

PROMOTING THE ABANDONMENT OF FEMALE GENITAL CUTTING

Marta Santos Pais

Introduction

Female genital mutilation and cutting (FGM/C) is widely perceived as a violation of human rights. But for many years, FGM/C was regarded as a “private” practice carried out by individuals within the privacy of the family. There was also some reluctance to “impose” universal values on what was widely perceived to be a cultural tradition and a dimension of the collective identity of the communities where it was practiced.¹

The two last decades have been marked by an evolving process of change. The international community has witnessed the adoption of strong international standards², the undertaking of international and regional political commitments,³ the enactment of national legislation, as well as the promotion of awareness raising campaigns and community based interventions. This process has been accompanied by an increasing understanding of the social dynamics behind this deeply entrenched tradition, and supported by enlightening academic research and data development on the prevalence of FGM/C across and within countries.

There is growing confidence that strategic investment can yield major results and the

abandonment of female genital mutilation and cutting can be achieved within a generation. This is an opportunity UNICEF remains committed to seek and decisively support, through its global advocacy, programming on the ground and research development.⁴

Female genital mutilation and cutting, a human rights question

Within the United Nations, the first initiatives to place the practice on the international agenda date back to the early 1950s, when the issue was addressed by the UN Commission on Human Rights. In 1958 the UN Economic and Social Council invited the World Health Organisation to undertake a study on the persistence of customs subjecting girls to ritual operations.⁵ These initiatives were a significant step to place these human rights concerns on the international agenda, but their impact remained limited.

The 1960s and 1970s were marked by an increasing awareness of women’s rights and by the promotion by women’s organizations of campaigns to raise awareness of the harmful effects of FGM/C on the health of girls and

women. These efforts mark an important stage in the movement towards the elimination of FGM/C. The first regional seminar on Harmful Traditional Practices Affecting the Health of Women was organized by WHO in 1979, in Khartoum, Sudan. It condemned the practice in all its forms, including when it is performed under appropriate medical or hygienic conditions and recommended the establishment of the Inter-African Committee on Traditional Practices Affecting the Health of Women and Children. The Committee has since played a major role at the international level in ensuring that the practice is raised at international conferences and addressed by legal instruments on the status and human rights of women and girls.

The 1979 Convention on the Elimination of All Forms of Discrimination against Women was a significant milestone in promoting the consideration of FGM as a violation of human rights.⁶ The human rights dimension of FGM/C has subsequently been reinforced at a number of important international instruments and international conferences, including the Convention on the Rights of the Child,⁷ the 1993 Vienna Conference on Human Rights,⁸ the 1994 Cairo International Conference on Population and Development,⁹ the 1995 Beijing Fourth World Conference on Women,¹⁰ as well as its follow-up event, held in New York in 2000 and 2005, and the Special Session on Children,¹¹ held in May 2002, which will mark a five year review later this year.

The Convention on the Rights of the Child

The Convention on the Rights of the Child is the most widely ratified human rights treaty.¹² Its process of implementation has moved children into the national political agenda; it has helped promote remarkable changes in law, policy and

practice and, by the same token, it has helped to mobilize action to overcome persistent challenges that compromise the realization of children's rights. This process of change creates enhanced opportunities to promote the abandonment of FGM/C.

The impact of FGM/C on girls and women is wide-ranging. The practice compromises the enjoyment of human rights including the right to life, the right to physical integrity, the right to the highest attainable standard of health, as well as the right to freedom from physical or mental violence, injury or abuse. The practice can also undermine the enjoyment of the right to education. States parties to the Convention on the Rights of the Child are required to take measures to promote universal access to quality education, encourage regular attendance at schools and reduce drop-out rates, while promoting the child's development to reach his or her fullest potential. FGM/C is increasingly indicated as a factor in school drop-out rates for girls.¹³ In certain countries, FGM/C is performed on the occasion of ceremonies and rites that require long preparations, making it difficult for girls to follow classes. The health problems, pain and trauma experienced as a result of the practice often lead to absenteeism, low performance and loss of interest. In some cases, girls who have undergone the procedure are considered as adults and ready for marriage and, as a consequence, they may be removed from school. This has a serious impact on a girl's personal development and further compromises her informed participation in social life and the potential to reduce discrimination and promote social progress.

