

¹⁶⁶ Berg, "Psychological, Social and Sexual Consequences of Female Genital Mutilation/Cutting (FGM/C): A Systematic Review of Quantitative Studies." Page 21; World Health Organization. Division of Family Health, "Female Genital Mutilation: Report of a WHO Technical Working Group.", page 10.

¹⁶⁷ World Health Organization. Division of Family Health, "Female Genital Mutilation: Report of a WHO Technical Working Group.", page 10.

In addition to these consequences, it is possible to note that the relationship with their mothers, family, and friends is affected through the feeling of betrayal and loss of confidence due to being subjected to such practice.¹⁶⁸ Future relationships with their husband is also influenced by the experience of FGM, with thoughts about how the practice made them less desirable, and with fear that if they seem frigid, unresponsive about sex, the husband might choose to take another wife, which could result in a depressive status for the wife.¹⁶⁹

For women and girls who left their communities to countries where the practice of Female Genital Mutilation is not common, the impression of being different, stigmatized and judged by people and authorities who do not understand their culture, as well as having a sense of inferiority and incompleteness, as if something was missing, can intensify the trauma, producing anxiety and mental conflict.¹⁷⁰

The factors that can lead to trauma for the girls and women are related to the Type of the mutilation and it is correlated to the feeling of powerless to influence the event, the experience of physical pain, the lack of information about and consent for the practice.¹⁷¹ The balance between the positive and negative experiences of the girl at the moment of the procedure is what will determine how she will remember the incident.¹⁷²

Many girls who were subjected to FGM remember the exact day, time and who was responsible for their “circumcision”.¹⁷³ This kind of trauma has irreparable consequences that cannot disappear in a couple of years: all of them will be carried by these women for the rest of their lives. Badawi (1989) observed in his research that “the intensity of their recall was very strong and vivid and commonly associated with

¹⁶⁸ Nimmi Parikh, Yvonne Saruchera, and Lih-Mei Liao, “It Is a Problem and It Is Not a Problem: Dilemmatic Talk of the Psychological Effects of Female Genital Cutting,” *Journal of Health Psychology* 25, no. 12 (2020): 1917–29, <https://doi.org/10.1177/1359105318781904>. Page 1923-1925; World Health Organization. Division of Family Health, “Female Genital Mutilation : Report of a WHO Technical Working Group.” Page 10.

¹⁶⁹ A. al-Krenawi and R. Wiesel-Lev, “Attitudes Toward and Perceived Psychosocial Impact of Female Circumcision as Practiced among the Bedouin-Arabs of the Negev,” *Family Process* 38, no. 4 (1999): 431–43, <https://doi.org/10.1111/j.1545-5300.1999.00431.x>. page 07; Parikh, Saruchera, and Liao, “It Is a Problem and It Is Not a Problem.” Page 1926; Dorkenoo, *Cutting the Rose : Female Genital Mutilation : The Practice and Its Prevention*. Page 26.

¹⁷⁰ Parikh, Saruchera, and Liao, “It Is a Problem and It Is Not a Problem.”, page 1921; Dorkenoo, *Cutting the Rose : Female Genital Mutilation : The Practice and Its Prevention*. Page 25.

¹⁷¹ Janet Menage, “Female Genital Mutilation: Whose Problem, Whose Solution?: Psychological Damage Is Immense,” *BMJ* 333, no. 7561 (2006): 260–260, <https://doi.org/10.1136/bmj.333.7561.260>.

¹⁷² WHO, *Female Genital Mutilation : An Overview*. Page 31.

¹⁷³ WHO. Page 31.

weeping and remembered pain and humiliation”.¹⁷⁴ Behrendt and Moritz (2005) further added that more than 80% of the women they had interviewed, were still suffering from intrusive reexperiences that make them look back to the moment of their “circumcision”.¹⁷⁵

To subject girls to the practice of Female Genital Mutilation is to harm the women’s body image and their sexuality forever. Moreover, it is a physical and psychological violence that girls do not have a say on it, though they are the only ones who must live with all the consequences and complications of the procedure, which makes them enquire: why my parents allowed such thing?, where is my decision power to choose the best for me?, and “who owns my body?”.¹⁷⁶

6. Prevalence of Female Genital Mutilation

The documents describing the prevalence of the types of Female Genital Mutilation and countries where this practice happens date back to the beginning of the twentieth century, with reports made by European travelers and missionaries.¹⁷⁷ Since 1950, many studies have been made to track the development of the practice, with the Faculty of Medicine of the University of Khartoum in Sudan having created the first national survey in 1979.¹⁷⁸

Nowadays, the most reliable and extensive data about the prevalence of FGM are provided by Demographic and Health Surveys (DHS) and Multiple Indicator Cluster Surveys (MICS), the responsible institutions to collect data in several countries in Africa.¹⁷⁹ In regions where the DHS has not been carried out, the surveys are conducted by local organizations or estimated by the World Health Organization.¹⁸⁰

¹⁷⁴ Mohamed Badawi, “Epidemiology of Female Sexual Castration in Cairo, Egypt” (The First International Symposium on Circumcision, California, 1989), 31–34, <http://www.nocirc.org/symposia/first/badawi.html>.

¹⁷⁵ Behrendt and Moritz, “Posttraumatic Stress Disorder and Memory Problems after Female Genital Mutilation.”, page 1001.

¹⁷⁶ al-Krenawi and Wiesel-Lev, “Attitudes Toward and Perceived Psychosocial Impact of Female Circumcision as Practiced among the Bedouin-Arabs of the Negev.”, page 07.

¹⁷⁷ WHO, *Female Genital Mutilation: An Overview*. Page 09.

¹⁷⁸ K. O. (Khama O.) Rogo, Tshiya. Subayi, and Nahid. Toubia, *Female Genital Cutting, Women’s Health and Development the Role of the World Bank*, World Bank Working Paper ; No. 122 (Washington, D.C: Africa Region Human Development Dept., World Bank, 2007). Page 04.

¹⁷⁹ UNICEF, “Changing a Harmful Social Convention.”, page 03; Rogo, Subayi, and Toubia, *Female Genital Cutting, Women’s Health and Development the Role of the World Bank*. Page 04.

¹⁸⁰ Rogo, Subayi, and Toubia, *Female Genital Cutting, Women’s Health and Development the Role of the World Bank*. Page 05.

The most recent data collected from the research institutes are being informed in the Table 2 below:

Prevalence of FGM among girls and women aged 15 to 49 years old			
Country	FGM Prevalence (%)	Year	Data Source
Benin	9%	2014	MICS
Burkina Faso	76%	2010	DHS/MICS
Cameroon	1%	2004	DHS
Central African Republic	22%	2018/2019	MICS
Chad	34%	2019	MICS
Côte d'Ivoire	37%	2016	MICS
Djibouti	94%	2012	PAPFAM ¹⁸¹
Egypt	87%	2015	DHS
Eritrea	83%	2010	Population and Health Survey
Ethiopia	65%	2016	DHS
Gambia	76%	2018	MICS
Ghana	2%	2017/2018	MICS
Guinea	95%	2018	DHS
Guinea-Bissau	52%	2018/2019	MICS
Iraq	7%	2018	MICS
Kenya	21%	2014	DHS
Liberia	44%	2013	DHS
Maldives	13%	2016/2017	DHS
Mali	89%	2018	DHS
Mauritania	67%	2015	MICS
Niger	2%	2012	DHS/MICS
Nigeria	20%	2018	DHS
Senegal	25%	2019	DHS

¹⁸¹ Pan Arab Project for Family Health

Sierra Leone	86%	2017	MICS
Somalia	99%	2020	SHDS ¹⁸²
Sudan	87%	2014	MICS
Togo	3%	2017	MICS
United Republic of Tanzania	10%	2015/2016	DHS
Yemen	19%	2013	DHS

Table 2: Percentage of Girls and Women Aged 15-49 Years who Have Undergone FGM (by Place of Residence and Household Wealth Quintile).¹⁸³

Despite the data gathered by the surveys, it is still a challenge to obtain information within the communities practicing the Female Genital Mutilation. The reasons for such difficulty are due to the social pressures that women and girls suffer, since there are several taboos relating to the FGM. Moreover, they also fear to be judged for their actions. Interviewers also face the challenge of properly explaining the questions that are made about the type of FGM women were subjected to.¹⁸⁴

Other studies and reports have noted the practice of Female Genital Mutilation in countries as Colombia, Democratic Republic of Congo, India, Indonesia, Israel, Malaysia, Oman, Peru, Sri Lanka, and United Arab Emirates. However, there are no national estimates within these countries.¹⁸⁵

According to the End FGM organization, only in 2019 it was observed that 4.1 million girls and women were subjected to Female Genital Mutilation, totalizing an addition of 200 million reported cases of girls and women who have undergone the practice since the beginning of the surveys. Furthermore, it was estimated that there are over 600.000 FGM survivors living in Europe and around, with an estimative of 137,000 girls at risk only in United Kingdom (the first country in Europe with the highest

¹⁸² Society for Health & Demographic Surveillance

¹⁸³ Source: Unicef Data, “Percentage of Girls and Women Aged 15-49 Years who Have Undergone FGM (by Place of Residence and Household Wealth Quintile)”, UNICEF, 2021, accessed June 7, 2022, (<https://data.unicef.org/topic/child-protection/female-genital-mutilation/>).

¹⁸⁴ Dorkenoo, *Cutting the Rose: Female Genital Mutilation: The Practice and Its Prevention*. Page 26; UNICEF, “Changing a Harmful Social Convention.”, page 06.

¹⁸⁵ World Health Organization, “Eliminating Female Genital Mutilation: An Interagency Statement - OHCHR, UNAIDS, UNDP, UNECA, UNESCO, UNFPA, UNHCR, UNICEF, UNIFEM, WHO,” 2008. Page 30.

chances of a girl to be subjected to the practice), followed by France with 125,000 and Italy with 87,500 girls at risk.¹⁸⁶

¹⁸⁶ “FGM in Europe,” End FGM European Network, accessed April 13, 2022, <https://www.endfgm.eu/female-genital-mutilation/fgm-in-europe/>.

Chapter II: International Framework and Human Rights Perspectives on Female Genital Mutilation

1. International Treaties and Documents

The practice of Female Genital Mutilation is a severe Human Rights violation, due to the long-life, irreparable damage and consequences to the girls' and women's health and psychological wellbeing, as well as due to the suppression of women in a culturally patriarchal society. Moreover, it is a global phenomenon, practiced in developing and developed countries, not limited to a one region, one culture or one religion.¹⁸⁷

The United Nations called the practice of FGM as “inhumane and has declared it one of the most serious health and human rights violations facing women worldwide”.¹⁸⁸ This tradition to cut the genitalia of women without medical reasons, caught the attention of international organizations that started to create debates and legal policies with the State Parties to combat the practice and put an end on it.

These legal policies are complemented by a series of documents from the United Nations' conferences and summits, international declarations, and conventions, aiming to invoke governments for actions to reaffirm and fight for the full respect, protection and fulfilment of women and children's rights.¹⁸⁹

1.1 Universal Declaration of Human Rights

Although the Female Genital Mutilation was seen as a “private matter” and it did not receive proper attention at first,¹⁹⁰ it was already a practice that would go against the Universal Declaration of Human Rights (UDHR), adopted by the United Nations in

¹⁸⁷ John-Stewart Gordon, “Reconciling Female Genital Circumcision with Universal Human Rights,” *Developing World Bioethics* 18, no. 3 (2018): 222–32, <https://doi.org/10.1111/dewb.12173>. Pages 222;223.

¹⁸⁸ Kathleen Monahan, “Cultural Beliefs, Human Rights Violations, and Female Genital Cutting: Complication at the Crossroad of Progress,” *Journal of Immigrant & Refugee Studies* 5, no. 3 (2007): 21–35, https://doi.org/10.1300/J500v05n03_02. Page 26.

¹⁸⁹ World Health Organization, “Eliminating Female Genital Mutilation: An Interagency Statement - OHCHR, UNAIDS, UNDP, UNECA, UNESCO, UNFPA, UNHCR, UNICEF, UNIFEM, WHO,” 2008. Page 08.

¹⁹⁰ Momoh, *Female Genital Mutilation*. Page 15,

1948. The Declaration “proclaimed the right of all human beings to live in conditions that enable them to enjoy good health and health care”.¹⁹¹

According to Gordon (2015), human rights are “primary moral rights of high priority that are universally valid, independent of any legal recognition by particular non-states or of particular times and places, and all human beings are endowed with these rights simply by virtue of their humanity”.¹⁹² These rights are inherent, unalterable and inalienable, and aim to protect the interest and values of human beings such as health, social security, freedom, political participation, and equality, ensuring the minimal standards necessary for a person.¹⁹³

Some articles of UDHR, even though not explicitly, allow the clear interpretation that communities and people who practice the FGM are violating human rights. As example Art. 1 that guarantees freedom and equality for all human being in a spirit of brotherhood; Art. 3 that ensures the right to life, liberty, and security; Art. 5 that prohibit torture, cruel, inhuman, or degrading treatment and punishment for any human being; Art.29 that affirms that everyone will be subjected to limitations of his rights and freedoms, only for purpose to secure the rights and freedoms of others.¹⁹⁴

The UDHR was an attempt of United Nations to create an “international letter” about human rights with juridical and moral values.¹⁹⁵ To improve the intention of UN, it was established other documents, treaties, conferences, and conventions, described below, to reaffirm the value and protection of human beings, and to complement the legal regime that can improve the struggle against Female Genital Mutilation.¹⁹⁶

1.2 International Covenant on Civil and Political Rights

Entered into force in 1976, the International Covenant on Civil and Political Rights (ICCPR) was drafted with the aim to guarantee the civil and political rights of all human beings.

¹⁹¹ World Health Organization, United Nations Fund, and *UNICEF, *Female Genital Mutilation : A Joint WHO/UNICEF/UNFPA Statement* (Geneva: World health organization, 1997). Page 10.

¹⁹² Gordon John-Stewart, “Human Rights and Cultural Identity,” *Baltic Journal of Law & Politics* 8, no. 2 (November 15, 2015): 112–35, <https://doi.org/10.1515/bjlp-2015-0021>. Page 114.

¹⁹³ Gordon, “Reconciling Female Genital Circumcision with Universal Human Rights.” Page 225.

¹⁹⁴ United Nations, “Universal Declaration of Human Rights” (United Nations, 1948), <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

¹⁹⁵ Claudia Barbieri, “Le Mutilazioni Genitali Femminili: Tra La Tutela Dei Diritti Umani e Lo ‘Scontro Tra Culture’.”, my translation, (Venezia, Università Ca’Foscari, 2012). Page 36.

¹⁹⁶ World Health Organization, “Eliminating Female Genital Mutilation: An Interagency Statement - OHCHR, UNAIDS, UNDP, UNECA, UNESCO, UNFPA, UNHCR, UNICEF, UNIFEM, WHO,” 2008. Page 08.

The articles regarding to the practice of FGM are Art. 6, which affirms that everyone has the inherent right to life protected by law.¹⁹⁷ Even though the tradition of Female Genital Mutilation does not directly deprive the lives of girls, it places them in a really risk situation that depending on her health conditions, environment, and tools of the procedure, it can be fatal.

Art. 7 of the Covenant declares that anyone cannot be subjected to torture, cruel, inhuman, degrading treatment, or punishment. Also, for medical e scientific experimentations it is mandatory the consent of the person who will be subjected to it.

Art. 18, paragraph 3 goes in line with Art.29 of UDHR, declaring that the freedom and beliefs of one's religion will be limited and prescribed to protect public safety, order, health, morals and the fundamental rights of others' freedom.¹⁹⁸

1.3 International Covenant on Economic, Social and Cultural Rights

The International Covenant on Economic, Social and Cultural Rights (ICESCR) entered into force in 1976 with the goal to protect the economic, social and cultural rights of all individuals, including labour rights, the right to health, education, and to an adequate standard of living.¹⁹⁹

It is possible to quote the Art. 12 that establishes the right of highest standard of physical and mental health to all human beings.²⁰⁰ This article allows to interpret that the FGM is a violation of the basic human right to health, since the mutilation brings suffering not only at the moment of operation, but for the rest of women's lives, with consequences that they have to deal with their entire life.²⁰¹ As mentioned in the previous chapter, the FGM causes a series of serious health consequences and complications, increasing girls' and women's risks to get HIV, to have miscarriages and urinary tract infections, for example.

¹⁹⁷ United Nations, "International Covenant on Civil and Political Rights," 1976, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>.

¹⁹⁸ United Nations.

¹⁹⁹ United Nations, "International Covenant on Economic, Social and Cultural Rights," 1976, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>.

²⁰⁰ United Nations.

²⁰¹ Abdulmumini A. Oba, "Female Circumcision as Female Genital Mutilation: Human Rights or Cultural Imperialism?," *Global Jurist* 8, no. 3 (November 6, 2008), <https://doi.org/10.2202/1934-2640.1286>. Page 17.

1.4 The Convention on the Elimination of All Forms of Discrimination Against Women

Adopted in 1979 and entered into force in 1981, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is a bill of rights for all women around the world, focusing on the struggle against discrimination, sex stereotypes, and ensuring equality between women and men in all areas of life.²⁰²

Besides the bill of rights constructed by CEDAW, it also outlines an agenda for international action to end discrimination against women, through actions that can change “the social and cultural patterns of conduct of men and women”.²⁰³

Art. 2(f) of CEDAW condemns discrimination against women and call the states to implement policies and to take measures, including legislative, to abolish or modify laws, customs, and practices that involve discrimination against women.

Art. 5 regards the measures to change the social and cultural patterns of conduct of men and women, obligating states to modify such patterns based on idea of inferiority or superiority of one of the sexes or on stereotyped roles for men and women, to eliminate prejudices and traditional customaries.

Art. 10(h) requires states to ensure for all the women and girls the access to educational information that helps to improve and ensure the health and well-being of families.

Art. 12 determines that states should take all measures to eliminate discrimination against women in the field of health care.

Art. 16 guarantees to women the same rights that men regarding marriage, including the possibility to choose a spouse and to enter into marriage only with their consent.²⁰⁴

Notwithstanding all these measures to fight against the discrimination of women, calling states to take responsibility to ensure equality, and to put in practice the provisions of the convention, there are no article that addresses specifically the issue

²⁰² United Nations, “Convention on the Elimination of All Forms of Discrimination against Women,” 1981, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>.

