

UNFPA Regional Office for West and Central Africa



Analysis of

Legal Frameworks on Female Genital Mutilation

in Selected Countries in West Africa

Analysis of

Legal Frameworks on Female Genital Mutilation

in Selected Countries in West Africa

Table of Contents

Preface	6
Acknowledgements	8
Acronyms	9
1. Introduction	10
1.1 Female genital mutilation	11
1.2 Prevalence of female genital mutilation in West Africa	12
1.3 Background	14
1.3.1 Female genital mutilation in the realm of international human rights law	14
1.3.2 Global commitment to eliminate female genital mutilation ...	14
1.3.3 African commitment to eliminate female genital mutilation ...	15
1.3.4 UNFPA-UNICEF Joint Programme	16
1.3.5 Implementation at the national level	16
1.4 Aim of this publication	17
1.5 Methodology	18
1.5.1 Country selection	18
1.5.2 Desk research and interviews	18
1.5.3 Case study	18
1.6 Scope and limitations	19
1.7 Terminology	19
2. Female genital mutilation in international human rights mechanisms	20
2.1 Female genital mutilation as a human rights violation	21
2.2 Ratification status	22
2.3 Recommendations of treaty monitoring bodies	23
2.4 Recommendations of Universal Periodic Review	25
3. Analysis of national legal frameworks on female genital mutilation	26
3.1 Constitutional guarantees	27
3.2 National laws against female genital mutilation	30
3.2.1 Drafting of laws through a consultative process	30
3.2.2 Different types of national laws	30
3.2.3 Applicability of national law	31
3.2.4 Illegality among minors only	32
3.2.5 Terms used in national laws to refer to female genital mutilation	32
3.2.6 How national laws define female genital mutilation	33
3.2.7 Types of female genital mutilation prohibited	34
3.2.8 Attempt to perform female genital mutilation	36
3.2.9 Consent of girls and/or women	37

3.3	Efforts to criminalize female genital mutilation in Mali and Sierra Leone ...	37
3.3.1	Efforts in Mali	37
3.3.2	Efforts in Sierra Leone	38
3.4	Penalties	40
3.4.1	General provision	40
3.4.2	Aggravating circumstances	41
3.5	Offenders	42
3.6	Extraterritorial clause	45
3.7	Enforcement of national laws prohibiting female genital mutilation	45
3.7.1	Mechanisms for reporting	45
3.7.2	Countries where court cases took place	46
3.8	Implementation of national laws prohibiting female genital mutilation	47
3.8.1	Policies, national strategies and action plans on female genital mutilation	47
3.8.2	Government budget allocated to female genital mutilation	49
4.	Burkina Faso case study	50
4.1	Prevalence of female genital mutilation in Burkina Faso	51
4.2	Ratification status	52
4.3	Constitutional guarantees	53
4.4	Historical perspective	53
4.5	National law against female genital mutilation	55
4.5.1	Definition, types and female genital mutilation among minors ...	55
4.5.2	Penalty	56
4.5.3	Offenders	56
4.6	Knowledge of the law	56
4.7	Amending the Penal Code	56
4.8	Court cases	57
4.8.1	Cutters	57
4.8.2	Accomplices	58
4.9	Sentences	58
4.10	Free telephone line	59
4.11	Capacity building of the justice sector	60
4.12	Community patrols	60
4.13	Public hearings	61
4.14	Challenges in the implementation of the law	63
5.	Conclusion	64
5.1	Key steps to strong legal frameworks on female genital mutilation	66
5.2	Good practices from Burkina Faso	67
5.3	Recommendations for further research	70
5.4	A way forward	71
	Notes	72
	Annexes	79
	Bibliography	124

Preface

Female genital mutilation (FGM) has been internationally recognized as a violation of the rights, health and integrity of women and girls. FGM constitutes both a result and a perpetuation of gender inequality and discrimination against women and girls, harming their lives in many ways. The global consensus on the need to eliminate all forms of FGM worldwide is clearly reflected in Sustainable Development Goal No. 5 and in several United Nations Resolutions.

West and Central Africa is home to many countries where FGM is still rampant, this includes countries with some of the highest national prevalence rates in the world like Guinea, Sierra Leone, Mali and the Gambia.

Although FGM prevalence in almost all countries is slowly but steadily declining, the absolute number of girls subjected to FGM is likely to grow, since most affected communities are also experiencing high population growth.

We know that a legal framework that clearly outlaws FGM can support its abandonment. When a government criminalizes FGM, it sends a clear signal that the practice will no longer be tolerated. Where FGM is already socially contested, legislation can encourage those who wish to abandon it and deter those who fear prosecution. Having a national law is an important step towards ending FGM but for it to be effective, the law must be implemented and enforced.