For many girls and women, FGM/C is an acutely traumatic experience that leaves a lasting psychological mark and may adversely af-

fect their full emotional development. Anecdotal evidence from girls and women who have undergone the practice is testament to the impact it has had on their lives. For many, it is a shocking experience marked by acute pain, as well as by fear and confusion. It has often led to eating and sleeping disorders, difficulties in concentrating and learning, and other symptoms of post-traumatic stress.¹⁴

In frequent cases, women and girls who have undergone the practice remain silent about their experience. In some cultures they have no socially acceptable means of expressing their feelings of psychological unease or distress. Amongst immigrant communities in Europe and beyond, they often face an additional psychological burden, since both the FGM/C and its physical and psychological impact are poorly understood in the host country.¹⁵

Upon ratification of relevant human rights instruments, including the Convention on the Rights of the Child, State parties pledge to adopt all necessary measures to prevent the practice of FGM/C among their citizens and others under their jurisdiction. These measures include awareness-raising and education campaigns, mechanisms to ensure protection of children from these practices, legislation to prevent them and the provision of services to fulfil these international legal obligations, including education, health care and information.¹⁶ These measures are needed at the national and sub-national levels, and call for the involvement and mobilization of a wide range of partners, including community leaders and grass root organizations.

In the context of the process of implementation of international and regional legal instruments, national legislation has been enacted in a number of countries to prohibit and criminalize this practice. This has been the case

in 13 African nations, in some cases at the constitutional level, as well as in several Western countries. At the same time, law enforcement has often remained weak and insufficiently supported by information campaigns and capacity building activities, which compromises any attempt to achieve lasting behavior change.

The Committee on the Rights of the Child was established by the Convention to monitor its implementation and assess progress made by States parties in the realization of children's rights. In its work, the Committee has paid a systematic attention to the protection of the rights of girls and to the prevention of FGM/C. In 1995, the Committee held a thematic discussion on the girl child as a contribution to the Beijing fourth World Conference on Women. This discussion emphasized the importance of the promotion and protection of the rights of girls in breaking the cycle of harmful traditions and prejudices against women and drew attention to the importance of education for giving children the necessary confidence and skills to make free choices in their lives. Similarly, in the examination of States parties' reports on the implementation of the CRC, the Committee has often expressed concern on FGM/C and issued a set of important recommendations to encourage its abandonment – including awareness-raising campaigns for the general public, mobilization of key actors within the community, including religious and community leaders, and practitioners, law enactment and enforcement and the education of young girls.

As an advocate of children's rights and with its international monitoring mandate, the Committee plays a critical role as a catalyst of progress in this and other critical human rights areas. In the review of the most recent reports submitted by States parties, the Committee re-

affirmed its commitment to support the process of abandonment of female genital mutilation and cutting. When reviewing the report of Yemen, the Committee took note of the efforts made in the country to address harmful traditional practices, but also reiterated “its concern at the existence of harmful traditional practices in certain regions of the State party, including FGM, early marriages and deprivation of education.” The Committee recommended that as a matter of urgency, Yemen “undertake all necessary measures to eradicate harmful traditional practices, particularly those affecting the girl child, and those harmful to the physical and psychological well-being of children.”¹⁷