²⁰³ BETH D. WILLIAMS-BREAULT, “Eradicating Female Genital Mutilation/Cutting: Human Rights-Based Approaches of Legislation, Education, and Community Empowerment,” *Health and Human Rights* 20, no. 2 (2018): 223–34. Page 227.

²⁰⁴ United Nations, “Convention on the Elimination of All Forms of Discrimination against Women.”

of Female Genital Mutilation - the first document to do so will be a CEDAW Committee Recommendation issued in 1990.

1.4.1 CEDAW Committee's General Recommendation n° 14

The Ninth Session of the Committee on the Elimination of Discrimination against Women that took place in 1990 resulted in the adoption by CEDAW of its Fourteenth General Recommendation. This recommendation was the first document to quote and to address Female Genital Mutilation, using the term "Female Circumcision".²⁰⁵

The recommendation expressed CEDAW's concern about the continuance of the practice by cultural, traditional and economic pressures. It manifested satisfaction that countries where exist Female Genital Circumcision and international organizations had recognized the serious consequences this practice bring to women and children.

Besides of the clear mention of FGM, the document adopted by the organization is also important because it recommends the State Parties to take appropriate and effective measures to eradicate the practice of female circumcision.²⁰⁶

1.4.2 CEDAW Committee's General Recommendation n° 19

In 1992 the CEDAW Committee met to discuss once more violence against women. Despite the Female Genital Mutilation being, indeed, a violence against women and girls, there is no direct recommendations regarding this practice. However, it is possible to observe the few paragraphs of the document that establish links between cultural and traditional practices and the health of women.²⁰⁷

In Art. 11, CEDAW declares that traditional attitudes which involve the subordination of women to men and define stereotype roles perpetuate violent practices against women, including, but not limited to, forced marriage, dowry deaths, acid attacks and female circumcision. "Such prejudices and practices may justify gender-based violence as a form of protection or control of women".²⁰⁸

²⁰⁵ Ekaterina Yahyaoui Krivenko, "Rethinking Human Rights and Culture Through Female Genital Surgeries," *Human Rights Quarterly* 37, no. 1 (2015): 107–36. Page 114.

²⁰⁶ United Nations High Commissioner for Refugees, "CEDAW General Recommendation No. 14: Female Circumcision," 1990, <https://www.refworld.org/docid/453882a30.html>.

²⁰⁷ Krivenko, "Rethinking Human Rights and Culture Through Female Genital Surgeries.", page 115.

²⁰⁸ United Nations High Commissioner for Refugees, "CEDAW General Recommendation No. 19: Violence against Women," 1992, <https://www.refworld.org/docid/52d920c54.html>.

Art. 20 notes that in some countries traditional practices perpetuated by culture and tradition – as dietary restrictions for pregnant women, preference for male children and Female Circumcision or Genital Mutilation – are harmful to the health of women and children.

To conclude the document, in Art. 24(l) the Committee recalls States Parties to take measures to overcome Female Genital Circumcision, reporting health issues according to the Recommendation n° 14.²⁰⁹

1.5 Convention on the Rights of the Child

In 1990 entered into force the Convention on the Rights of the Child (CRC) aiming to set social, health, cultural rights of the children.

The Female Genital Mutilation is a violation of Human Rights, but also a violation of the Children's rights when performed on infants and young children.²¹⁰ The most debated topic about this tradition and the rights of the child regards the consent. The adult women are able to consent to these practices, however, little girls who are totally vulnerable and has no formed judgement, must undergo the ritual, without having their opinions listened.²¹¹

The capacity of children to consent and decide what is better for themselves is valid, required and accepted for many situations involving children's life. However, regarding to FGM, even if it is claimed that the girls accepted to undergo the practice, such a decision is based on a social pressure and by family and community expectations, without proper information about the lifelong consequences and risks they are being subjected to. More than that, consent in such conditions and situations are not considered valid.²¹²

Regarding the convention, there are no articles directly related to the practice of Female Genital Mutilation. Even so, the CRC clearly states the right to life, to development of every child and affirms that all decisions and actions taken on behalf of children must be in their best interest.

The Art. 2 protects the child against all forms of discrimination and punishment on the bases of status, beliefs, activities and family members.

²⁰⁹ United Nations High Commissioner for Refugees.

²¹⁰ Dorkenoo, *Cutting the Rose: Female Genital Mutilation: The Practice and Its Prevention*. Page 56.

²¹¹ Dorkenoo. Page 56.

²¹² WILLIAMS-BREAULT, "Eradicating Female Genital Mutilation/Cutting."

Art. 19(1) calls the States to “take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child”.²¹³

Art. 24(1)(3) states that all children have the right to the highest attainable standard of health and obliges State Parties to abolish all traditional practices that are prejudicial to the health of children. Even without mentioning FGM, it is possible to infer that such a practice is called to an end by the CRC, considering all the extremely harmful consequences it brings to a girl’s health and life.

Art. 37 establishes that no children should to be subjected to torture or other cruel, inhuman, degrading treatment or punishment.

Art. 39 demands State Parties to take measures to promote physical and psychological recovery to all children victims of abuse, torture or any other form of inhuman or degrading treatment or punishment.²¹⁴

1.6 The Vienna Declaration

The Vienna Declaration and Programme of Action of the World Conference on Human Rights, adopted in 1993, was a conference to carry out more comprehensive analyses about the international human rights system and its protection, as well as to discuss various forms of discrimination against women around the world.²¹⁵

The declarations still do not address directly the Female Genital Mutilation practice, however, in the conference it was stressed the importance of the elimination of violence against women in public and private life.

Art. 38 invokes the necessity to create measures to the eradication of any conflicts that can arise between women’s rights and harmful effects of some traditional and customary practices, cultural prejudices, and religious extremism.

²¹³ United Nations, “Convention on the Rights of the Child,” 1990, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>. Article 19.

²¹⁴ United Nations, “Convention on the Rights of the Child,” 1990, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.

²¹⁵ United Nations, “Vienna Declaration and Programme of Action,” 1993, <https://www.ohchr.org/en/instruments-mechanisms/instruments/vienna-declaration-and-programme-action>.

Art. 40 calls to international bodies to identify new procedures to strengthen implementation of equality and women's human rights.

Art. 41 notes the importance of women to have the highest standard of physical and mental health.

Art. 49 recalls the States Parties to revoke laws, regulations, customs and practices that discriminate and cause harm to the girl child.²¹⁶

1.7 The Declaration on the Elimination of Violence Against Women

Adopted in 1993, the Declaration was established to complement the CEDAW and the Declaration of Vienna,²¹⁷ with the goal to have a clear definition of violence against women, and make a clear statement of their rights.²¹⁸

To comprehend the definition of violence against women, the Art. 2(a) of the Declaration defines violence (without limiting it to) as a "Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, Female Genital Mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation".²¹⁹

Art. 4 recalls the responsibility of State Parties to ensure the assistance and rehabilitation of women who were subjected to any kind of violence; to develop national plans for the security and protection of women; to improve the penal, civil, labour and administrative laws; promote research to collect data and statistics concerning violence against women; and to adopt measures to modify the social and cultural pattern within its society to eliminate prejudices, customary practices and other practices based on gender inequality and stereotyped roles.²²⁰

²¹⁶ United Nations.

²¹⁷ Barbieri, "Le Mutilazioni Genitali Femminili: Tra La Tutela Dei Diritti Umani e Lo 'Scontro Tra Culture'." Page 41.

²¹⁸ United Nations, "Declaration on the Elimination of Violence against Women," 1993, <https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-elimination-violence-against-women>.

²¹⁹ United Nations.

²²⁰ United Nations.

1.8 The Declaration and Programme of Action of the International Conference on Population and Development

The Declaration of International Conference on Population and Development (ICPD) took place in Cairo in 1994 aiming to fight for gender equity and equality, as well as to address reproductive health and rights of women.²²¹ This document directly mentions the practice of Female Genital Mutilation in 5 paragraphs, quoted below:

Paragraph 4.22 urges to States to prohibit of Female Genital Mutilation, and to give the support to non-governmental organizations and religious institutions to eliminate such practice.

Paragraph 5.5 calls to States to take actions and measures to eliminate all forms of coercion and discriminatory practices as child marriages and Female Genital Mutilation.

Paragraph 7.6 requires States to establish a primary health care plan, which includes the discouragement of harmful practices as Female Genital Mutilation.

Paragraph 7.35 notes that harmful practices against women that have the aim to control women's sexuality, lead them to a great suffering. One of these practices is the Female Genital Mutilation, which is a violation of basic rights and poses a lifelong risk to women's health.

Paragraph 7.40 declares that all governments and communities should urgently create actions to stop the Female Genital Mutilation and protect women and girls from this and other similar practices. This paragraph also suggests some steps to eliminate these practices, for example through the creation of programs involving religious leaders and the community; education about its impact on girls and women; designing of appropriate treatment and rehabilitation for all women and girls who were subjected to FGM, and counseling to discourage the practice.²²²

²²¹ WHO, *Female Genital Mutilation : An Overview*. Page 53.

²²² United Nations, "Declaration and Programme of Action of the International Conference on Population and Development," 1994, https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_CONF.171_13.pdf.

1.9 Report of the World Summit for Social Development

The World Summit for Social Development (WSSD) took place in Copenhagen in 1995 to reach a consensus on the need to put people at the center of development.²²³

This report addresses specific provisions about the rights of women and of the girl child, reinforcing the ICPD language regarding Female Genital Mutilation, and condemning the practice.²²⁴

Commitment 6(y) describes the intention of the participants of the Summit to intensify and coordinate international support for education and health programs focusing on the protection of the rights of women and children, especially against Female Genital Mutilation, child marriage and other harmful practices.²²⁵

1.10 The Beijing Declaration and Platform for Action of the Fourth World Conference on Women

Held in Beijing in 1995, the Platform for Action of the Fourth World Conference on Women aims at implementing the Nairobi Forward-looking Strategies for the Advancement of Women²²⁶ and reaffirms the fundamental principle set in the Vienna Convention that “the human rights of women and the girl child are an inalienable, integral and indivisible part of human rights”.²²⁷ The declaration also seeks to promote and protect the rights of women throughout their life cycle.²²⁸

Paragraph 39 calls attention to the importance of the protection and equality of women’s rights and recalls that the discrimination and violence against girls still exist worldwide and includes less access to education and to health care, sexual and economic exploitation, harmful practices as Female Genital Mutilation, early marriage, female infanticide, among others.

²²³ United Nations, “World Summit for Social Development 1995 | DISD,” accessed April 22, 2022, <https://www.un.org/development/desa/dspd/world-summit-for-social-development-1995.html>.

²²⁴ WHO, *Female Genital Mutilation : An Overview*. Page 54.

²²⁵ United Nations, “Report of the World Summit for Social Development - A/CONF 166/9,” 1995.

²²⁶ The Nairobi Forward-looking Strategies for the Advancement of Women was a conference held in Nairobi in 1985 by the United Nations “to present concrete measures to overcome the obstacles to the Decade’s goals and objectives for the advancement of women.” - “The Nairobi Forward-Looking Strategies for the Advancement of Women (Excerpts),” *Question of Palestine* (blog), accessed June 6, 2022, <https://www.un.org/unispal/document/auto-insert-207862/>.

²²⁷ United Nations, “Fourth World Conference on Women - Mission Statement,” 1995, <https://www.un.org/womenwatch/daw/beijing/platform/plat1.htm#statement>. Para 02.

²²⁸ United Nations.

Paragraph 93 observes that discrimination against girls is spread around the world through the lack of access in health and education, in addition to being subjected to harmful practices such as Female Genital Mutilation.

Paragraph 107 compels States to give priority to educational programs that emphasize the elimination of harmful practices including FGM, son preferences and early marriage.

Paragraph 232 urges States to prioritize the protection of the full and equal rights for women and men without any distinction; to review national laws to ensure the implementation of principles by international human rights instruments and revoking any law that discriminate women based on gender and sex; to take actions to fight violence against women by harmful traditional and customary practices, cultural prejudices and extremism; to prohibit Female Genital Mutilation and support efforts of non-governmental organizations, community, and religious institutions to eliminate the practice.

Paragraph 259 notes that due to the discrimination and harmful practices against girls in the earliest ages of their lives, as son preference and Female Genital Mutilation, in some areas of the world, fewer girls than boys survive and reach adulthood.

Besides the mentions about the Female Genital Mutilation on the document, the Declaration also brings up the term in paragraphs 277(d) and 283(d) to require action from States to develop measures for education programs, including efforts to enact and enforce legislation protecting girls from all forms of discrimination.²²⁹

1.11 Commission on Status of Women – Resolution on the Ending of Female Genital Mutilation

The Commission on Status of Women is a commission of the United Nations Economic and Social Council (ECOSOC) that deals specifically with gender equality and advancement of women, formulating policies to promote women's rights in political, economic, civil, social, and educational fields.²³⁰

This resolution considers that Female Genital Mutilation and other harmful traditional practices constitute a serious threat to the psychological, sexual, and

²²⁹ United Nations, "Beijing Declaration and Platform for Action - The Fourth World Conference on Women," 1995, <https://www.un.org/womenwatch/daw/beijing/pdf/BDPfA%20E.pdf>.

²³⁰ United Nations High Commissioner for Refugees, "UN Commission on the Status of Women," Refworld, accessed April 22, 2022, <https://www.refworld.org/publisher,CSW,,,50ffbce4e4,,0.html>.

reproductive health of women and girls, increasing their vulnerability to HIV and many other lifelong consequences. In addition, it recognizes the FGM violates and nullifies the total enjoyment of the human rights of women and girls, being a practice with irreparable and irreversible impacts on their lives that affects 100 million to 140 million women and girls around the world.²³¹

The document calls upon States, non-governmental organizations, the international community, and the society to work together to promote effective policies against Female Genital Mutilation; to strengthen the level of education for women and girls; to promote gender-sensitive and empowering educational processes; and it urges States to develop psychological and social support services to women and girls subjected to the practice.

1.12 UN Resolution 67/146 – Intensifying Global Efforts for the Elimination of Female Genital Mutilation

The United Nations General Assembly adopted in 2012 with its 194 members a resolution that demonstrates the efforts of international community to ban the practice of Female Genital Mutilation, protecting the rights of women and children.²³²

The resolution reaffirms the conventions and declarations forementioned, recalling States their obligation to combat FGM, through preventive and punitive measures; to pursue a social perspective based on human rights; and to support girls and women who were subjected to such practice.²³³

1.13 United Nations Development Programme

In 2015 the United Nations adopted the Sustainable Development Goals (SDGs) as a universal call to actions to end poverty and protect the planet, and ensuring that by 2030 all human beings could enjoy peace and prosperity.²³⁴

²³¹ United Nations Economic and Social Council, “Commission on the Status of Women. Resolution on the Ending of Female Genital Mutilation,” 2008, https://www.un.org/womenwatch/daw/csw/csw52/AC_resolutions/Final%20L2%20ending%20female%20genital%20mutilation%20-%20advance%20unedited.pdf.

²³² James R. Moore, “Teaching about Human Rights: Female Genital Mutilation in America,” *Journal of Social Studies Education Research* 9, no. 4 (2018): 102–22, <https://doi.org/10.17499/jsser.40774>. Page 111.

²³³ United Nations, “Resolution 67/146. Intensifying Global Efforts for the Elimination of Female Genital Mutilation” (United Nations General Assembly, 2012), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N12/487/36/PDF/N1248736.pdf?OpenElement>.

²³⁴ United Nations, “Sustainable Development Goals | United Nations Development Programme,” UNDP, accessed April 24, 2022, <https://www.undp.org/sustainable-development-goals>.

The SDG have 17 goals to be accomplished by the Countries in all areas to guarantee the protection of people and the world. Regarding the Female Genital Mutilation, there is a specific topic in Goal 5, “Gender Equality”, that aims to “eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation”.²³⁵

1.14 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

The Convention against Torture (CAT) was built to fight against torture throughout the world and entered into force in 1987.²³⁶

To consider a crime based on torture, the actions must be committed by a state official against a person.²³⁷ Notwithstanding that the practice of Female Genital Mutilation is clearly a violation against human rights due to the inhuman treatment and also a torture against girls that are forcibly submitted to such practice,²³⁸ it is still difficult to prove and establish acts such FGM as torture, because it is committed in private spaces and not by the State itself.²³⁹

Even though the difficulties of the courts to judge crimes of Female Genital Mutilation as a crime of torture, the Committee against Torture was concerned that this practice still persists and made an observation on Kenya’s report regarding FGM: “The State party should take all necessary steps to eradicate the practice of female genital mutilation, including through the intensification of nationwide awareness raising campaigns, and to punish the perpetrators of such acts”.²⁴⁰

²³⁵ United Nations.

²³⁶ United Nations, “Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,” 1987, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading>.

²³⁷ Teresa Fernández-Paredes, “The Importance of Investigating Torture Against Women and Girls by Non-State Actors: Applicable Legal Standards from International Human Rights Law.,” in *Gender Perspective on Torture: Law and Practice*, Center for Human Rights&Humanitarian Law Anti-Torture Initiative (American University Washington College of Law, 2018), 57–86, <https://doi.org/10.17606/tat3-3510>, page 57.

²³⁸ Burrage, *Eradicating Female Genital Mutilation*. Page 111.

²³⁹ Fernández-Paredes, “The Importance of Investigating Torture Against Women and Girls by Non-State Actors: Applicable Legal Standards from International Human Rights Law.,” page 58.

²⁴⁰ United Nations, “Consideration of Reports Submitted by State Parties under Article 19 of the Convention - Concluding Observations of the Committee against Torture Kenya” (Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 2008), page 09.

2. United Nations Specialized Agencies and Female Genital Mutilation

The United Nations is committed to protect and guarantee the rights of all human beings, and it has been working for the advancement and development of new policies to ensure the minimal necessary standards of life to all persons.²⁴¹

The Female Genital Mutilation is a violation of women and girl's bodies, causing lifelong sexual and psychological issues, and putting them at risk of death. For this reason, it is a duty of the specialized agencies of UN such as the World Health Organization (WHO), the United Nations International Children's Emergency Fund (UNICEF), the United Nations Population Fund (UNFPA), and the United Nations Educational, Scientific and Cultural Organization (UNESCO) to support policies and programs that put an end to this harmful practice.²⁴²

Even though these specialized agencies deal directly with issues regarding women and children's rights, they began to be active on the fight against FGM in the 1970's, after repeated requests of the ECOSOC and concerned individuals. The reasons for the slowness in dealing with the FGM issue relates to the fact that, at that time, women's sexual, gynecological, and mental health needs were not regarded as important and they did not receive priority on the States' agenda, the only programs dealing with women's health being on childbearing and fertility control.²⁴³

Another reason for the delay of agencies to address the FGM situation is that the gender-based violence against women was just recognized internationally in the 1970's, due to the declaration of the Decade for Women and to the efforts of women to emphasize their human rights and create a link between health and human rights.²⁴⁴

In addition, the difficulty of the agencies to deal with FGM is also linked to the lack of knowledge about the issue and because it is a sensitive topic. These conditions led to a hesitation in the development of efforts and actions against the practice. Moreover, there was a belief that such agencies could not be active in the campaigns to abolish it.²⁴⁵

²⁴¹ World Health Organization, United Nations Fund, and *UNICEF, *Female Genital Mutilation : A Joint WHO/UNICEF/UNFPA Statement*. Page 16.