It is worth noting that parents do not have their daughters cut with the intent to harm them, but because they think that they have no choice. They believe that their community or society requires them to continue practicing FGM and fear that if they do not conform, they and their families will face social sanctions such as social exclusion, disapproval, ridicule and difficulty in finding a husband for their daughters. In such contexts, having a law alone - even one that is effectively enforced - is not enough to eliminate this deeply rooted traditional practice. Strong law enforcement without efforts to promote social change is unlikely to have a positive effect and can even drive the practice underground. For laws to have a significant positive impact, they need to be widely understood, discussed and 'owned' by the people that are affected by them. The case study of Burkina Faso gives us insight in how laws can be used as a useful tool to change attitudes and educate people, thereby working to prevent rather than to punish alone.

UNFPA works to improve the lives of women and young people under the overriding philosophy of 'leaving no-one behind'. By protecting girls from violence, FGM and child marriage and by keeping them in good health and in school, we help ensure a life of opportunities and dignity. This can only be achieved if there is a legal and policy environment in place that protects and empowers girls and women.

UNFPA has supported the elimination of FGM in our region and beyond for many years, including through the UNFPA-UNICEF Joint Programme on Female Genital Mutilation/Cutting: Accelerating Change. We take a holistic approach to the elimination of FGM, focusing on leveraging social change while supporting countries in strengthening their legal and policy frameworks.

To better understand the variation in these legal frameworks, and to encourage the effective implementation of laws against FGM, the UNFPA Regional Office for West and Central Africa (WCARO) commissioned this analysis. The report shows that most countries in West and Central Africa have laws against FGM, with a few exceptions. Among the countries that have criminalized FGM, there is variation in the types and content of laws and perhaps even more crucially, large variation in their implementation and enforcement. The Burkina Faso case study shows us how strong political leadership, including having a national budget line to support legislation and policy implementation, as well as the establishment of a strong institutional framework and collaboration with the justice sector are all crucial.

Despite the many global and national efforts to promote its elimination, FGM still remains widespread in many countries in our region. FGM is a deeply rooted traditional practice that is neither uniform in its form, extent, rationale nor in its legality. A law or good practice from one country cannot always be applied to another country as a blueprint, but it can serve as inspiration. Solutions need to reflect the differences between and within countries but laws, policies, costed national strategies and their effective implementation are always part of these solutions. UNFPA remains committed to support governments and other partners to eliminate harmful practices like FGM, including by creating an enabling policy and legal environment that enables girls and women to realize their rights and full potential and contribute to the development of their community, society and country – ultimately benefitting us all.

Mabingue Ngom
Regional Director
UNFPA Regional Office for
West and Central Africa

Acknowledgements

The UNFPA West and Central Africa Regional Office developed this analysis within the framework of the UNFPA-UNICEF Joint Programme on Female Genital Mutilation/Cutting. It was authored by Dr. Annemarie Middelburg under the technical guidance and coordination of Meike Keldenich, Technical Specialist FGM at UNFPA WCARO. The Team Leader of the Adolescents and Youth Unit, Mr Idrissa Ouedraogo and WCARO senior management provided overall guidance.

We wish to acknowledge and thank the country office team of Burkina Faso led by UNFPA Representative Edwige Adekambi, who facilitated the field research and all the interviewees named in the report.

We express our sincere gratitude to the other UNFPA country colleagues who informed and shaped the country elements of the report: Lacina Zerbo from the Burkina Faso country office; Fatou Kinteh (the Gambia); Fanta Wague (Guinea); Jean Pierre Makelele and Ednilson Dacostablute (Guinea-Bissau); Nana Toure and Claire Matsinkou (Mali); Khadijetou Cheikh Lo (Mauritania), Nkiru Igbokwe and Damilola Obinna (Nigeria); Lydie Sanka (Senegal) and Betty Alpha from the Sierra Leone office.

Further invaluable inputs to the report were received from Beatrice Mutali and Anandita Philipose at UNFPA WCARO and from Nafissatou Diop and Emilie Filmer-Wilson at UNFPA Headquarters. The support from WCARO colleagues Lauren Knipping Bolinger and Elisabeth Coly was instrumental in getting this report published.

In recognition of their tireless work towards ending FGM, we wish to acknowledge and extend our gratitude to governments, parliamentarians, regional bodies and civil society organizations in West and Central Africa in particular. UNFPA thanks the following governments and institutions for their generous support towards ending FGM: the European Union, Finland, Germany, Iceland, Ireland, Italy, Luxembourg, Norway, Sweden and the United Kingdom.