When addressing the report submitted by Ghana, the Committee noted the efforts undertaken to address the practice of female genital mutilation (FGM) including a bill to amend the Criminal Code that strengthens the provision against female circumcision. However, as a reflection of its concern at the persistence of the practice, the Committee recommended “that the State party strengthen its legislative measures and conduct awareness-raising campaigns to combat FGM and eradicate this and other traditional practices harmful to the health, survival and development of children, especially girls;” it further recommended the introduction of “sensitization programs for practitioners and the general public to encourage change in traditional attitudes and prohibit harmful practices, engaging with the extended family as well as with traditional and religious leaders and empowering young girls through quality education” to enhance their life skills.¹⁸ At the end of 2006, the Committee renewed its attention to female genital mutilation at the time of the examination of the Report Ethiopian report.¹⁹ Also in this case, there were

achievements to be acknowledged, including the criminalization of harmful traditional practices in the revised 2005 Criminal Code and the efforts undertaken by the National Committee on Harmful Traditional Practices in Ethiopia to document and combat the practice of female genital mutilation. At the same time, concern was expressed at the wide practice of FGM and forced and early marriages of girls through abduction and at the lack of a comprehensive strategy to counteract harmful traditional practices in the country. In this spirit, the Committee recommended the adoption of “a comprehensive strategy to prevent and combat harmful traditional practices and the allocation of resources for its implementation, in particular in rural areas; awareness-raising campaigns on the negative effects on the health of children, especially girls, for the general public as well as community, traditional and religious leaders; and the strict enforcement of legislation prohibiting harmful traditional practices and forced and early child marriages.” The Committee has further recommended that the State party provide retraining for practitioners of female genital mutilation and support them to find alternative sources of income.

In its most recent session, in early 2007, the Committee reviewed the efforts deployed by Mali in the fight against FGM/C.²⁰ While welcoming the development of a national program in cooperation with NGOs to combat this practice, and the efforts to sensitize the population, the Committee expressed concern at the lack of a specific legal prohibition of FGM and recommended further action including through:

1. the implementation of legislative measures regarding the prohibition of female genital mutilation

- 2.** the strengthening of awareness-raising campaigns to combat FGM and reinforce sensitization programs for practitioners and the general public to encourage change in traditional attitude, by engaging with the extended family, traditional and religious leaders;
- 3.** the provision to FGM practitioners of adequate training necessary to find alternative resources of income.

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- 1** Amnesty International, "Section 4: A Human Rights Issue," Female Genital Mutilation – A Human Rights Information Pack, 1998, www.amnesty.org/ailib/intcam/femgen/fgm4.htm (accessed 10/02/2005).
- 2** The UN Conventions on the Elimination of all Forms of Discrimination against Women, of 1979, and on the Rights of the Child, of 1989, and the African Charter on the Rights and Welfare of the Child and the Protocol on the Rights of Women in Africa (Maputo Protocol) are critical references in this process.
- 3** The World Conferences on Women and the Special Session on Children (2002) represent significant landmarks.
- 4** See Innocenti Digest "Changing a harmful social convention: female genital mutilation/cutting."
- 5** Office of the United Nations High Commissioner for Human Rights (1997), "Harmful Traditional Practices Affecting the Health of Women and Children," UNOHCHR, fact sheet No. 23.
- 6** Some states in which FGM/C is practiced – including Somalia and Sudan – are not parties