²⁴² World Health Organization, United Nations Fund, and *UNICEF. Page 16.

²⁴³ Dorkenoo, *Cutting the Rose : Female Genital Mutilation : The Practice and Its Prevention*. Page 66-67.

²⁴⁴ Dorkenoo. Page 67.

²⁴⁵ Dorkenoo. Page 67.

Despite the delay in taking measures to combat Female Genital Mutilation, nowadays the specialized agencies have programs and action plans that require the attention of State Parties to accomplish the goals defined in conventions and declarations with the support of non-governmental organizations.

2.1 World Health Organization

The first action of WHO to join the fight against Female Genital Mutilation was in 1979 with a first seminar about Harmful Traditional Practices Affecting the Health of Women and Children, organized by the WHO Regional Office for the Eastern Mediterranean with the participation of 10 African countries: Burkina Faso, Djibouti, Egypt, Ethiopia, Kenya, Nigeria, Oman, Somalia, South Yemen, and Sudan.²⁴⁶

On this seminar, after the presentation of the FGM issue, and the discussion about all the consequences for women and girls, some recommendations were made to States who are directly connected to the continuance of the practice, with the formulation of specific policies addressing FGM.²⁴⁷

Governments were called upon to adopt national policies for the abolition of female circumcision; establishment of national commissions to coordinate and follow-up the activities to end with the practice; intensify general education, including health education emphasizing on the dangers and negative consequences of female circumcision; and to intensify education programs to traditional birth attendants, midwives, and other medical practitioners about the harmful effects of female circumcision, requesting their efforts to abolish the practice.²⁴⁸

In 1982 WHO made a formal statement endorsing the recommendations of the first seminar about harmful practices and expressed its opposition to any medicalization of operation of female genitalia, and under no conditions, this kind of operation should be performed by health professionals or in health establishments.²⁴⁹

In the following years, the World Health Organization financially and technically supported national surveys regarding female mutilation, and worked together with non-

²⁴⁶ World Health Organization, "Seminar on Traditional Practices Affecting the Health of Women and Children" (WHO Regional Office for Eastern Mediterranean, 1979). Annex III, page I-V.

²⁴⁷ World Health Organization. Page 24.

²⁴⁸ World Health Organization. Page 24-25.

²⁴⁹ WHO, *Female Genital Mutilation: An Overview*. Page 60.

governmental organizations and the Inter African Committee (IAC) to combat this practice.²⁵⁰

During the forty-third seminar on harmful practice held in 1991, it was established a new official terminology of operations on female genital organs: “Female Genital Mutilation”, since the term “circumcision” did not reflect the gravity of such practices, and it was recommended the use of the new term in the future documents.²⁵¹

In 1994 the forty-seventh session of the Regional Seminar on the Harmful Traditional Practices Affecting the Health of Women and Children took place. On this seminar it was established national and international actions to eliminate all harmful practice against women and child, including Female Genital Mutilation. Within these actions the States were requested to draft legislations prohibiting the practice; to create national committees to combat FGM; to develop courses about the Female Genital Mutilation and other practices to be included in programs for medical and paramedical personnel; to publish articles about traditional practices adversely affecting the health of young girls and children; and to cooperate with religious institution and their leaders and traditional authorities to eliminate harmful traditional practices.²⁵²

Besides the national actions requested by the WHO, it was also recalled measures from international organizations and non-governmental organizations (NGO), as well as community efforts to abolish FGM. Inside the list of measures there were the following provisions: that women and children’s health matters should be retained on the agenda and kept under constant review by the Commission on Human Rights, giving more attention to the harmful practices; that the specialized agencies should elaborate programs about the problem of FGM; that cooperation between NGOs and governments should take place aiming to eliminate practices affecting the health of women and children; and that health workers should be required to dissociate themselves from harmful traditional practices.²⁵³

In 1995 WHO held a Technical Working Group to draw attention and develop standards and norms regarding Female Genital Mutilation, as well as to make

²⁵⁰ WHO. Page 60.

²⁵¹ United Nations, “Report of the United Nations Seminar on Traditional Practices Affecting the Health of Women and Children” (Economic and Social Council, 1991). Page 32.

²⁵² United Nations, “Plan of Action for the Elimination of Harmful Traditional Practices Affecting the Health of Women and Children” (Economic and Social Council, 1994). Page 2-3.

²⁵³ United Nations. Page 08-09.

recommendations for future activities. In this session it was drawn up the practice's definition and the classification used until today.²⁵⁴

In 2008 the World Health Assembly passed a resolution focusing on the elimination of Female Genital Mutilation, emphasizing the necessity of actions in health, education, finance, justice, and women's affair.²⁵⁵ On this resolution, WHO urges States to accelerate actions toward the elimination of Female Genital Mutilation; to enact and enforce legislation to protect girls and women from all forms of violence; to work with partners and all sectors of government and international agencies; and to develop and reinforce social and psychological support services to assist women and girls who were subjected to this violence.²⁵⁶

The World Health Organization have been working on increasing knowledge about Female Genital Mutilation and developing programs, policies and approaches to end this harmful practice. Moreover, it is making an effort to ensure that the FGM is seen as an issue related to women's psychological and reproductive health, including human rights. WHO has the responsibility to prepare guidelines for healthcare workers, to strengthen partnerships with governments, non-governmental organizations, policy makers, human rights advocates, and United Nations agencies to join forces for the elimination of such practice.²⁵⁷

2.2 United Nations International Children's Emergency Fund

The first statement about the position of UNICEF regarding the Female Genital Mutilation was done in 1979: "The health hazards and psychological risks, long-term as well as immediate, to young girls as a result of the practice of female genital circumcision in its varied forms, are a serious source of concern to the United Nations Children's Fund..."²⁵⁸

²⁵⁴ World Health Organization. Division of Family Health, "Female Genital Mutilation : Report of a WHO Technical Working Group." Page 02-04.

²⁵⁵ World Health Organization, "Female Genital Mutilation - Fact Sheet," 2014, https://apps.who.int/iris/bitstream/handle/10665/112328/WHO_RHR_14.12_eng.pdf.

²⁵⁶ World Health Assembly, "Sixty-First World Health Assembly - Female Genital Mutilation" (World Health Organization, 2008). Page 02-03.

²⁵⁷ World Health Organization, United Nations Fund, and *UNICEF, *Female Genital Mutilation : A Joint WHO/UNICEF/UNFPA Statement*. Page 18.

²⁵⁸ UNICEF, "UNICEF Position on Female Circumcision," *Win News* 5, no. 4 (1979): 26–27, **quoted in** Fran P. Hosken, *The Hosken Report: Genital and Sexual Mutilations of Females*, 4. revised ed (Lexington, MA: Women's international network news, 1994), page 334.

In 1980 UNICEF joined efforts with the World Health Organization to create a plan of action to take into consideration the primary health care for all human beings. Within this plan, some recommendations to get more knowledge about FGM were quoted: advocacy efforts toward UNICEF and WHO related to citizen's health; research about epidemiology and socio-cultural studies with people's behavior, values and attitudes; and dissemination of the research results in practicing countries.²⁵⁹

In 1997 UNICEF published a statement in a book with the support of WHO and UNFPA to enlighten the subject of Female Genital Mutilation, its health complications and the actions and approaches of international organizations to end the practice.²⁶⁰

In 2022 it designed a Strategic Plan to promote the fulfillment of rights of children by 2030, with 5 main goals. Goal 3 deals with the protection of children from violence, exploitation, abuse, neglect, and harmful practices, including Female Genital Mutilation.²⁶¹

UNICEF advocates for women to eliminate FGM by promoting gender equality and empowerment of girls. It has been working in partnership with governments, activists, communities, and it has developed many strategies that embrace legislation, cross-cutting humanitarian development, and track progress of the elimination of Female Genital Mutilation.²⁶²

2.2.1 Joint Programme on Eliminating Female Genital Mutilation: Accelerating Change – UNICEF and UNFPA

In 2008 UNICEF started to work in partnership with UNFPA in a program aiming to accelerate abandonment of Female Genital Mutilation in 17 countries: Burkina Faso, Djibouti, Egypt, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Kenya, Mali, Mauritania, Nigeria, Senegal, Sudan, Somalia, Uganda and Yemen.²⁶³

²⁵⁹ Dorkenoo, *Cutting the Rose: Female Genital Mutilation: The Practice and Its Prevention*. Page 69.

²⁶⁰ World Health Organization, United Nations Fund, and *UNICEF, *Female Genital Mutilation: A Joint WHO/UNICEF/UNFPA Statement*. Page 01.

²⁶¹ UNICEF, "UNICEF Strategic Plan 2022-2025. Renewed Ambition Towards 2030.," 2022, pages 03;13.

²⁶² UNICEF, "A Decade of Action to Achieve Gender Equality: The UNICEF Approach to the Elimination of Female Genital Mutilation," 2020, pages 07-12.

²⁶³ UNICEF, "UNFPA-UNICEF Joint Programme on the Elimination of Female Genital Mutilation," 2021, accessed April 26, 2022, <https://www.unicef.org/protection/unfpa-unicef-joint-programme-eliminating-fgm>.

Since the beginning of the program, it is possible to observe some achievements as more girls and women are receiving health care services, social welfare, and access to justice; girls gained skills and knowledge to advocate for their rights; African Union launched the Accountability Framework to monitor the progress of Member States towards FGM and States around the world are creating new policies to ban the practice.²⁶⁴

In 2020 it was designed by supervision of the UNICEF and UNFPA Joint Programme, the ACT Framework, a macro-level monitoring and evaluation, containing indicators to track and measure social norms change addressing Female Genital Mutilation. This tool aims to develop interventions based on the result of indicators, leading women and girls to have a choice and control over their body, as well as to live free of the threat of FGM.²⁶⁵

Nowadays, the project is in the Phase IV (2022-2030) with the commitment to end Female Genital Mutilation by 2030 through raising awareness of the harms caused by the practice, the empowerment of women and girls to make the decision to abandon the practice,²⁶⁶ and keeping its principles to respect human rights, focus on gender-equality, be sensitive to local culture, leave no one behind, do not harm, and zero tolerance for FGM.²⁶⁷

2.3 United Nations Educational, Scientific and Cultural Organization

Despite the seriousness and extension of the Female Genital Mutilation practice, UNESCO did not put so many efforts to develop policies or join other international organizations to fight against the Female Genital Mutilation.

The UN agency only joined the Association for Reproductive and Family Health (ARFH), a non-governmental organization in Nigeria in 1989 that implements projects regarding the improvement of the quality of people's life over the Nigeria's states.²⁶⁸ UNESCO decided to collaborate with ARFH to run a project of Adolescent Sexual and

²⁶⁴ UNICEF.

²⁶⁵ UNICEF and UNFPA, "The ACT Framework Package: Measuring Social Norms around Female Genital Mutilation - ACT Framework," 2020, page 04;10.

²⁶⁶ UNFPA, "Female Genital Mutilation," United Nations Population Fund, 2022, accessed April 27, 2022, <https://www.unfpa.org/female-genital-mutilation>.

²⁶⁷ UNICEF and UNFPA, "Technical Guidance - A Comprehensive Approach to Accelerating the Elimination of Female Genital Mutilation" (UNFPA-UNICEF Joint Programme on the Elimination of Female Genital Mutilation: Accelerating Change, 2021), page 08.

²⁶⁸ Association for Reproductive and Family Health, "About – ARFH Nigeria," accessed April 27, 2022, <https://arfh-ng.org/about/>.

Reproductive Health (ASRH) in schools with the support of teachers to increase the sexual and reproductive health knowledge for all the kids, including the Female Genital Mutilation topic.²⁶⁹

3. Female Genital Mutilation and Gender Violence

To have a better understanding about the differences between sex and gender, Crawley (2001) arguments that sex is a biological and innate term, while gender is a “social construction of power relations between women and men, and the implications of these relations for women’s (and men’s) identity, status, roles and responsibilities”.²⁷⁰ Moreover, it was noted that the relation of gender differences is directly connected with the history and culture of each society, varying through space and over time.²⁷¹

The practice of Female Genital Mutilation is not only a violation of the rights of women and girls, but it is a violence committed because of gender, as a tool of the patriarchal system to make women subordinated to men’s desire.²⁷² According to the World Health Organization, it is a practice rooted on gender inequalities and power imbalances between men and women that prevents women from enjoying their full and equal rights,²⁷³ in addition to assigning them an inferior position in society.²⁷⁴

Female Genital Mutilation is a patriarchal tradition, perpetrated exclusively against girls and women²⁷⁵ that aims to subjugate and control their bodies and power, ensuring that the only possible way for them to a secure future is through marriage and motherhood.²⁷⁶ FGM also inhibits girls and women from deciding on a procedure with lifelong and drastic consequences for their health and body that only they will have to

²⁶⁹ UNESCO, “Female Genital Mutilation and Cutting: A Spotlight Initiative Report | UNESCO,” 2022, accessed April 27, 2022, <https://www.unesco.org/en/articles/female-genital-mutilation-and-cutting-spotlight-initiative-report>.

²⁷⁰ Heaven Crawley, “Gender, Persecution and the Concept of Politics in the Asylum Determination Process.,” *Forced Migration Review* 9 (2001): 17–20, page 17.

²⁷¹ Crawley, page 17.

²⁷² Camilla Yusuf and Yonatan Fessha, “Female Genital Mutilation as a Human Rights Issue: Examining the Effectiveness of the Law Against Female Genital Mutilation in Tanzania,” *African Human Rights Law Journal* 13, no. 2 (2013): 357–82, page 363.

²⁷³ World Health Organization, “Eliminating Female Genital Mutilation: An Interagency Statement - OHCHR, UNAIDS, UNDP, UNECA, UNESCO, UNFPA, UNHCR, UNICEF, UNIFEM, WHO,” 2008. Page 10.

²⁷⁴ UNICEF, “Changing a Harmful Social Convention.,” page 01.

²⁷⁵ Chi Mgbako et al., “Penetrating the Silence in Sierra Leone: A Blueprint for the Eradication of Female Genital Mutilation,” *Harv. Hum. Rts. J.* 23 (January 1, 2010): 111–40, page 137.

²⁷⁶ Momoh, *Female Genital Mutilation*. Page 139.

deal with.²⁷⁷ These discriminatory actions carry a message of the role of women within society, further to promote the dominance over them, that undermines their physical and mental integrity, restricting their fundamental freedoms.²⁷⁸

The gender norms about FGM are directly related to community systems and family structures.²⁷⁹ Regarding to the role of communities over FGM and gender norms, the social settings defined by them determine the views of other people over the girls and they self-conception, ruling specific gender patterns to its citizens that ensure the compliance of its standards to being respected within the society.²⁸⁰

According to UNFPA (2015), the pressure of the society produces an acceptance of women to follow the social rules as means to obtain social respect and economic security.²⁸¹ It forces them to be exposed to a dubious and harmful practice as the FGM,²⁸² giving up on any scarce possibility of choosing on matters about their sexual life, marriage, and childbearing.²⁸³ Furthermore, this kind of pressure is a path to gender indoctrination, sexual sublimation, and repression of women, with an interconnection of beliefs, values, and principles of social life.²⁸⁴

Gordon (2015) concludes that the origin of the self-perception of everyone, how each person perceives oneself, is determined by the interaction between the individual and social self, based on reference of social settings that are embedded within the community.²⁸⁵ In other words, such patterns as religion, culture and gender of each individual are built on how other people see and deal with it, turning it into a reference for other members of the society.²⁸⁶

²⁷⁷ World Health Organization, "Eliminating Female Genital Mutilation: An Interagency Statement - OHCHR, UNAIDS, UNDP, UNECA, UNESCO, UNFPA, UNHCR, UNICEF, UNIFEM, WHO," 2008. Page 10; Mgbako et al., "Penetrating the Silence in Sierra Leone.", page 137.

²⁷⁸ Yusuf and Fesha, "Female Genital Mutilation as a Human Rights Issue: Examining the Effectiveness of the Law Against Female Genital Mutilation in Tanzania." Page 364.

²⁷⁹ Kathryn M. Yount et al., "Community Gender Systems and a Daughter's Risk of Female Genital Mutilation/Cutting: Multilevel Findings from Egypt," *PLoS ONE* 15, no. 3 (2020): e0229917–e0229917, <https://doi.org/10.1371/journal.pone.0229917>. Page 03.

²⁸⁰ Gordon, "Reconciling Female Genital Circumcision with Universal Human Rights." Page 226.

²⁸¹ United Nations Population Fund, "Demographic Perspectives on Female Genital Mutilation.," 2015. Page 16.

²⁸² John-Stewart, "Human Rights and Cultural Identity." Page 127.

²⁸³ United Nations Population Fund, "Demographic Perspectives on Female Genital Mutilation." Page 16.

²⁸⁴ Rogaia Mustafa Abusharaf, "Revisiting Feminist Discourses on Infibulation: Responses from Sudanese Feminists," in *Female "Circumcision" in Africa: Culture, Controversy and Change*, Bettina Shell-Duncan, Ylva Hernlund (London: Lynne Rienner, 2001), 151–66. Page 153.

²⁸⁵ John-Stewart, "Human Rights and Cultural Identity." Page 117.

²⁸⁶ John-Stewart. Page 117.