- to CEDAW. As of 2 Nov. 2006, 185 countries – over ninety percent of the members of the United Nations – are party to the Convention; the most recent accession has been made by Cook Islands on 11 August, 2006.
- 7 See Article 24 paragraph 3 – “States Parties shall take all effective and appropriate measures with a view to establishing traditional practices to the health of children.”
 - 8 See paragraphs 49 and 224 of the Declaration and Programme of Action of UN World Conference on Human Rights, Vienna, 1993.
 - 9 See paragraphs 4.22, 5.5 and 7.6 of Programme of Action of the International Conference on Population and Development, Cairo, 1994.
 - 10 See paragraphs 108, 125 and 232 of Declaration and Platform for Action of the Fourth World Conference on Women, Beijing, 1995.
 - 11 The Special Session on Children adopted “A World Fit for Children” which includes, inter alia, a commitment to “end harmful traditional or customary practices, such as early and forced marriage and female genital mutilation, which violate the rights of children and women” (paragraph 49 (9)).
 - 12 The Convention has been ratified or acceded to by 193 countries.
 - 13 See, for example, “Basic Education and Female Genital Mutilation,” GTZ Topics, www.gtz.de/fgm/downloads/eng_basic_education.pdf, (accessed 4/05/2005).
 - 14 Frontiers in Reproductive Health and Population Council (2002), Using Operations Research to Strengthen Programs for Encouraging Abandonment of Female Genital Cutting. Report of the Consultative Meeting on Methodological Issues for FGC Research, April 9–11, 2002, Nairobi, Kenya.
 - 15 See Johnsdotter, Sara and Essen Birgitta (2004), “Sexual Health Among Young Somali Women in Sweden: Living with conflicting culturally determined sexual ideologies,” paper presented at the conference “Advancing Knowledge on Psychosexual Effects of FGM/C: assessing the evidence”, Alexandria, Egypt, 10–12 October, 2004.
 - 16 For an extensive list of state obligations as regards traditional practices affecting the health of women and girls see UN General Assembly Resolution A/RES/54/133, 7 February 2000.
 - 17 Yemen, CRC/C/15/Add.267, 21 September 2005, paragraphs 59 and 60, September 2005.
 - 18 Ghana, CRC/C/GHA/CO/2, 17 March 2006, paragraphs 55 and 56, March 2006.
 - 19 Ethiopia, CRC/C/ETH/CO/3, 1 November 2006, November 2006.
 - 20 Mali, CRC/C/MLI/CO/2, 2 February 2007 (unedited version).
 - 21 See Innocenti Digest “Changing a harmful social convention: Female genital mutilation/cutting,” Demographic and Health Surveys www.measuredhs.com, <http://www.childinfo.org/areas/fgmc/>, http://www.who.int/topics/female_genital_mutilation/en/
 - 22 Les mutilations génitales féminines en Suisse, 2004.
 - 23 Countries in which FGM/C is practiced but for which there are not, as yet, DHS or MICS data are Cameroon, the Democratic Republic of Congo, Djibouti, Gambia, Guinea Bissau, Liberia, Senegal, Sierra Leone, Somalia, Togo, and Uganda. The latter countries also demonstrate a wide range of prevalence: The Democratic Republic of Congo is thought to have less than 5% prevalence, while both Djibouti and Somalia are estimated to have prevalence around or above 90%.
 - 24 Yoder, P. Stanley; Nouredine Abderrahim; and Arlinda Zhuzhuni, Female Genital Cutting in the Demographic and Health Surveys: A Critical and Comparative Analysis, DHS Comparative Reports No.7, September 2004, ORC Macro. See also UNICEF (2004), The State of the World’s Children 2005, The United Nations Children’s Fund, New York, Table 9.
 - 25 Yoder, P. Stanley, Nouredine Abderrahim and Arlinda Zhuzhuni, Female Genital Cutting in the Demographic and Health Surveys: A Critical and

Comparative Analysis, DHS Comparative Reports No. 7, September 2004, ORC Macro. Considering the education level of a woman who has been cut is not helpful, since cutting nearly always takes place before a girl's education is complete, and in some cases, even before it begins.

Marta Santos Pais took up her post as Director of the UNICEF Innocenti Research Centre in July 2001. From 1997 until then she was the Director of UNICEF's Division of Evaluation, Policy and Planning. With thirty years of experience in human rights



law, she was a member of the UN Drafting Group of the 1989 Convention on the Rights of the Child and, more recently, its two Optional Protocols. She participated in the development of a number of other international human rights standards, including The Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms; The Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities; Protocol aiming at the abolition of the death penalty; Declaration on the Protection of All Persons from Enforced Disappearances; Statute of the International Criminal Court. Prior to joining UNICEF, Marta Santos Pais was Rapporteur of the United Nations Committee on the Rights of the Child and a Special Adviser to the Machel Study on the Impact of Armed Conflict on Children. In Portugal, she was Senior Legal Adviser for human rights in the Comparative Law Office and member of the Portuguese Commission for the Promotion of Human Rights and Equality. She is the author

of a large number of publications on human rights and children's rights.