The pressure of society over women and girls to undergo the procedure of FGM is so strong, that women are connivant with it and also the most active persons within the culture of female circumcision.²⁸⁷ Mothers have no other option than to make their girl children undergo the practice, since it is the only way to guarantee the chances of marriageability of daughters and a stable future.²⁸⁸ However, as affirm Hakim (2001), the tradition of FGM and the active participation of mothers within the procedures are a matter of sexual politics, as soon as men stop to demand circumcised women as a prerequisite for marriage, the practice would stop.²⁸⁹

Despite the requirement of men to have circumcised women, other actions also contribute for the perpetuation of Female Genital Mutilation. Yount et al (2020) cite the structural inequities as one of the factors that influence the tradition, because it limits women's opportunities.²⁹⁰ The authors give examples of limits of opportunities such as the lack of access to education and of activities to enhance their personal economy, the lower female participation and representation in politics as obstacles to the independence of women, making women complicit with the tradition in the absence of real alternatives, as well as a survival strategy.²⁹¹

Despite the main character of instigation of the practice are women, it is important to note that men have specific roles to play within the tradition.²⁹² Fathers usually are responsible for giving their permission and for supporting their daughters to undergo the procedures and often they provide the payment for the soothsayers²⁹³.²⁹⁴

²⁸⁷ Lukamanul Hakim, "Impact of Female Genital Mutilation on Maternal and Neonatal Outcomes during Parturition," *East African Medical Journal* 78 (June 1, 2001): 255–58, **quoted in** Patricia Akweongo et al., "It's a Woman's Thing: Gender Roles Sustaining the Practice of Female Genital Mutilation among the Kassena-Nankana of Northern Ghana," *Reproductive Health* 18, no. 1 (2021): 1-17, <https://doi.org/10.1186/s12978-021-01085-z>, page 02.

²⁸⁸ Balk, "To Marry and Bear Children? The Demographic Consequences of Infibulation in Sudan.", page 69.

²⁸⁹ Hakim, "Impact of Female Genital Mutilation on Maternal and Neonatal Outcomes during Parturition.", **quoted in** Patricia Akweongo et al., "It's a Woman's Thing: Gender Roles Sustaining the Practice of Female Genital Mutilation among the Kassena-Nankana of Northern Ghana," *Reproductive Health* 18, no. 1 (2021): 1-17, <https://doi.org/10.1186/s12978-021-01085-z>, page 02.

²⁹⁰ Yount et al., "Community Gender Systems and a Daughter's Risk of Female Genital Mutilation/Cutting.", page 05.

²⁹¹ Yount et al., page 05.

²⁹² Akweongo et al., "It's a Woman's Thing.", page 05.

²⁹³ "Soothsayer is a spiritual leader who performs traditional rites that are believed to establish communication with ancestral spirits". They are responsible to decide whether and when a girl is ready to undergo the female circumcision. Patricia Akweongo et al., "It's a Woman's Thing: Gender Roles Sustaining the Practice of Female Genital Mutilation among the Kassena-Nankana of Northern Ghana," *Reproductive Health* 18, no. 1 (2021): 1-17, <https://doi.org/10.1186/s12978-021-01085-z>, page 06.

²⁹⁴ Akweongo et al. Page 06.

While the fathers play a role to encourage their daughters into procedures, the future husbands play the role of choosing only circumcised women and girls, since they believe the practice will avoid immorality and infidelity.²⁹⁵

The circumcision of women demanded by men emphasizes the virginal and reproductive roles of women that is laid in the hands of husbands, who has the total control of their wife's reproductiveness²⁹⁶, moreover, it reinforces the male supremacy and the oppression of women.²⁹⁷

The control of husbands over their wives goes beyond the women's autonomy of reproduction. It also embraces the men dominance over women sexual behavior and social condition, making the practice of circumcision a crucial condition to marriageability with the purpose to turn women physically, aesthetically, and socially more acceptable for men.²⁹⁸

Overall, the practice of Female Genital Mutilation is a gender norm that reflects and reinforce the patriarchal system,²⁹⁹ besides being an extreme gender violation and abuse against women and their rights.

3.1 Female Genital Mutilation is a Gender Based Violence

The difference between gender-based violence (GBV) and other kinds of violence is that the former is usually an abuse against the body of a person due their (perceived) gender or sexuality.³⁰⁰ The violence caused for gender reasons is used by perpetrators as instrument of pleasure, experimentation, and also as a way to send a message of terror: a sign for others to see and use.³⁰¹

Most of the GBV cases happen against women and girls, who suffer with a range of abuses such as domestic violence, sexual and physical violence, emotional

²⁹⁵ Oba, "Female Circumcision as Female Genital Mutilation.", page 05.

²⁹⁶ Balk, "To Marry and Bear Children? The Demographic Consequences of Infibulation in Sudan.", page 69.

²⁹⁷ J. A. Black and G. D. DeBelle, "Female Genital Mutilation in Britain," *BMJ* 310, no. 6994 (June 17, 1995): 1590–92, <https://doi.org/10.1136/bmj.310.6994.1590>. Page 1590.

²⁹⁸ Gordon, "Reconciling Female Genital Circumcision with Universal Human Rights.", page 231.

²⁹⁹ Yount et al., "Community Gender Systems and a Daughter's Risk of Female Genital Mutilation/Cutting.", page 05.

³⁰⁰ Sundari Anitha and Ruth Lewis, "Introduction: Some Reflections in These Promising and Challenging Times," in *Gender Based Violence in University Communities Policy, Prevention and Educational Initiatives*, Sundari Anitha, Ruth Lewis, Policy Press Scholarship Online (Bristol: Bristol University Press - Policy Press, 2018), 1–20. Page 01; Center for Human Rights & Humanitarian Law Washington College - Law, *Gender Perspective on Torture: Law and Practice*, n.d. Page VII.

³⁰¹ Washington College - Law, *Gender Perspective on Torture: Law and Practice*. Page VII.

violence, sexist harassment, verbal abuse, coercive or controlling behavior, and expressions on social media that normalize sexism and sexual objectification.³⁰²

According to Nwaomah and Min (2019), the GBV against women is identified as the most perverse unrecognized social problem with deep social, psychological and health implications, guided by cultural traditions, and denied by the family because it is considered a private matter,³⁰³ justified by cultural beliefs, social norms, religion, or tradition.³⁰⁴

One of these cultural traditions is the Female Genital Mutilation practice, that is based on women's status in a subordinate position to men, defined by the distribution of power in society,³⁰⁵ by sex and social roles.³⁰⁶ Such abuses have the aim to humiliate, intimidate and subjugate women in society, maintaining the conception of women as inferior and property of men and attacking her identity and sexuality.³⁰⁷ Furthermore, it is considered a grave form of GBV, recognized as a human rights violation.³⁰⁸

The Beijing Declaration and Platform for Action (1995) considered any act of gender-based violence as a violence against women that result in a physical, sexual, or psychological harm or suffering to women,³⁰⁹ and it explains that the violence based on gender is a "manifestation of the historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of women's full advancement... It derives essentially from cultural patterns and all acts of extremism linked to race, language, or religion that

³⁰² Anitha and Lewis, "Introduction: Some Reflections in These Promising and Challenging Times.", page 01; Lindsay Mallick and Vandana Tripathi, "The Association Between Female Genital Fistula Symptoms and Gender-Based Violence: A Multicountry Secondary Analysis of Household Survey Data," *Tropical Medicine & International Health* 23, no. 1 (2018): 106–19, <https://doi.org/10.1111/tmi.13008>, page 107.

³⁰³ Evans N. Nwaomah and D. Min., "Gender-Based Violence Against Women: Matters Arising From a Social-Cultural Milieu," *Research on Humanities and Social Sciences* 9, no. 14 (2019): 56–64, <https://doi.org/10.7176/RHSS>. Page 56.

³⁰⁴ Washington College - Law, *Gender Perspective on Torture: Law and Practice*. Page XII.

³⁰⁵ Fernández-Paredes, "The Importance of Investigating Torture Against Women and Girls by Non-State Actors: Applicable Legal Standards from International Human Rights Law.", page 59.

³⁰⁶ Momoh, *Female Genital Mutilation*. Page 15.

³⁰⁷ Fernández-Paredes, "The Importance of Investigating Torture Against Women and Girls by Non-State Actors: Applicable Legal Standards from International Human Rights Law.", page 70.

³⁰⁸ S. O'Brien Green, "What Is FGM?," *Association for Improvements in the Maternity Services Journal* 26, no. 2 (2014): 15–15, **quoted in** Siobán O'Brien Green, "'I Have a Story to Tell': Researching Migrant Women's Experiences of Female Genital Mutilation and Gender-Based Violence in Ireland and Europe," *Social Work & Social Sciences Review* 19, no. 3 (2018): 134–51, <https://doi.org/10.1921/swssr.v19i3.1195>. Page 136.

³⁰⁹ United Nations, "Beijing Declaration and Platform for Action - The Fourth World Conference on Women.", page 48.

perpetuate the lower status accorded to women and exacerbated by social pressures”.³¹⁰

Such traditions - as it is the case of Female Genital Mutilation, that is a product of a patriarchal culture, carried over generations and focusing on the men’s desire, neglecting the needs of women - are more difficult to eradicate and change, because they seem inherent to the whole society.³¹¹ It is so intense that people within the community with FGM culture are rarely aware that the practice of circumcision is an act of violence towards the rights of women and girls, and that it sustains the pattern of male dominance and control over women.³¹²

4. Female Genital Mutilation and Feminist Organizations

Feminism is an ideology of theoretical assumptions taken as truth that aims to ensure the equality between men and women within the political, economic, cultural, and social fields.³¹³ This belief leads its supporters to take actions against any kind of discrimination against women towards a future where women can freely choose about their own bodies and lives, without judgments and pressures from society.³¹⁴

Since the beginning of feminist movements in 19th century, many different strands regarding to the ideologies of these movements emerged, but always keeping the same concept: explain the subordination of women and the unjustified social positions between men and women, to, furthermore, come up with solution for such scheme.³¹⁵

The culture of Female Genital Mutilation became a target of discussion among feminist organizations, where some of these feminists affirmed such tradition is a symbol of patriarchal oppression, modifying the image of clitoris into a powerful symbol of women’s emancipation, with the aim to put an end to this practice, as shown in figure 2.³¹⁶

³¹⁰ United Nations. Page 49.

³¹¹ Nwaomah and Min., “Gender-Based Violence Against Women: Matters Arising From a Social-Cultural Milieu.”, page 58; Burrage, *Eradicating Female Genital Mutilation*. Page 101.

³¹² UNICEF, “The Dynamics of Social Change.”, page 23; Nwaomah and Min., “Gender-Based Violence Against Women: Matters Arising From a Social-Cultural Milieu.”, page 58.

³¹³ Letícia Zimmer Olegário and Mariana Dalalana Corbellini, “A Mutilação Genital Feminina no Continente Africano sob a Perspectiva Feminista”, my translation, *Revista Artemis* 23, no. 1 (2017): 138–48, <https://doi.org/10.22478/ufpb.1807-8214.2017v23n1.35793>. Page 139.

³¹⁴ Olegário and Corbellini. Page 139.

³¹⁵ Olegário and Corbellini. Page 140.

³¹⁶ Bettina Shell-Duncan and Ylva Hernlund, “Female ‘Circumcision’ in Africa: Dimensions of the Practice and Debates,” in *Female “Circumcision” in Africa: Culture, Controversy and Change*, Bettina Shell-Duncan, Ylva Hernlund (London: Lynne Rienner, 2001), 1–40. Page 21-22.

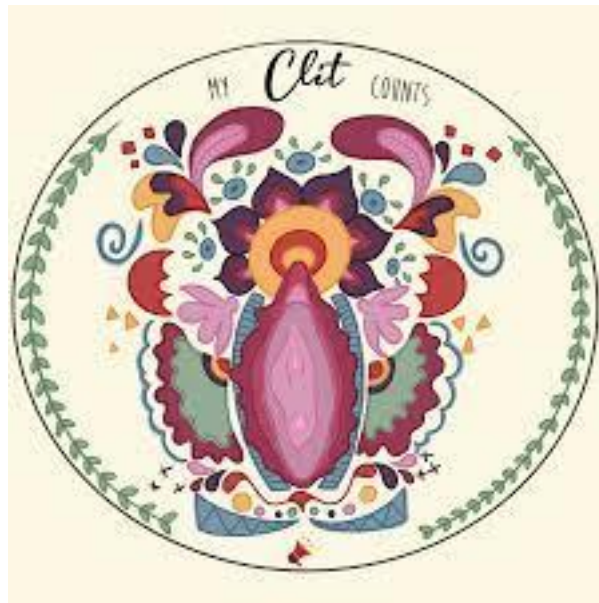


Figure 2: Image of the Young Feminist Europe Movement.³¹⁷

The female circumcision is a procedure that controls the women's sexuality with a huge social pressure over girls to undergo the practice, restricting their ability to freely choose whether to subject themselves to such tradition.³¹⁸ For this reason, many feminist organizations decided to join forces and establish plans and actions that can eliminate the continuance of this culture.

4.1 Sudanese Women's Union

The Sudanese Women's Union (SWU), founded by Fatma Ahmed Ibrahim, is a women organization established in 1951 to replace the old Sudanese Women's League, with the aim to bring to the light the inequalities between men and women, as well as to fight for the rights of women.³¹⁹

From 1955 to 1970 the SWU promoted many actions to stand up to the rights of women, including the publishing of a magazine called "The Women's Voice".³²⁰ In 1971 the Union was established as "official" and became a pro-government women's

³¹⁷ "Clitoris as a Symbolic Representation of Gender Inequality." 2020. accessed June 6, 2020. <http://www.youngfeminist.eu/2020/06/clitoris-as-a-symbolic-representation-of-gender-inequality/>.

³¹⁸ Gloria Steinem and Robin Morgan, "The International Crime of Female Genital Mutilation," in *Outrageous Acts and Everyday Rebellions*, Gloria Steinem (New York: New American Library, 1983), **quoted in** Olegário and Corbellini, "A Mutilação Genital Feminina no Continente Africano sob a Perspectiva Feminista." Page 146.

³¹⁹ United Nations High Commissioner for Refugees, "Sudan: The Sudanese Women's Union (SWU) Including Activities, Roles, Organization and Problems Faced in Sudan," Refworld, 2002, accessed May 11, 2022, <https://www.refworld.org/docid/3df4bea84.html>.

³²⁰ Refugees.

organization with projects on literacy, family welfare, childcare, etc. with the support of other local and international women's organizations.³²¹

Ibrahim, the leader of SWU, had as a strong approach within the organization the "woman question" that she understood also as a man's question.³²² She argued that discriminatory practices as Female Genital Circumcision is not only a sexual oppression problem, but rather an intersection of social configurations as race, gender and class to maintain the settled women's position in the community.³²³ And, to achieve an extensive change, it is necessary that everyone joins forces to replace the society's patterns and beliefs to a more egalitarian one.³²⁴

To reach such results, SWU has been working to create new solutions together with other organizations that have different cultures from Sudanese women and can contribute for the intensification of efforts to empower women, so they can claim their rights and choose not to be subjected to the Female Genital Circumcision.³²⁵

4.2 Foundation for Women's Health Research and Development – FORWARD

The FORWARD Organization is a non-profit organization established in 1981 by African women in the United Kingdom and it has as founder Efua Dorkenoo, who aimed with the organization to combat the violence against women and children, including Female Genital Mutilation, that she conceptualized as a human right issue and a violation against the rights of women and children.³²⁶

The Foundation works actively with women and girls in the United Kingdom and in Africa, through by creation of a bridge between their hometown and their culture and their life as immigrant in the UK, focusing in the achievement of their independence and the fulfillment of rights.³²⁷

³²¹ Refugees.

³²² Abusharaf, "Revisiting Feminist Discourses on Infibulation: Responses from Sudanese Feminists.", page 157.

³²³ Abusharaf.

³²⁴ Abusharaf.

³²⁵ Ellen Gruenbaum, "Feminist Activism for the Abolition of FGC in Sudan," *Journal of Middle East Women's Studies* 1, no. 2 (2005): 89–111, page 92-93; Abusharaf, "Revisiting Feminist Discourses on Infibulation: Responses from Sudanese Feminists." Page 160.

³²⁶ "Our Herstory," *FORWARD* (blog), accessed May 11, 2022, <https://www.forwarduk.org.uk/about-us/our-herstory/>.

³²⁷ "Programmes," *FORWARD* (blog), accessed May 11, 2022, <https://www.forwarduk.org.uk/programmes/>.

In 1992 the FORWARD organization held the First Study Conference on Female Genital Mutilation of Girls in Europe, to coordinate a unified action to abolish the practice in Europe and other Western countries.³²⁸ This conference brought together many groups and organizations from other countries, with the same goals to end FGM, and to discuss the problems experienced by African immigrants due the difference of culture and environment.³²⁹

Since the beginning of the Foundation, many actions towards the empowerment of women and the struggle against Female Genital Mutilation were performed. In 1994 the organization was called upon to assist the World Health Organization to develop a resolution about the practice of FGM. In 1996 they implemented a project in Gambia to create alternatives of the rite of passage without cutting; and in 1999 the first project to mobilize men against FGM was carried out.³³⁰

In the years that followed, many studies, researches and programs were executed to provide more data and information about the tradition of FGM, as well as to put into action plans that intend to bring knowledge to women about the mutilation practice, in addition to make women and girls more empowered and independent.³³¹

4.3 Equality Now

Equality Now is a non-governmental organization founded in 1992 in New York by a group of feminists who had the mission to use the law to protect the rights of women and girls around the world, and to promote and include women's needs in national, regional, and international levels through laws, policies, and practices.³³²

Within the action plan of the Equality Now, it is included the advocacy for the rights of women and girls to have control over their bodies, comprising the possibility of choice to go through the tradition of Female Genital Mutilation.³³³

Despite the support of the organization for women and girls to have the power to decide about their bodies, the Equality Now is totally against the continuance of the

³²⁸ Hosken, *The Hosken Report: Genital and Sexual Mutilations of Females*, page 408; "Our Herstory," *FORWARD* (blog).

³²⁹ Hosken, page 408-409.

³³⁰ "Our Herstory."

³³¹ "Our Herstory."

³³² "The History," *Equality Now* (blog), accessed May 11, 2022, <https://www.equalitynow.org/the-history/>.

³³³ "Female Genital Mutilation (FGM)," *Equality Now* (blog), accessed May 11, 2022, <https://www.equalitynow.org/female-genital-mutilation/>.

practice, reinforcing that this tradition is a violation of human rights due the social pressure to compel girls to undergo the procedure and to maintain the continuance of the control of women's sexuality and body.³³⁴

The work of Equality Now is based on the establishment and expansion of laws to protect women and girls. The organization also aims at ensuring that these laws and policies are being fulfilled and at creating partnerships with civil society and other local organizations that endorse the desired social and political changes to prevent gender discrimination.³³⁵

Some relevant advancements the organization achieved since its creation were the opening of an office in Nairobi to expand their work across the Africa continent in 2000; the opening of another office in the UK to increase their engagement with the Council of Europe in 2003; and the initiation of a partnership with the Solidarity for African Women's Rights to support the women's rights movement across the African continent in 2004.³³⁶

The Equality Now is recognized nowadays as a leader in the use of law to create a fair world for women and girls, certifying that their rights are being enforced and policies to change discriminatory laws are being adjusted focusing on replacing them with more egalitarian norms.³³⁷

4.4 Associazione Italiana Donne per lo Sviluppo – AIDOS

The AIDOS was created in 1981 in Italy as a non-governmental organization that worked in partnership with local organizations and institutions worldwide to build projects and develop strategies that address the needs of women and girls, as well as, to promote their personal and the community's empowerment.³³⁸

The main activities of AIDOS lay on the implementation of projects about the women's sexual and reproductive health, their rights to education, economic empowerment, and capacity building, raising awareness about these rights and

³³⁴ "Female Genital Mutilation (FGM)."

³³⁵ "Our Approach," *Equality Now* (blog), accessed May 11, 2022, <https://www.equalitynow.org/our-approach/>.

³³⁶ "The History."

³³⁷ "Our Approach."

³³⁸ "About Us | Aidos," accessed May 12, 2022, <https://aidos.it/en/about-us/>.

creating tools that promote the abandonment of any violence and harmful practices against women.³³⁹

Concerning the practice of Female Genital Mutilation, AIDOS in 2010 developed a manual called “Abandoning FGM/C on FM!” with innovative strategies to fight against the tradition of Female Genital Mutilation/Cutting in Kenya, Ethiopia, and Tanzania.³⁴⁰

In addition to the informational part, AIDOS has been active in the fight against FGM by having joined the UNFPA-UNICEF Programme to Eliminate Female Genital Mutilation in 2016, which aims to improve prevention and support for women and girls subjected to the practice, and to “build bridges” between immigrant women living in Europe and their countries of origin.³⁴¹

In 2020, it started the phase III of the project with UNFPA-UNICEF, whose main goals are to support the discussion about the practice for professionals, NGO workers, exchanging good practices; to enhance donors’ commitment to end the practice; and to intensify the transformation of social and gender norms.³⁴²

On phase III, AIDOS was responsible to organize medias about social norms and change, and to coordinate workshops and the International Stakeholder Dialogue (ISD), which was a space to discuss gender transformative approaches to end Female Genital Mutilation and reach gender equality.³⁴³ Its final report was published in 2021 with recommendations for funders and donors that focus on increasing more gender transformative approaches and ensuring the eradication of harmful gender norms.³⁴⁴

³³⁹ “Activities | Aidos,” accessed May 12, 2022, <https://aidos.it/en/activities/>.

³⁴⁰ “Abandoning FGM/C on FM! Innovative Media Tools to Foster the Abandonment of Female Genital Mutilation/Cutting. An Introductory Manulka | Aidos,” accessed May 12, 2022, <https://aidos.it/en/abandoning-fgm-c-on-fm-innovative-media-tools-to-foster-the-abandonment-of-female-genital-mutilation-cutting-an-introductory-manulka/>.

³⁴¹ “AFRICA-EUROPE. ‘Building Bridges’ between Africa and Europe to Stop FGM. Phase I | Aidos,” accessed May 12, 2022, <https://aidos.it/en/project/africa-europa-building-bridges-between-africa-and-europe-to-stop-fgm-phase-i/>.

³⁴² “AFRICA – EUROPE. ‘Building Bridges’ between Africa and Europe to Stop Female Genital Mutilation (FGM) – Phase III | Aidos,” accessed May 12, 2022, <https://aidos.it/en/project/africa-europe-building-bridges-between-africa-and-europe-to-stop-female-genital-mutilation-phase-iii/>.

³⁴³ “Gender Transformative Approaches to Ending Female Genital Mutilation: Final Report of the ISD | Aidos,” accessed May 12, 2022, <https://aidos.it/en/gender-transformative-approaches-to-ending-female-genital-mutilation-final-report-of-the-isd/>; “AFRICA – EUROPE. ‘Building Bridges’ between Africa and Europe to Stop Female Genital Mutilation (FGM) – Phase III | Aidos.”

³⁴⁴ “Gender Transformative Approaches to Ending Female Genital Mutilation” (AIDOS, 2021), page 04.

5. End FGM

The End FGM is a European network with 32 organizations based in 15 European countries that has the goal to ensure actions to end Female Genital Mutilation, through global cooperation, the sharing of experiences and exchange of knowledge, addressing efforts to the ban of FGM.³⁴⁵

Amongst the active and full members of the network is the FORWARD organization and AIDOS that work together supporting and putting in practice the projects towards the abandonment of the FGM, as well as building connections with other organizations to foster discussions and actions to embrace all areas of Female Genital Mutilation: health, law, asylum, media, social protection, and education.³⁴⁶

The network has been working in some specific projects such as the “United to End Female Genital Mutilation” (UEFGM), launched in 2017, with the aim to raise awareness and improve knowledge about FGM among health professionals and asylum officers.³⁴⁷

Another project is the “Change Plus” that implements actions to raise awareness, change attitudes and promote behavior change on FGM in practicing African communities and in five European countries: Germany, Netherlands, Portugal, Italy and France.³⁴⁸

Nowadays they have an active project called “Mind the Gap” that intends to contribute with the fight against FGM by tackling gender stereotypes in education in Italy, Spain, and Portugal.³⁴⁹ These three countries are the basis of implementation because they have many gender inequality practices inside their education systems, and the project aims to bring to these students, school professionals and professors more awareness about the impact of gender roles in the work life and education system, in addition to reducing the influence of gender roles on girls’ and boys’ choices.³⁵⁰

³⁴⁵ “Who We Are,” End FGM, accessed May 12, 2022, <https://www.endfgm.eu/who-we-are/>.

³⁴⁶ “What We Do,” End FGM, accessed May 12, 2022, <https://www.endfgm.eu/what-we-do/>.

³⁴⁷ “UEFGM European Knowledge Platform,” End FGM, accessed May 12, 2022, <https://www.endfgm.eu/what-we-do/projects/uefgm-european-knowledge-platform/>.

³⁴⁸ “CHANGE Plus,” End FGM, accessed May 12, 2022, <https://www.endfgm.eu/what-we-do/projects/change-plus/>.

³⁴⁹ “Mind the Gap Project,” End FGM, accessed May 12, 2022, <https://www.endfgm.eu/what-we-do/mind-the-gap/>.

³⁵⁰ “Mind the Gap Project.”

Although all the efforts that feminist and international organizations are doing, in the next chapter it will be exposed that in practice they are not enough to ensure the safety of women and girls at risk of Female Genital Mutilation and they do not give the necessary support to victims that have been subjected to this practice.

Chapter III: Study Case on the Challenges of European Countries to Tackle Female Genital Mutilation: The UK Approach in Courts.

1. Migration of Women and Girls with FGM to Europe

Since the late 1980s, the migration process in former colonies has been increasing, especially from Africa countries towards Europe and North America. This generates a spread of the Female Genital Mutilation tradition in countries and societies that were not used to this practice.³⁵¹

According to the End FGM sources, there is an estimation of 600.000 FGM survivors living in Europe, and around 180.000 women and girls at risk to being subjected to the female circumcision in this continent.³⁵² The main European countries that receive and host a large number of women and girls with FGM are (in descending order): the United Kingdom with 137.000, France with 125.000, Italy with 87.500, Germany with 70.218, the Netherlands with 41.000, Sweden with 38.939, and Switzerland with 14.700.^{353 354}

Due to the globalization process and the shrinking of distances it causes, women and girls who were born in FGM practicing countries and subjected to such tradition have been moving to countries that do not practice this custom, bringing consequences to them as the increase in the number of women with FGM seeking health care, assistance, and asylum.³⁵⁵ Besides these consequences, this new situation of immigrant women and girls coming from the circumcision culture had raised concern in international organizations and in host states about the risk of the perpetuation of this procedure within their borders.³⁵⁶

³⁵¹ Livia Elisa Ortensi and Alessio Menonna, "Migrating with Special Needs? Projections of Flows of Migrant Women with Female Genital Mutilation/Cutting Toward Europe 2016–2030," *European Journal of Population* 33, no. 4 (October 2017): 559–83, <https://doi.org/10.1007/s10680-017-9426-4>. Page 560.

³⁵² End FGM European Network, "Annual Report 2019" (End FGM, 2019). Page 12-13.

³⁵³ End FGM European Network. Page 12-13.

³⁵⁴ This data was gathered by previous existing studies, with different methodologies and research period. End FGM European Network. Page 13.

³⁵⁵ Anna Wahlberg et al., "Shifting Perceptions of Female Genital Cutting in a Swedish Migration Context," *PloS One* 14, no. 12 (December 4, 2019): 1–13, <https://doi.org/10.1371/journal.pone.0225629>. Page 02; Ortensi and Menonna, "Migrating with Special Needs?" Page 560.

³⁵⁶ Wahlberg et al., "Shifting Perceptions of Female Genital Cutting in a Swedish Migration Context.", page 02.

The current demographic context of countries that have this tradition suggests that migration flows to Western countries will increase in the coming years.³⁵⁷ Such increase is mainly due to the poor socio-economic conditions in Africa, as low wages, high levels of unemployment, poverty, lack of opportunity and human rights violations.³⁵⁸

Consequently, European States are being challenged to address the issue of Female Genital Mutilation and demands of policies for health and psychosocial care, child protection measures and prevention programs against this practice.³⁵⁹ In addition, there is also an increasing necessity to raise awareness and knowledge about it among its nationals and all sectors that could deal with women and girls subjected to circumcision.³⁶⁰

Despite the increasing concern for cases of FGM that take place inside European borders, many studies about the outcomes of the practice of FGM through migration process of women and girls that have undergone this tradition to Western countries reveal a switch from its perpetuation towards its elimination, due the changing of social contexts, the environment and the reduction of pressure to being subjected to this procedure.³⁶¹

The number of immigrant women with FGM and girls at risk of being subjected to this practice in Europe is increasing, so it is important to implement all necessary policies to assist cut women and to prevent that children will undergo FGM, as well as to ensure all actions towards circumcised women and girls are free of discrimination.³⁶² In this way, European countries will be able to keep contributing to the transformation of perceptions of mutilated women who once in Europe will fight for the elimination of the practice.

³⁵⁷ Ortensi and Menonna, "Migrating with Special Needs?", page 561.

³⁵⁸ African Union, "African Common Position on Migration and Development - Executive Council in Banjul, the Gambia" (African Union, 2006), https://www.iom.int/sites/g/files/tmzbdl486/files/jahia/webdav/shared/shared/mainsite/microsites/rcps/i_gad/african_common_position_md.pdf. Page 01-02.

³⁵⁹ Patrizia Farina, Livia Elisa Ortensi, and Alessio Menonna, "Estimating the Number of Foreign Women with Female Genital Mutilation/Cutting in Italy," *The European Journal of Public Health* 26, no. 4 (August 2016): 656–61, <https://doi.org/10.1093/eurpub/ckw015>. Page 659.

³⁶⁰ Farina, Ortensi, and Menonna. Page 659.

³⁶¹ Anna Wahlberg et al., "Baseline Data from a Planned RCT on Attitudes to Female Genital Cutting after Migration: When Are Interventions Justified?," *BMJ Open* 7, no. 8 (2017): e017506–e017506, <https://doi.org/10.1136/bmjopen-2017-017506>. Page 06;09.

³⁶² Farina, Ortensi, and Menonna, "Estimating the Number of Foreign Women with Female Genital Mutilation/Cutting in Italy." Page 659; Ortensi and Menonna, "Migrating with Special Needs?", page 579.

2. Female Genital Mutilation's Legal Background in Europe

The practice of Female Genital Mutilation is prosecutable in all countries of the European Union (EU) through a specific or general criminal legislation.³⁶³ The EU has been working on many policies to combat and eliminate FGM, emphasizing the need for prevention, prosecution and protection of women and girls at risk of this tradition.³⁶⁴

2.1 Charter of Fundamental Rights of the European Union

In 2000, the European countries established a Charter to strengthen the protection of fundamental rights through universal values of human dignity, freedom, equality and solidarity, based on the principles of democracy and the rule of law.³⁶⁵

Considering the tradition of Female Genital Mutilation, it is possible to cite some articles of the charter that contribute to the elimination of this violence against women and girls.

Art. 2 claims that everyone has the right to life.

Art. 3 reinforces the right to respect the human being's physical and mental integrity.

Art. 4 prohibits the torture and inhuman or degrading treatment or punishment against everyone.

Art. 21 establishes the prohibition of any kind of discrimination based on sex, race, color, ethnic or social origin, genetic features, language, religion, political or any other opinion.

Art. 23 ensures the equality between men and women.

Art. 24 is related to the rights of child and observes that the best interest of the child must be a primary consideration.³⁶⁶

Based on the text of the Charter, it is possible to infer that the practice of FGM is against the provisions of the document, therefore violating rights protected and promoted by the European Union.

³⁶³ Sara Johndotter and Ruth M. Mestre i Mestre, "'Female Genital Mutilation' in Europe: Public Discourse versus Empirical Evidence," *International Journal of Law, Crime and Justice* 51 (December 2017): 14–23, <https://doi.org/10.1016/j.ijlcj.2017.04.005>. Page 16.

³⁶⁴ "Estimation of Girls at Risk of Female Genital Mutilation in the European Union Report - Belgium, Greece, Italy, Cyprus and Malta" (European Institute for Gender Equality, 2018)., page 15.

³⁶⁵ European Commission, "Charter of Fundamental Rights of the European Union," 2000, https://www.europarl.europa.eu/charter/pdf/text_en.pdf. Page 364/8.

³⁶⁶ European Commission.

2.2 European Convention for the Protection of Human Rights and Fundamental Freedoms

The European Convention of Human Rights and Fundamental Freedoms was adopted in 1950 by the members of the Council of Europe, with the goal to collectively reinforce the rights stated in the Universal Declaration of Human Rights (UDHR).³⁶⁷

Within the convention, it is possible to cite some articles that support the rights of women and girls to not undergo to the tradition of Female Genital Mutilation, such as the Art. 2 that ensures the right of life, Art. 3 that strengthens the prohibition of anyone to be subjected to torture or to inhuman and degrading treatment or punishment, and Art. 8 that guarantees the right to respect everyone's private life if there is no violation against the rights and freedoms of others.

Moreover, Art. 9 assures the right to everyone to manifest their religion without transgressing the interests of public safety, the protection health, morals, and the rights and freedoms of others. While Art. 13 recalls that everyone who had their rights violated shall have an effective remedy, and Art. 14 states that the enjoyment of rights and freedoms shall be ensured for everyone without discrimination by sex, race, color, language, religion, political, etc.³⁶⁸

2.3 Resolution 1247 of Council of Europe

The resolution was drafted in an Assembly of the Council of Europe (COE) in 2001, and it declares the universal respect for individuals and their rights to body integrity and for the equality between men and women. The document also is concerned about the increase of the practice inside the Council's members within migrant communities.³⁶⁹

For this reason, the Assembly used Resolution 1247 to demand from the member states of the COE some actions, such as to introduce specific legislation against Female Genital Mutilation; to create awareness to all individuals about the practice; to adopt flexible measures to ensure the right of asylum to women who fear being subjected to FGM; to adopt measures to guarantee that victims can appeal to court; to

³⁶⁷ Council of Europe, "Convention for the Protection of Human Rights and Fundamental Freedoms," 1950, https://www.echr.coe.int/documents/convention_eng.pdf. Page 05.

³⁶⁸ Council of Europe. Pages 06-12.

³⁶⁹ Council of Europe, "Resolution 1247 - Female Genital Mutilation," 2001, <https://pace.coe.int/pdf/97b63a508fc99576d776ae709b934350fc4d7c48e489f49cc7b6ffe5dbdadbd1d/resolution%201247.pdf>. Page 01.

prosecute perpetrators and their accomplices; to introduce sex education in schools and to ratify all the relevant international conventions regarding women's rights.³⁷⁰

2.4 Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence

The Convention on Preventing and Combating Violence Against Women and Domestic Violence, also called Istanbul Convention (Treaty No. 210), was adopted in 2011, with the aim to create a new treaty among member states establishing a legal framework at pan-European level to protect, prevent and prosecute all forms of violence against women.³⁷¹ It also aimed at setting up a specific monitoring mechanism named Group of Experts on Action Against Violence Against Women and Domestic Violence (GREVIO) to ensure the effective implementation of the Convention's provisions by the State Parties.³⁷²

The Convention entered into force in 2014, and it was the first instrument in Europe to set legally binding standards with the aim to protect and prevent women from gender-based violence and to punish its perpetrators.³⁷³ The European Union considered the Istanbul Convention one of its priorities to the EU 2020-2025 gender equality strategy, signing it in June 2017.³⁷⁴

With the draft of the convention, state parties were encouraged to pay particular attention to victims of GBV in implementing its provisions and to take all the necessary measures to promote and protect women's rights.³⁷⁵

Some articles of the Istanbul Treaty deal directly with FMG, as follows:

Art. 12 demands State Parties to take all necessary measures to promote changes in the social and cultural patterns based on idea of stereotyped roles and the inferiority of women. Besides, it notes that culture, custom, religion, and tradition cannot be considered as justification for acts of violence against women and girls.

³⁷⁰ Council of Europe.

³⁷¹ Council of Europe, "Treaty No 210 - Convention on Preventing and Combating Violence Against Women and Domestic Violence," Treaty Office, 2011, accessed May 15, 2022, <https://www.coe.int/en/web/conventions/full-list>.

³⁷² Council of Europe.

³⁷³ Think Tank European Parliament, "The Istanbul Convention: A Tool for Combating Violence Against Women and Girls," 2021, accessed May 15, 2022, [https://www.europarl.europa.eu/thinktank/en/document/EPRS_ATA\(2021\)698801](https://www.europarl.europa.eu/thinktank/en/document/EPRS_ATA(2021)698801).

³⁷⁴ Think Tank European Parliament.

³⁷⁵ Council of Europe, "Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence - Istanbul," 2011, <https://rm.coe.int/168008482e>. Pages 02-03.

Art. 14 requests the Parties to include actions in education fields to include issues as equality between men and women, stereotyped roles, and GBV against women.

Art. 18 refers to judicial procedures regarding victims of gender-based violence, calling State Parties to ensure measures that focus on the safety of the victim, avoid secondary victimization, and support services to protect and address the necessities of vulnerable persons.

Art. 29 recalls States to take actions to provide victims with civil remedies against the perpetrator and the state authorities who failed in preventing and protecting them.

Art. 38 observes that State Parties have to take all the necessary legislative measures to ensure the criminalization of FGM practice and actions that coerce or incite women and girls to undergo this procedure.

Art. 41 calls the Parties to establish legislative measures to persons who intentionally committed, aided, or abetted the offences described on the Convention.

Art. 44 is related to guarantee jurisdiction over any gender-based offence in the territory of State Parties, by one of their nationals or by a person who has her/his residence in their territory.

Art. 60 claims that all gender-based violence against women should be recognized as a form of persecution, and women in fear of being persecuted have to be granted a refugee status.

Art. 61 adds that victims of gender-based violence in need of protection shall not be returned to any country where their life would be at risk, regardless of their status of residence.³⁷⁶

Other relevant recommendations to State Parties are Recommendation CM/Rec (2008)1 on the inclusion of gender differences in health policy; Recommendation CM/Rec (2007)13 on gender mainstreaming in education; Recommendation Rec (2002)5 on the protection of women against violence; Recommendation No. R (97)13 concerning intimidation of witnesses and the rights of defense; Recommendation No. R (94)13 on coherent and integrated family policies; Recommendation No. R (91)9 on emergency measures in family matters; Recommendation No. R (90)2 on social measures concerning violence within the family; the 2011 guidelines on child-friendly

³⁷⁶ Council of Europe, "Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence - Istanbul," 2011, <https://rm.coe.int/168008482e>.

health care; the 2010 guidelines on child-friendly justice; and the Policy guidelines on integrated national strategies for the protection of children from violence.³⁷⁷

3. Trial Cases in Europe

Considering the high number of women and girls with or at risk of suffering Female Genital Mutilation arriving in Europe, the European States had to create policies and establish laws that criminalize such practice. Nowadays, all countries of Europe have specific criminal law provisions against FGM and prosecutable framework to deal with this practice.³⁷⁸

In 1982 Sweden approved the first specific law against Female Genital Mutilation, called “Act Prohibiting the Genital Mutilation of Women”, having been followed by other European countries that also applied the principle of extraterritoriality, that defines the territorial scope of laws, giving the permission of states to prosecute perpetrators that performed the violation abroad their territoriality.³⁷⁹³⁸⁰

In 1985 the United Kingdom established the “Prohibition of Female Circumcision Act”, making the tradition of FGM forbidden by law.³⁸¹ Within this Act, it was defined as outlaw anyone who incite, aid, abet or counsel another person to be subjected to such practice, as well as the implementation of the extradition of perpetrators.³⁸² After that, the Act has been through several amendments to the improvement of the laws regarding FGM, with the most recent being the “Serious Crime Act” of 2015.³⁸³

Both Sweden and the UK were the precedents in approving legislative measures to protect victims of Female Genital Mutilation and to persecute their offenders, being an example to the drafting of criminal codes in other countries.³⁸⁴

³⁷⁷ Council of Europe, “The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence - A Tool to End Female Genital Mutilation | Istanbul Convention” (Council of Europe, 2014), <https://rm.coe.int/istanbulconventionfgm-guide-en/1680464e9f>. Page 55.

³⁷⁸ Johnsdotter and Mestre i Mestre, “‘Female Genital Mutilation’ in Europe.”, page 16.

³⁷⁹ Sara Johnsdotter and Birgitta Essén, “Cultural Change after Migration: Circumcision of Girls in Western Migrant Communities,” *Best Practice & Research. Clinical Obstetrics & Gynaecology* 32 (2015): 15–25, <https://doi.org/10.1016/j.bpobgyn.2015.10.012>.

³⁸⁰ Dr Maria Caterina La Barbera, “Ban without Prosecution, Conviction without Punishment, and Circumcision without Cutting: A Critical Appraisal of Anti-FGM Laws in Europe,” *Global Jurist* 17, no. 2 (2017), <https://doi.org/10.1515/gj-2016-0012>. Page 07.

³⁸¹ United Kingdom, “Prohibition of Female Circumcision Act 1985,” 1985. Page 01.

³⁸² United Kingdom. Page 01-02.

³⁸³ United Kingdom, “Serious Crime Act 2015,” 2015. Page 01.

³⁸⁴ Tobe Levin, “Abolition Efforts in the African Diaspora: Two Conferences on Female Genital Mutilation in Europe,” *The Feminist Press* 27, no. 1/2 (1999): 109–16. Page 115.

However, despite both countries having been the forerunners for the creation of criminal law and legal provisions to prosecute cases with Female Genital Mutilation, in Sweden, only two cases have been taken to criminal court in 2006, since the establishment of its first act against the practice of FGM.³⁸⁵ In the United Kingdom, its first FGM case in criminal court was in 2012³⁸⁶ with the acquittance of the perpetrator, and its first condemnation was in 2019 against an Ugandan mother.³⁸⁷ Therefore, it is possible to note that the enactment of laws does not reflect in many cases being prosecuted.

Overall, there are fewer than fifty criminal court cases in Europe, with many of them placed in France between the 1980s and 1990s.³⁸⁸ One of the possible reasons to have few cases in criminal courts regarding the female mutilation are explained by Levin (1999) due to the complex relationship between immigrant communities and authorities (as police and social workers) that is marked by experiences of racism,³⁸⁹ leading them to have the feeling of distrust towards the government, and having as consequence the close-mindedness and the choice to keep perpetuating their traditions.³⁹⁰

Johnsdotter (2017) suggests two explanations for the lack of court cases in Europe. The first refers to the failure of States and courts to protect girls, by not detecting and prosecuting illegal circumcision acts, due to the reluctance of authorities to deal with cases of Female Genital Mutilation. The second is that the number of unrecorded FGM cases are lower than reports and media inform, possibly indicating a change of the pattern in the practicing community to an abandonment of the tradition.³⁹¹

Other scholars like Schultz and Lien (2014) agree with Johnsdotter, emphasizing that when women and girls from cultures of circumcision are introduced in a new environment with a different pattern of culture, the shift of their attitudes are noticed,

³⁸⁵ EIGE, "Current Situation of Female Genital Mutilation in Sweden" (European Institute for Gender Equality, 2013). Page 03.

³⁸⁶ Johnsdotter and Mestre i Mestre, "'Female Genital Mutilation' in Europe.", page 17.

³⁸⁷ Charlotte Wilson et al., "First Conviction for Female Genital Mutilation," *BMJ Publishing Group* 45, no. 4 (2019): 282–83. Page 282.

³⁸⁸ Johnsdotter and Mestre i Mestre, "'Female Genital Mutilation' in Europe." Page 17.

³⁸⁹ Levin, "Abolition Efforts in the African Diaspora: Two Conferences on Female Genital Mutilation in Europe.", page 115.

³⁹⁰ Levin., page 115.

³⁹¹ Johnsdotter and Mestre i Mestre, "'Female Genital Mutilation' in Europe.", pages 18; 21.

because they often end up to “convert” themselves to a new system of belief and knowledge as a way to fit into a new community and culture.³⁹²

Besides the changing of the immigrant’s culture when they entered in a new country, it is still important to prosecute cases of female circumcision, to give hope to the victims and to show that States are aware of the situation and are doing everything they can to protect their rights, preventing women and girls from undergoing this procedure. Levin (1999) corroborates this idea, noting the questioning of a young girl on why the government did not protect her from her parents.³⁹³

It is also important to note that the success of court cases may encourage other girls who were subjected to FGM to come forward, as Lenin adds with the comment of a Parisian attorney: “decisive accusations against parents have come from older sisters determined to spare their younger sisters... prosecution protects girls”.³⁹⁴ Furthermore, the importance to join efforts with other fields, as education, can improve in a significant way the change towards the end of Female Genital Mutilation culture among practicing communities.³⁹⁵

With the aim to analyze the data and procedures of court cases in Europe, this work will balance actions and its outcomes regarding FGM in the United Kingdom.

4. Female Genital Mutilation in United Kingdom

In 2007 a report made by the FORWARD Organization about the estimative of the Female Genital Mutilation prevalence in England and Wales was published and reported 66.000 women with FGM living in England and Wales in 2001, and that 33.000 girls under the age of 15 are at high risk to undergo the practice.³⁹⁶ In 2011 the data regarding women at risk or with FGM were updated, and it was noticed an increasement of 100.915 women from FGM practicing countries living in England and Wales.³⁹⁷

³⁹² Jon-Hakon Schultz and Inger-Lise Lien, “Cultural Protection Against Traumatic Stress: Traditional Support of Children Exposed to the Ritual of Female Genital Cutting.,” *International Journal of Women’s Health* 6 (2014): 207–19. Page 216.

³⁹³ Levin, “Abolition Efforts in the African Diaspora: Two Conferences on Female Genital Mutilation in Europe.”, page 115.

³⁹⁴ Levin. Page 115.

³⁹⁵ Johnsdotter and Essén, “Cultural Change after Migration.”, pages 15-16.

³⁹⁶ FORWARD, “A Statistical Study to Estimate the Prevalence of Female Genital Mutilation in England and Wales” (FORWARD, 2007), https://openaccess.city.ac.uk/id/eprint/13117/1/PREVALENCE-STUDY_FINAL.pdf. Page 28.

³⁹⁷ A. J. Macfarlane and E. Dorkenoo, “Female Genital Mutilation in England and Wales: Updated Statistical Estimates of the Numbers of Affected Women Living in England and Wales and Girls at Risk

The most recent published data about the number of women with Female Genital Mutilation in England and Wales is 137.000, in a research done by the End FGM organization in its report in 2015.³⁹⁸

Regarding the countries of origin of these immigrants that are residents in England and Wales, most of them came from Kenya, Nigeria, Ghana, Uganda and Somalia, of which Kenya and Somalia have the highest estimated numbers of women with FGM.³⁹⁹

Even though the United Kingdom is the major receiver of migrants from FGM practicing countries,⁴⁰⁰ it had only four court appeals of Female Genital Mutilation between the years of 2015 and 2019, of which only one case reached a conviction.⁴⁰¹

These numbers impose to the State the duty to improve the trial of FGM cases and enhance regulations and tools to tackle the issue of Female Genital Mutilation aiming at ending this practice.

4.1 United Kingdom's Legislation Regarding FGM

UK ratified many conventions that condemn the practice of Female Genital Mutilation, including the UDHR, CEDAW, CRC, CAT, ECHR, and the Charter of Fundamental Rights of the European Union. However, its first specific law concerning FGM came in 1985 with the Prohibition of Female Circumcision Act.⁴⁰²

Its first Act against the tradition of Female Genital Mutilation was established to prohibit any act of female circumcision as excision, infibulation, or other kinds of mutilation of women's genitalia, and provides a penalty for everyone who aid, abet, and counsel the practice.⁴⁰³

In 2003, UK settled the Female Genital Mutilation Act which applies to England, Wales and Northern Ireland, and it is a replacement of its first act, with some improvements as: the use of the term mutilation; an extension of extra-territoriality to

Interim Report on Provisional Estimates," Report (London: City University London, July 21, 2014), <https://openaccess.city.ac.uk/id/eprint/3865/>. Pages 09-10.

³⁹⁸ End FGM European Network, "Annual Report 2019." Page 12.

³⁹⁹ FORWARD, "A Statistical Study to Estimate the Prevalence of Female Genital Mutilation in England and Wales." Page 20.

⁴⁰⁰ End FGM European Network, "Annual Report 2019." Page 12.

⁴⁰¹ Marge Berer, "Prosecution of Female Genital Mutilation in the United Kingdom: Injustice at the Intersection of Good Public Health Intentions and the Criminal Law," *Medical Law International* 19, no. 4 (2019): 258–81, <https://doi.org/10.1177/0968533220914070>. Pages 263-265.

⁴⁰² EIGE, "Current Situation of Female Genital Mutilation in United Kingdom" (European Institute for Gender Equality, n.d.). Page 01.

⁴⁰³ United Kingdom, "Prohibition of Female Circumcision Act 1985." Paragraph 01.

FGM cases placed outside United Kingdom; and the increasement of imprisonment for a term up to 14 years.⁴⁰⁴

In 2005 the Prohibition of Female Genital Mutilation Act was established in Scotland to prohibit the procedure of FGM and punish all people who performs, aids, abets or counsel women and girl to undergo this practice, even if these acts are committed outside the country.⁴⁰⁵

Despite the creation of laws that prohibit the performance of Female Genital Mutilation, until 2014 no prosecutions have occurred in UK regarding FGM, which led in 2015 to the creation of the Serious Crime Act, aiming at establishing provisions like the creation of a new offence in cases of failure to protect girls from Female Genital Mutilation and the empowerment of courts to issue FGM protection orders.⁴⁰⁶

Even so, after the enactment of the Serious Crime Act, the United Kingdom had 4 criminal cases with acquittance of the defendant, and one criminal case with the conviction of the accused.

4.2 Court Cases in United Kingdom

The first prosecution occurred in the UK in London in 2015 with the accusation against an obstetric and gynecological doctor at Whittington hospital. The process started in November 2012 when a Somalian woman, who was subjected to the practice of Female Genital Mutilation went to the hospital to give birth to her first child. During the labour, the doctor faced some problems to deliver the boy as consequence of the infibulation and defibulation process that the she had suffered, and for this reason, he decided (with the permission of the mother) to make a single cut to ensure the delivery of the baby.

However, the cut continued to bleed even after the delivery process, and to stop the bleeding, the doctor decided to place a suture. His action to stitch the woman genitalia was against the hospital policy and the English law, since this procedure, independent of the reason, would amount to a reinfibulation. In 2014 the Crown

⁴⁰⁴ Expert United Kingdom Legislation, "Female Genital Mutilation Act" (Statute Law Database, 2003), <https://www.legislation.gov.uk/ukpga/2003/31/contents>. Paragraphs 01-05.

⁴⁰⁵ United Kingdom Legislation, "Prohibition of Female Genital Mutilation (Scotland) Act 2005" (Queen's Printer for Scotland, 2005), <https://www.legislation.gov.uk/asp/2005/8/enacted>. Paragraphs 01-05.

⁴⁰⁶ Berer, "Prosecution of Female Genital Mutilation in the United Kingdom.", page 259.

Prosecution Service (CPS) charged the doctor to perform Female Genital Mutilation in a Somali woman.⁴⁰⁷

In 2015 the doctor was acquitted from the charges, because, according to the judge, it was a case with a lot of systematic failures and it was not the doctor's fault, since he had saved the life of the woman's baby.⁴⁰⁸ During the prosecution, The Guardian Newspaper interviewed Comfort Momoh (who is a pioneering midwife on the issue of FGM), about her opinion on this case, to which she replied: "What has been identified around the case is ignorance or lack of knowledge. It is primarily a training issue. We need to educate the professionals especially the doctors and midwives. But reinfibulation is FGM, you are closing her back up. It does not matter whether it is a couple of stitches or one stitch. It is FGM according to the law".⁴⁰⁹

The second prosecution was in 2018 in Bristol, when a Somali taxi driver was charged on child cruelty for submitting his daughter to the practice of Female Genital Mutilation. However, because of the lack of evidence and the uncertainty of experts in determining whether the girl had been cut, the jury found the defendant not guilty, and he was acquitted from the charges.⁴¹⁰

Few weeks later in London, the third prosecution came in with a 16-year-old girl accusing her father of subjecting her to the Female Genital Mutilation twice, between 2010 and 2013. The girl told to the jurors that when she undergone FGM, she had to lie on a mat in the hallway of her home, naked from the waist down while the cutter did her work with her father "egging the person on", and the procedure was a kind of punishment after she stole money from the family. The father denied all charges and explained the accusation of his daughter as a manipulation of his ex-wife to try to turn their children against him, despite confirmation from a medical expert that the girl's genitalia had been cut. Still, in the end, the jury acquitted the father of the charges. The head of the National FGM Centre, Leethen Bartholomew commented: "while we respect the decision of the jury, it is important to remember that someone did carry out

⁴⁰⁷ Sandra Laville, "First FGM Prosecution: How The Case Came to Court," *The Guardian*, 2015, sec. Society, accessed May 31, 2022, <https://www.theguardian.com/society/2015/feb/04/first-female-genital-mutilation-prosecution-dhanuson-dharmasena-fgm>.

⁴⁰⁸ Sandra Laville, "Doctor Found Not Guilty of FGM on Patient at London Hospital," *The Guardian*, 2015, sec. Society, accessed May 31, 2022, <https://www.theguardian.com/society/2015/feb/04/doctor-not-guilty-fgm-dhanuson-dharmasena>.

⁴⁰⁹ Laville, "First FGM Prosecution."

⁴¹⁰ Geoffrey Bennett, "Live: Bristol Dad Accused of Having Daughter 'Cut' in Female Genital Mutilation Procedure Found NOT Guilty," *BristolLive*, February 22, 2018, accessed May 31, 2022, <https://www.bristolpost.co.uk/news/bristol-news/live-bristol-dad-trial-child-1232470>.

Female Genital Mutilation on the victim almost a decade ago”,⁴¹¹ and no other perpetrator was identified.⁴¹²

The fourth and last criminal case regarding FGM in United Kingdom was in 2019 in London, where a Uganda mother and a Ghanaian father were accused to cut their daughter of 3 years old. In 2017 the little girl was taken to Whipps Cross Hospital with severe bleeding from her genitals, and examined by the medical surgeon, who concluded that the child had been cut. This was also confirmed by other medical experts.

The defendants denied the performance of FGM on their daughter, explaining the injury when the girl fell and cut herself on the edge of a kitchen cupboard trying to catch a biscuit. However, the victim confided later in an interview with trained officers that she had been cut by a witch. In the beginning the father told jurors he accepted the mother’s explanation, since he was not present at the time when his daughter got injured, but over the prosecution time, he changed his testimony and he started to believe that his daughter was really cut.⁴¹³

The girls’ brother was also not present at the event, but always repeating the version that his sister fell in the kitchen and injured herself until one day before the case opened, that he wrote a letter to a policewoman and a social worker saying his mother sometimes tell lies to get out of trouble.⁴¹⁴ In the end of the prosecution in 2019, the jury deliberated that the mother was guilty of FGM on her daughter and will carries a maximum prison sentence of 14 years, while the father was cleared and acquitted by all the charges.⁴¹⁵

⁴¹¹ Alexandra Topping, “UK Solicitor Cleared of Forcing Daughter to Undergo FGM,” *The Guardian*, 2018, sec. Society, accessed May 31, 2022, <https://www.theguardian.com/society/2018/mar/22/uk-solicitor-acquited-forcing-daughter-fgm-female-genital-mutilation>.

⁴¹² Berer, “Prosecution of Female Genital Mutilation in the United Kingdom.” Page 264.

⁴¹³ Katy Clifton, “Mum of Girl, 3, Becomes First Person in UK to Be Found Guilty of FGM,” *Evening Standard*, 2019, accessed May 31, 2022, <https://www.standard.co.uk/news/crime/mother-of-threeyearold-girl-becomes-first-person-in-uk-to-be-found-guilty-of-female-genital-mutilation-a4055536.html>.

⁴¹⁴ Berer, “Prosecution of Female Genital Mutilation in the United Kingdom.” Page 271.

⁴¹⁵ Clifton, “Mum of Girl, 3, Becomes First Person in UK to Be Found Guilty of FGM.”

5. Analysis of the Judicial Procedures with Victims of Female Genital Mutilation

Because of the sensitivity of FGM cases, the entire prosecution process is not made available for consultation and the victims' names are also protected. However, it is possible to note and analyze the statement from an expert for the last case regarding the treatment of court professionals towards the little girl, including the consequences of the prosecution's outcomes for the victims of Female Genital Mutilation, reported in this work.

The cases involving women and girls who were subjected to the practice of Female Genital Mutilation are never easy to judge, since victims of violent crime such as FGM can suffer from disruptions of their emotional equilibrium, with increases in feelings of anxiety, fear, depression, humiliation, anger, powerlessness, and betrayal.⁴¹⁶ These feelings can be amplified during the trial process if the authorities in charge of prosecution are not prepared to deal with the victim's traumas.

Besides the proper treatment with the victims, it is important to achieve outcomes where the perpetrators are prosecuted and punished, in addition to guarantee the victims' reparation for the failure of State to prevent and ensure her safety and rights.

In Article 4 of the Declaration on the Elimination of Violence Against Women (1993) affirms the obligation of States "to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private actors".⁴¹⁷

The Convention Against Torture (CAT), in its Article 14 recalls the duty of States to "ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible".⁴¹⁸

In all cases regarding Female Genital Mutilation, the English judicial system failed to ensure the proper compensation and treatment for the victims, and it failed to punish perpetrators who committed this violence practice in three of the cases.

⁴¹⁶ Bruce J. Winick, "Therapeutic Jurisprudence and Victims of Crime," SSRN Scholarly Paper (Rochester, NY: Social Science Research Network, March 7, 2008), <https://papers.ssrn.com/abstract=1102350>. Page 03.

⁴¹⁷ United Nations, "Declaration on the Elimination of Violence against Women." Paragraph 04.

⁴¹⁸ United Nations, "Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment." Paragraph 14.

5.1 Treatment of Victims in FGM Judicial Process

All the trials of gender-based violence cases, of which Female Genital Mutilation is an example, have to deal with the complexity of emotions and traumas of the victims due to the violence they were submitted to.

When the police is called to intervene in any kind of crime, there are some specific actions to be followed regarding the victim. After the arrest of perpetrator, the victim should become a witness of the prosecution's case, and she will have to provide written or oral statements or testimony;⁴¹⁹ and in cases of sexual abuse and FGM, she shall be subjected to medical procedures to prove the abuse she suffered.

During the trial proceedings, where the victim who suffered from acts of gender violence such as rape, domestic violence and Female Genital Mutilation has to face her abuser, usually her memories of the moment when the crime was committed come up and can intensify her emotions and traumas.⁴²⁰ Besides, if the authorities do not have the appropriate knowledge to deal with women and girls victims of this kind of violence, it can cause them a feeling of being revictimized.

The prosecution that ended with the conviction of the mother who subjected her daughter to Female Genital Mutilation in 2019 was the only judicial case with more details on how the trial was unfolded, and how the interviews with the girl were conducted.

During the period between the arrest of the girl's parents and the trial, the daughter was questioned many times by hospital staff, medical experts, police, social workers, foster parents, and lawyers about what exactly happened on the day the girl was injured.⁴²¹ According to Berer (2019) the interviews put her under pressure and made the girl feel guilty as if she had done something wrong. The social worker sat cross-legged on the floor near to the girl and continued questioning her while watching her reactions.⁴²²

The victims of GBV, especially girls who were subjected to violence by their own family, may be reluctant to report the crime for fear to never see their parents again,

⁴¹⁹ Melissa E. Dichter et al., "Engaging with Criminal Prosecution: The Victim's Perspective," *Women and Criminal Justice* 21, no. 1 (2011): 21–37. Page 22.

⁴²⁰ Winick, "Therapeutic Jurisprudence and Victims of Crime." Page 06.

⁴²¹ Berer, "Prosecution of Female Genital Mutilation in the United Kingdom." Page 270.

⁴²² Berer. Page 270.

and by a social stigma regarding the tradition of the practice.⁴²³ Usually, the justice system gives little attention for victims' emotions and their interests, what makes them experience feelings of unfairness, disempowerment, disrespect, and loss of dignity.⁴²⁴

What happened with the girl in the case of 2019 was a situation in which the “victims often experience the criminal justice process as coercive”, a process designed to coerce rather than to give victims the possibility of choice, as mentioned by Winick in a report from 2008.⁴²⁵ And he continued: when people have a choice to participate and contribute to the decision-making process, they “respond better, with greater satisfaction and with more motivation and effective performance”.⁴²⁶

For this reason, it is important that authorities have the capability and understanding of what the victims had been through and how to manage the proper treatment, giving them the possibility of having an active participation in the decision-making process that concerns them. Scoles and Selvam (2018) conclude that prosecutors and authorities should learn interview techniques that reinforce a more sensitive approach to the survivors of GBV to avoid negative feelings that may revictimize them.⁴²⁷

5.2 Acquittal of Offenders and Consequences for Victims

The first case of FGM in London in 2015, when a doctor who had stitched a Somalian woman after the delivery of her baby was acquitted from the charges, due to the judges' decision that his action was with the good intention of saving the baby and he did not have the appropriate knowledge on how to proceed in this specific situation with a victim of FGM, may provoke a harsh psychological consequence for the Somalian woman.

Survivors of such practice usually spend a lot of time trying to understand what happened and the impacts of this crime on them, seeking to reframe their experience

⁴²³ Jessica Gubbin, Erna Bayar, and I. G. Finlay (Baroness Finlay of Llandaff), “Female Genital Mutilation in the UK: What Are the Barriers to Prosecution?,” *The Obstetrician & Gynaecologist* 19, no. 4 (2017): 271–72, <https://doi.org/10.1111/tog.12430>. Page 271.

⁴²⁴ Winick, “Therapeutic Jurisprudence and Victims of Crime.” Page 07.

⁴²⁵ Winick. Page 08.

⁴²⁶ Winick. Page 08.

⁴²⁷ Gigi Scoles and Anupama Selvam, “The Vital Voices Justice Institute: Helping States Combat Gender-Based Violence,” in *Gender Perspectives on Torture: Law and Practice*, Center for Human Rights & Humanitarian Law (Washington, D.C: American University Washington College of Law, 2018), 3–18. Page 13.

and reassert a sense of control over their lives.⁴²⁸ The doctor's option to stitch a woman who had already suffered from Female Genital Mutilation, may cause her a feeling of being violated again, and of being powerless over her body.

According to the medical team of the hospital where this event occurred, the doctor was warned that the procedure was incorrect and illegal. However, after the operation, he was advised to leave the stitch since it would be "painful and humiliating" to reverse the suture.⁴²⁹

This work does not aim to judge the doctor's intentions, which understandably were taken for the best of the baby and the mother, but rather to bring to light the serious psychological consequences for women victims of mutilation and to find ways that they will not be re-victimized by the judiciary and health care system. Even so, it is crucial that the medical staff is prepared to handle cases and medical procedures of women victims of FGM. Regarding the specific case mentioned, it is fundamental that the Somalian mother receives the fair reparation for what happened to her.

The third case in London (2018) was more serious in the sense that a 16-year-old girl accused her father of subjecting her to the practice of Female Genital Mutilation, and although experts proved the mutilation of her genitals, her father was acquitted, and no conviction was made.

The consequences for the victim of going through a delicate and complicated trial, where she exposes a traumatic experience, to end up refraining her from having a suitable solution to her claim, may destroy her emotionally, as well as lead her to lose faith in a government that had the responsibility to protect and compensate her and failed to do it.⁴³⁰

The failure of the system to punish the perpetrator for his actions may induce other victims to not pursue justice for fear of being re-victimized and lack of trust in the judiciary.⁴³¹ Orentlicher (1991) adds to this reasoning by questioning: if the law is

⁴²⁸ Winick, "Therapeutic Jurisprudence and Victims of Crime." Page 04.

⁴²⁹ Laville, "First FGM Prosecution."; Laville, "Doctor Found Not Guilty of FGM on Patient at London Hospital."

⁴³⁰ Winick, "Therapeutic Jurisprudence and Victims of Crime." Page 07.

⁴³¹ Carla Ferstman, "Reparations for Sexual and Other Gender-Based Violence," in *Gender Perspectives on Torture: Law and Practice*, Center for Human Rights & Humanitarian Law (Washington, D.C: American University Washington College of Law, 2018), 19–32. Page 26.

unable to punish the offenders of such brutality, what lesson can State offer for its citizens?⁴³²

In the General Comment number 2 of the CAT, it was recalled the consequences of not prosecuting and punishing the perpetrators of torture acts. “Since the failure of the State to exercise due diligence to intervene to stop, sanction and provide remedies to victims of torture facilitates and enables non-State actors to commit acts impermissible under the Convention with impunity, the State’s indifference or inaction provides a form of encouragement and/or de facto permission. The Committee has applied this principle to States parties’ failure to prevent and protect victims from gender-based violence, such as rape, domestic violence, female genital mutilation, and trafficking” .⁴³³

States are obliged to guarantee the protection of girls and women to not undergo the procedure of FGM, even so, if the State was not able to provide security for its citizens, it must assign the effective remedy measures to victims and to prosecute and punish the offenders.⁴³⁴⁴³⁵

Sadly, in both cases where the practice of mutilation was confirmed by experts, the victims were not protected, their rights have been violated, their chance to get justice was lost and they were unable to have a decent redress for the crime committed against them. The cases are marked by the inefficiency of the English judicial system in guaranteeing the prevention and reparation of women and children victims of GBV.

6. The Judicial Proceedings and Victims

The judiciary system has as main goals within the prosecution process to end the violence cycles, to prevent lawbreakers to commit criminal actions, and to inspire societies to endorse the fundamental principles of respect for the rule of law and inherent dignity of individuals.⁴³⁶

⁴³² Diane F. Orentlicher, “Settling Accounts: The Duty to Prosecute Human Rights Violations of a Prior Regime,” *Yale Law Journal* 100, no. 8 (1991): 2537–2618. Page 2542.

⁴³³ CAT Committee Against Torture, “General Comment 2,” 2008, <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhskvE%2BTuw1mw%2FKU18dCyrYrZhDDP8yaSRi%2Fv43pYTgmQ5n7dAGFdDalfzYTJnWNYOXxeLRAIVgbwcSm2ZXH%2BcD%2B%2F6IT0pc7BkgqlATQUZPVhi>. Paragraph 18.

⁴³⁴ Scoles and Selvam, “The Vital Voices Justice Institute: Helping States Combat Gender-Based Violence.” Page 05.

⁴³⁵ United Nations, “International Covenant on Civil and Political Rights.” Paragraph 03.

⁴³⁶ Orentlicher, “Settling Accounts.” Pages 2541-2542.

Victims usually pursue prosecution because they want to hold their abuser accountable for the violence committed against them, as well as to prevent further violence.⁴³⁷ However, they usually face many barriers to come forward and report cases to the judicial system. Such barriers are, for example, the difficult to obtain information and the lack of understanding by the authorities and personnel linked to the prosecution (police officers, court prosecutors, judges) of how to support the survivors during the prosecution and trial procedures. These situations may lead and contribute to victims' anxiety, fear, depression, and revictimization, resulting in her being discouraged to seek justice and reparation.⁴³⁸

Ditcher et al (2011) complement that beyond the lack of support that can make women choose to not pursue prosecution, it is possible to add the lack of trust and confidence on the system, based on their assumptions or prior experiences; and the demand to spend their time and emotional energy in a process they are not sure if they will receive the proper and desired compensation.⁴³⁹

Because of the difficulties that victims face to find support on the judicial system, in 2020 the England government , in an attempt to solve this problem, published a Code of Practice for Victims of Crime in England and Wales, including the victims' rights, and aiming at setting out minimal standards for the services provided to victims by the government sectors that deal directly with them.⁴⁴⁰

This Code of Practice defines the victim as a "survivor", as well as describes all services provided, which must have as primary consideration the victims' best interests, taking into account their age, maturity, beliefs, and needs.⁴⁴¹ Concerning the victims' rights, the Code mentions the right to understand and to be understood; to be provided with information when reporting a crime; to be referred to services that support victims and to services and support tailored to their needs; to be provided with information about compensation, investigation, prosecution, trial, trial process and their

⁴³⁷ Dichter et al., "Engaging with Criminal Prosecution." Page 24.

⁴³⁸ Dichter et al., "Engaging with Criminal Prosecution: The Victim's Perspective.", page 24; Winick, "Therapeutic Jurisprudence and Victims of Crime.", page 08.

⁴³⁹ Dichter et al., "Engaging with Criminal Prosecution." Pages 24-25.

⁴⁴⁰ Ministry of Justice, "Code of Practice for Victims of Crime in England and Wales" (United Kingdom Government, 2020), https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/936239/victims-code-2020.pdf. Page 03.

⁴⁴¹ Ministry of Justice. Page 03.

role as a witness as well as the outcome of the case and appeals; and to be paid expenses and have property returned.⁴⁴²

To reinforce the England Code, the Crown Prosecution Service also created a guide on how the prosecutors should treat and deal with victims of Female Genital Mutilation. In this guide it was informed that the police and prosecutors should understand and recognize that women and girls subjected to FGM cases are vulnerable and may have had no previous contact with the criminal justice process. Besides, they can often be reluctant to undergo prosecution, due the loyalty to their family and community, so it is important to ensure that these women and girls will receive all the support needed by the authorities.⁴⁴³

Another important guide established by the CPS was the Special Measures, which contains provisions that help vulnerable and intimidated witnesses (including the victim herself) to relieve the stress associated with giving evidence.⁴⁴⁴ Within these measures, it was included specific actions towards children victims, where prosecutors are called to work in cooperation with the police to discuss their needs.⁴⁴⁵

The England State has joined forces with the CPS for a new treatment for victims of gender violence, respecting their time, feelings, and behavior for a more humane and therapeutic prosecution process. Now, it is time to put all these guides and code into practice and ensure victims protection during judicial procedures.

7. Guidelines for the Victims on Judicial Proceedings

The impact that the justice system has on victim's psychological and physical well-being are huge, so it is essential that government and all personnel involved in the prosecution and trial proceedings can work together to prevent the revictimization of the survivors, and at the same time to punish the offenders.⁴⁴⁶

For this reason, a guideline on the best practices towards women and children victims of gender-based violence, as Female Genital Mutilation, was compiled below. It was based on procedures of the UK judicial system.

⁴⁴² Ministry of Justice. Pages 01-02.

⁴⁴³ Crown Prosecution Service, "Female Genital Mutilation | The Crown Prosecution Service," Female Genital Mutilation, 2021, <https://www.cps.gov.uk/legal-guidance/female-genital-mutilation>.

⁴⁴⁴ "Special Measures | The Crown Prosecution Service," accessed June 4, 2022, <https://www.cps.gov.uk/legal-guidance/special-measures>.

⁴⁴⁵ "Special Measures | The Crown Prosecution Service."

⁴⁴⁶ John Braithwaite, "Restorative Justice and Therapeutic Jurisprudence," *Criminal Law Bulletin* 38 (2002): 244–62. Page 244.

7.1 Police Investigation

The first step of the criminal judicial process is the investigation, that lies on the responsibility of the police that will take statements from the victims and witnesses about the incident.⁴⁴⁷ If they find any evidence regarding the perpetrator, they will send the declarations to the Crown Prosecution Service, which will be responsible for prosecuting people who have been accused of criminal offenses.⁴⁴⁸

Regarding the law, the Code of Practice for Victims of Crime was established to provide the best treatment for the victims in a more humane way, taking into consideration what they went through. The First right all the victims have is to be helped to understand what is happening in a simple communication with accessible language, and if it is necessary services for translations and interpretation must be provided without charge for the victim.

In its Second right, the Code encourages that the police should keep to a minimum the number of interviews, and that they should be conducted by the same person. Police officers should also ensure that unnecessary contact between victim and suspect will be avoided. Besides, if a victim is considered vulnerable, due to age, learning disability, mental disorder or physical disability, a Registered Intermediary⁴⁴⁹ shall be called. It also includes the possibility of victims of sexual violence, domestic abuse, and gender violence to choose the gender of the police officer conducting the interview. For victims under 18 years of age, the possibility of recording her statement to the police must be assured, avoiding embarrassment for the child.

The Third right guarantees the option to Restorative Justice⁴⁵⁰ for victims. The Fourth right ensures that victims will have all the support with services to help them recover after the violence was committed, independent if the crime was reported or not. It also includes the support of an Independent Sexual Violence Advisor and

⁴⁴⁷ "Victims & Witnesses | The Crown Prosecution Service," accessed June 4, 2022, <https://www.cps.gov.uk/victims-witnesses>.

⁴⁴⁸ United Kingdom Criminal Justice System, "Giving a Witness Statement to the Police - What Happens Next?" (Home Office Communication Directorate, 2003). Page 04.

⁴⁴⁹ "Registered Intermediary is a self-employed communication specialist who helps vulnerable victims and witnesses with communication difficulties to give evidence to the police and to the court in criminal trials" - Ministry of Justice, "Code of Practice for Victims of Crime in England and Wales.", page 13.

⁴⁵⁰ "Restorative Justice is a process that brings those harmed by crime and those responsible for the harm, into communication through a meeting face-to-face, or via letter, recorded interviews or videos. It is voluntary and it will only happen if both (victim and offender) want to take part" - Ministry of Justice, "Code of Practice for Victims of Crime in England and Wales.", page 16.

Independent Domestic Violence Advisor⁴⁵¹, and the possibility to access to Special Measures.

The Seventh right gives the chance to make a Victim Personal Statement to explain in their own words how the crime affected them physically, emotionally and financially. This statement has to be considered by the judge at the time to determine the sentence of the defendant.⁴⁵²

Even though these Code's rights have a more humanistic approach in dealing with victims, it is important to emphasize that people who works with victims of such crimes as sexual and domestic violence, including Female Genital Mutilation, should have the patience, knowledge and empathy with women and girls who suffered these offences.

Usually, these women and girls who went through a violent crime such as FGM may lose their sense of security, and they need immediate emotional attention and the certainty that police officers and the personnel who works in the judicial system will restore their sense of security again.⁴⁵³

As stated by Winick's (2008), the victims "need sympathy and understanding, not blame. They need to reframe their experience. They need to reassert a sense of control over their lives. They need to have the opportunity to tell their story to listeners who will be sympathetic and not judgmental. All of those within the criminal justice process with whom the victim will relate should receive training to sensitize them to these needs and how to meet them... they need to understand the various types of psychological damage that being victimized by crime can produce".⁴⁵⁴

7.2 Trial Proceedings

The second step regards the court where the crime will be analyzed by a judge or a jury and a decision on whether the is guilty will be made. The analysis and the

⁴⁵¹ The Independent Sexual Violence Advisor and Independent Domestic Violence Advisor are advisers "who works with people who have experienced rape, sexual assault, and domestic abuse. They will develop an individual safety plan with a victim to become safe and start to rebuild their lives free from abuse" - Ministry of Justice, "Code of Practice for Victims of Crime in England and Wales.", page 18.

⁴⁵² Ministry of Justice, "Code of Practice for Victims of Crime in England and Wales.", pages 12-26.

⁴⁵³ Winick, "Therapeutic Jurisprudence and Victims of Crime." Page 04.

⁴⁵⁴ Winick. Page 04.

decision procedure shall be based on the testimony of the victim and of the witnesses, as well as on evidence of crime presented during the trial.⁴⁵⁵

In the course of trial, the victim has rights supported and protected by the Code of Practice for Victims, as the Eighth right that determines that the victim will be able to enter in the court room through a different entrance as the defendant and wait in a separate room. In addition, she will have the support of the Witness Care Unit⁴⁵⁶ to offer support with the victim's needs. This Unit will inform her what to expect from the trial.⁴⁵⁷

In addition to the legal part, all the participants in the judicial process should receive the necessary instruction on how to conduct the trial without imposing counter-stereotypical characteristics on the victims and diminishing their credibility.⁴⁵⁸ Moreover, they should be trained to cover all the psychological reactions the victim may have during the process.⁴⁵⁹

The survivors of violent crimes may experience feelings of disempowerment, an affront to their dignity and loss of control over their lives, what leads to a demand that police officers and prosecutors make them understand they are not responsible for their victimization, and help to empower them to recover their sense of power and prevent them from future victimization.⁴⁶⁰

Some researches affirm that if the victim has the chance to release and describe her feelings about her abuser and about the crime, telling her story of what happened, it may have a healing effect over her.⁴⁶¹

7.3 Outcomes and Appeal

This is the moment when the court decides whether the defendant is guilty or not. If the defendant is found guilty, the judge or jurors will impose a sentence on him/her.

⁴⁵⁵ "The Prosecution Process." Public Prosecution Service Northern Ireland, September 20, 2019, accessed June 05, 2022, <https://www.ppsni.gov.uk/prosecution-process>.

⁴⁵⁶ Witness Care Unit "is the generic name to describe a police led function which provides information and support to victims and witnesses in cases progressing through the criminal justice system" - Ministry of Justice, "Code of Practice for Victims of Crime in England and Wales.", page 08.

⁴⁵⁷ Ministry of Justice, "Code of Practice for Victims of Crime in England and Wales." Pages 27-28.

⁴⁵⁸ Xaviera Camplá et al., "Sexual Offences Against Women: Variables Involved in Judicial Decision Making," in *Psychology and Law: Research for Practice*, Mercedes Novo and Dolores Seijo (Spain: Creative Commons, 2019), 19–36. Page 22.

⁴⁵⁹ Winick, "Therapeutic Jurisprudence and Victims of Crime." Page 05.

⁴⁶⁰ Winick. Page 05;07.

⁴⁶¹ Winick. Page 06.

After the conviction, the defendant will have the right to appeal to another court to review the previous decision.⁴⁶²

Including at the end of judicial system, the victims must be informed about the outcomes of the trial. The Code of Practice clarifies in the Ninth right that if the abuser was convicted, the victims have the right to obtain an explanation about the meaning and the effect of the sentence.⁴⁶³

It is also fundamental that prosecutors involve victims within the criminal prosecution decision. Often victims report coercive experiences in the judiciary system, yet, if the prosecutors give them a chance to have an opinion regarding the charge, listen to them and treat them with dignity and respect, they will be more flexible to accept the prosecutor's decision (even if they disagree with it) and future outcomes. These actions can increase victims' trust and confidence in officials and the judicial process.⁴⁶⁴

According to Winick (2008), Most victims experience a lot of distress during court processes, due to their inability to understand how the they work and why. Giving victims the opportunity to understand the process can reduce their stress, fear and anxiety, and help them to manage their expectations about the trial and the outcomes.⁴⁶⁵

7.4 Reparation of Victims

The judicial process does not finish for victims with the conviction or acquittance of perpetrators. After sentence, it is required from the State a reparation for women and girls who suffered from criminal offenses.

Within the academy, it is possible to note many terminologies that explains and defines the process to repair the harm caused on victims. However, for Ludi (2006) no term is more appropriate than "reparation", since it embraces various efforts to rehabilitate and compensate victims of human rights violations.⁴⁶⁶ Another commonly used word is "restitution", which is the action of returning assets taken illegally or

⁴⁶² Commonwealth Director of Public Prosecutions, "Steps in Prosecution," Text (Commonwealth Director of Public Prosecutions, August 6, 2015), accessed June 5, 2022, <https://www.cdpp.gov.au/prosecution-process/steps-prosecution>.

⁴⁶³ Ministry of Justice, "Code of Practice for Victims of Crime in England and Wales." Page 29.

⁴⁶⁴ Winick, "Therapeutic Jurisprudence and Victims of Crime." Page 09.

⁴⁶⁵ Winick. Page 09.

⁴⁶⁶ Regula Ludi, "The Vectors of Postwar Victim Reparations: Relief, Redress and Memory Politics," *Journal of Contemporary History* 41, no. 3 (2006): 421–50. Page 427.

unjustly from the victim. This gives an idea of rights as a property of human beings, what may lead to a wrong impression by suggesting that victims of gross human rights violations can be healed only with compensation for what they have went through.⁴⁶⁷

Reparations are actions defined and established by the government to improve the quality of victims' life based on the goals of accountability, reconciliation, and peacebuilding.⁴⁶⁸ In addition, they are a means to recognize and remedy the victims' suffering.⁴⁶⁹

Given the importance and the need to address the question of remedies and reparation for victims, the United Nations established the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violation of International Humanitarian Law, adopted in 2005, that recall States to ensure victim's reparation, in a victim-oriented perspective, based on the legal principle of accountability, justice and rule of law.⁴⁷⁰

In these Basic Principles, the States are called to establish national programs for effective and proportional reparations to the gravity of the violations and harms victims had suffered, grounded in five categories: Restitution, Compensation, Rehabilitation, Satisfaction, and Guarantees of Non-Repetition.⁴⁷¹

The Restitution is specified by the UN as a way to restore to the victim her/his original situation before the crime occurred, including restoration of identity, family life, citizenship, etc. Compensation is the economic reparation according to the gravity of violation, embracing physical or mental harm, material damages, and expert assistance, medical services, psychological and social services. Rehabilitation relates to medical and psychological care, as well as legal and social services. Satisfaction is the disclosure of the criminal case, public apology, and sanctions against the

⁴⁶⁷ Ludi. Pages 427-428.

⁴⁶⁸ Luke Moffett, "Reparations for 'Guilty Victims': Navigating Complex Identities of Victim-Perpetrators in Reparation Mechanisms," *International Journal of Transitional Justice* 10, no. 1 (2016): 146-67, <https://doi.org/10.1093/ijtj/ijv030>. Page 152.

⁴⁶⁹ Moffett. Page 152.

⁴⁷⁰ United Nations, "Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law," 2005, <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-and-guidelines-right-remedy-and-reparation>.

⁴⁷¹ United Nations. Paragraph IX.

perpetrators. And finally, Guarantees of Non-Repetition is the prevention from the continuing violations through reformulation of laws and public policies.⁴⁷²

The Nairobi Declaration goes even further on the matter, stating that “reparation must go above and beyond the immediate reasons and consequences of the crimes and violations; they must address structural inequalities that negatively shape women’s and girls’ lives”.⁴⁷³ It should serve as healing process to victims of gender-based violence, and a technique that allows them to move forward with their lives.⁴⁷⁴ To achieve this healing process, some feminist groups suggest that restorative procedures should be more inclusive and seek ultimately forgiveness from abusers.⁴⁷⁵

The reparation programs have to take into account the multidimensional and long-term consequences of crimes on the victims, their families and communities, and it must address the need of women and girls subjected to GBV, ensuring their autonomy and empowerment to decide the best form of reparation for their situation.⁴⁷⁶

Furthermore, these programs should transform the society to a new model, without structural inequalities that encourage violence against women, leading to their feelings of fear and insecurity.⁴⁷⁷ “Reparations become an expression of recognition to the victims as human beings and as equal citizens in the new political order, and admission of past and/or future responsibility for certain types of conduct or omissions... it can help to either reinforce or subvert some of the pre-existing structural gender inequalities that are commonly built into social tissue of civil society resulting in women’s systematic discrimination”.⁴⁷⁸

Ensuring effective reparation programs for victims of Female Genital Mutilation can bring many positive outcomes such as the increase of victim’s support in the

⁴⁷² United Nations. Paragraph IX.

⁴⁷³ United Nations, “Nairobi Declaration on Women’s and Girl’s Right to a Remedy and Reparation,” 2007, [https://www.cba.org/getattachment/Our-Work/Resolutions/Resolutions/2009/Nairobi-Declaration-on-Women%E2%80%99s-and-Girls%E2%80%99-Righ-\(1\)/09-04-M-Annex.pdf](https://www.cba.org/getattachment/Our-Work/Resolutions/Resolutions/2009/Nairobi-Declaration-on-Women%E2%80%99s-and-Girls%E2%80%99-Righ-(1)/09-04-M-Annex.pdf). Principle 3 (H).

⁴⁷⁴ Scoles and Selvam, “The Vital Voices Justice Institute: Helping States Combat Gender-Based Violence.” Page 15.

⁴⁷⁵ Martha Minow, “Between Vengeance and Forgiveness: Feminist Responses to Violent Injustice,” *New England Law Review* 32, no. 4 (1998 1997): 967–82. Page 976.

⁴⁷⁶ Valérie Couillard, “The Nairobi Declaration: Redefining Reparation for Women Victims of Sexual Violence,” *The International Journal of Transitional Justice* 1, no. 3 (2007): 444–53, <https://doi.org/10.1093/ijtj/ijm030>. Page 450.

⁴⁷⁷ Couillard. Pages 450–451.

⁴⁷⁸ Ruth Rubio-Marin, “The Gender of Reparations: Setting the Agenda,” in *What Happened to the Women, 2006, quoted in* Couillard, “The Nairobi Declaration.” Page 452.

psychological and social field, as well as helping to protect future girls from being forced to undergo this practice.

8. Training Programs for Dealing with Vulnerable Victims

The guidelines and codes cited in this work have their relevance to improve the judicial system to deal with victims in a vulnerable position, who were subjected to a gross human rights violation. Even so, these guides should be implemented in conjunction with specific training programs on how to deal with women and girls submitted to a court procedure, for all authorities who have any contact with the victim, from the moment of the statement to reparation programs.

Training courses have the aim to address the lack of capacity and understanding of gender-based violence committed against children , with awareness-raising programs surrounding the investigation, prosecution, and punishment.⁴⁷⁹

These courses should include sessions with psychologists designed to increase the participants' sensitivity about what to do and not do when interacting with the victim by having a greater understanding of the psychological damage a crime can produce on the victim.⁴⁸⁰

The judicial personnel need to have the theoretical understanding, but also skills training so they can play their roles in a more humanized way with victims, avoiding to revictimize them.⁴⁸¹

8.1 Advocacy Training Council

The Advocacy Training Council (ATC) was a course organized by The Inns of Court College of Advocacy in London, with the aim to ensure all advocates understand how to deal with children and vulnerable witnesses and how to question them, irrespective of the nature of the allegation, or the jurisdiction in which the advocate appears.⁴⁸²

In 2011 the ATC published a research called "Raising the Bar", that describes the appropriate actions regarding vulnerable victims. In this document it was

⁴⁷⁹ Scoles and Selvam, "The Vital Voices Justice Institute: Helping States Combat Gender-Based Violence." Page 07.

⁴⁸⁰ Winick, "Therapeutic Jurisprudence and Victims of Crime." Page 04.

⁴⁸¹ Winick. Page 04.

⁴⁸² "Advocacy & The Vulnerable (Crime)," *ICCA* (blog), accessed June 5, 2022, <https://www.icca.ac.uk/advocacy-the-vulnerable-crime/>

recommended to advocates they “should at all times be sensitive and understanding with regards to the needs and vulnerabilities of the person concerned”.⁴⁸³

Even though this training course is only for advocates, it can already be considered the beginning of a change in the treatment of victims within the judicial system of the United Kingdom.

8.2 Justice Institute on Gender-Based Violence

The Justice Institute on Gender-Based Violence was launched in 2011, and it is a training program of Vital Voices, a non-profit organization in the United States, that promotes the employment of a holistic response to address violence against women, focusing on victims’ safety.⁴⁸⁴

These institutes are based in some countries around the world as Argentina, Brazil, Cameroon, China, Colombia, India, Honduras, Mexico, Nepal, Philippines, Rwanda, and South Africa. In each one of them, the institutes provide participants with a human rights approach based on their country-profiling and tailored on their region, enable them to identify, investigate and prosecute gender-based crimes in their communities.⁴⁸⁵

The program focusses in training all authorities that are involved within the criminal justice process, including judges, prosecutors, law enforcement and service providers in developing their knowledge and ability in how to treat the victim and ensure the accountability of the offenders.⁴⁸⁶

The Justice Institute is a multidisciplinary program that emphasize to its participants as a priority the safety, security, and dignity of the victims, and therefore, all judicial sectors must work together to protect victims, to prevent future victimization and to deny impunity for perpetrators.⁴⁸⁷

Though the institutes are designed in accordance with the specificities of the country where they are allocated, the program has four standard modules: Practical

⁴⁸³ “Content | Advocacy & The Vulnerable (Crime),” accessed June 5, 2022, <https://elearning.easygenerator.com/b81dc4c9-0d6b-4a26-b6db-22acbedf442e/#/sections/12a9756aed544eb2954a5393204dc2d2/questions/1e41f466118c47f4898250ffd46508c4>.

⁴⁸⁴ “Justice Institutes on Gender-Based Violence,” Vital Voices, accessed June 5, 2022, <https://www.vitalvoices.org/program/justice-institute-end-gender-based-violence/>.

⁴⁸⁵ “Justice Institutes on Gender-Based Violence.”

⁴⁸⁶ “Justice Institutes on Gender-Based Violence.”

⁴⁸⁷ Scoles and Selvam, “The Vital Voices Justice Institute: Helping States Combat Gender-Based Violence.” Page 09.

Exercises; Evaluating/Investigating the Case; Prosecuting the Case; and Holding Offenders Accountable. During all course, the participants are trained to improve their interaction with the victims, and outline goals and action plans to address gender-based violence.⁴⁸⁸

Along the course structure, the program includes consultation with local partnerships to ensure cultural sensitivity and relevance, stimulates diversity of perspectives, reinforces the flexibility in design and implementation of new issues, builds networking among individuals and institutions, and provides specific instructions from experienced and credible trainers.⁴⁸⁹

All these actions result in an effective way to increase the knowledge and preparedness of the participants to struggle against gender-based violence, to help address social and cultural stereotyping, and to professionalize the judicial personnel to interview victims in a sensitive manner.⁴⁹⁰

To sum up, the States, judges, lawyers, prosecutors, police officers and all members of the justice system must understand and be instructed on the nature and origins of the violence that will be judged, as well as tools to combat it, in a way to protect and victim and avoid revictimization.⁴⁹¹

⁴⁸⁸ Scoles and Selvam. Page 09-10.

⁴⁸⁹ Scoles and Selvam. Page 11.

⁴⁹⁰ Scoles and Selvam. Page 13.

⁴⁹¹ Berer, "Prosecution of Female Genital Mutilation in the United Kingdom.", page 274; Scoles and Selvam, "The Vital Voices Justice Institute: Helping States Combat Gender-Based Violence." Page 14.

CONCLUSION

The procedure of Female Genital Mutilation is no longer restricted only to its practicing-countries, but due to the migration process it has spread all over the world, putting pressure on countries that are not familiar with this tradition, to take measures to prevent and protect women and girls from undergoing this custom, to help women subjected to this practice deal with the consequences, and to build public policies to make these communities aware of the negative impacts on their daughters.

The efforts of most States to combat Female Genital Mutilation are based on the legal aspect, passing laws to prohibit the practice and punish perpetrators, although the enactment of laws reinforces the States' position against the tradition of FGM, it does not reflect their reality in the trials of criminal cases. Many laws that were approved to ensure the effectiveness of justice system to punish perpetrators and to guarantee the revindication of victim's rights with a fair and equitable trial, as well as, the proper reparation for the violence committed against her, are not put into practice due to the lack of knowledge and prejudice about the culture of these women's community and the way they were treated.

To achieve the primary goal of the judicial system of punishing the abuser and providing means for victim's reparation, it is necessary for all people who deal directly with vulnerable victims to have the understanding and insight into what they have been through, and the sensitivity to meet their needs.

The lack of knowledge and unpreparedness of personnel and officials in the judicial system on how to deal with victims of Female Genital Mutilation, in addition to their failure to prosecute offenders, may lead to a re-victimization of women and girls who have come to the judicial system seeking for justice and redress.

Therefore, it is of utmost importance that States restructure their prosecution and trial proceedings into a more humane and sensitive process that ensures victims to present their claims and to find a safe space where they can share the offenses committed against them and receive an appropriate treatment and compensation for all the suffering they have been through.

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