Author: Dr. Annemarie Middelburg
Editor: Biotext
Translator: Eriksen Translations Inc.
Graphic Design: LS Graphic Design

Acronyms

AU	African Union
ACHPR	African Charter on Human and Peoples’ Rights
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CNLPE	National Council for the Fight against the Practice of Excision
DHS	Demographic and Health Survey
EMC	Continuous Multisectoral Survey
FGM	Female genital mutilation
HRC	Human Rights Council
MICS	Multiple Indicator Cluster Survey
NGO	Non-Governmental Organization
SDG	Sustainable Development Goal
SP	Permanent Secretariat
TMB	Treaty Monitoring Body
UNFPA	United Nations Population Fund
UNICEF	United Nations Children’s Fund
UPR	Universal Periodic Review
VAPP	Violence Against Persons (Prohibition)
WHO	World Health Organization

Introduction



01

1.1 Female genital mutilation

Female genital mutilation (FGM) involves the partial or total removal of the external female genitalia, or other injury to the female genital organs, for non-medical reasons.¹ The practice is typically performed by traditional practitioners² on girls between infancy and the age of 15. In many cultures, FGM is seen as a requirement for marriage, and is believed to be an effective method of controlling the sexuality of women and girls.

FGM is a reproductive health concern and a human rights violation that has devastating short- and long-term impacts on the lives of women and girls. These effects include severe pain, shock, infections and complications during childbirth (affecting both the mother and the child), long-term gynaecological problems (such as fistula), psychological effects, and death. FGM occurs in a variety of cultural contexts, with significant differences in terms of the age at cutting, the extent of cutting, the setting in which the practice takes place and the rituals associated with it.

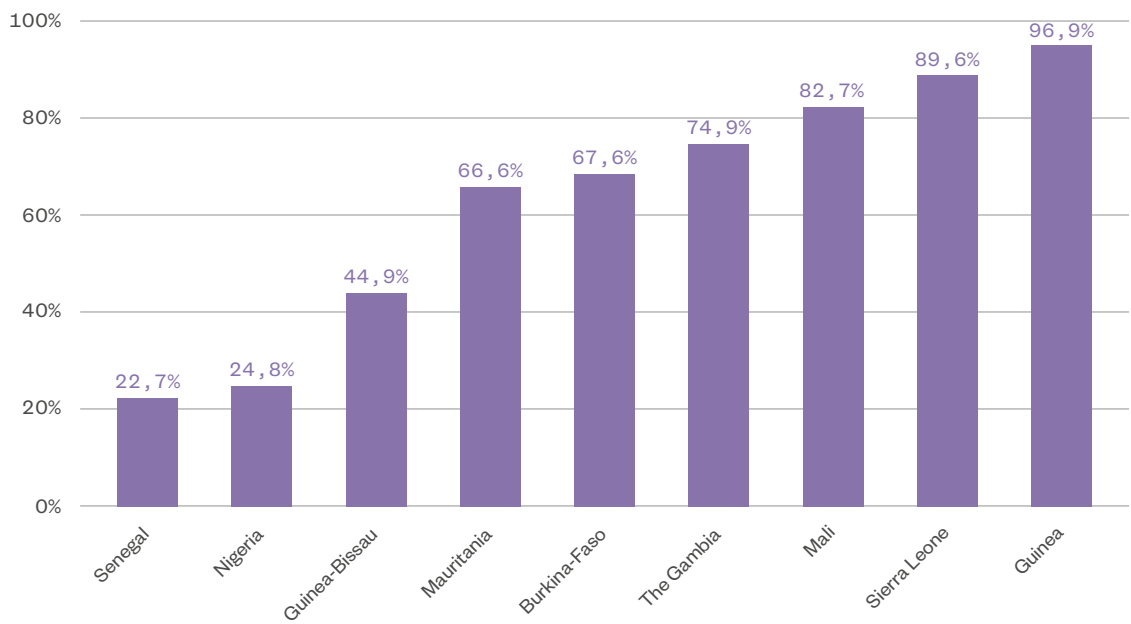
Although the actual number remains unknown (mainly due to a lack of reliable data on girls younger than 15 years), it is estimated that at least 200 million girls and women have been subjected to FGM worldwide.³ Despite the many global and national efforts to promote its elimination, FGM still remains widespread in many parts of the world and current progress is insufficient to keep up with increasing population growth. If trends continue, the number of girls and women undergoing FGM will rise significantly over the next 15 years. A United Nations Population Fund (UNFPA) publication concluded:

There is compelling information for the need to continue accelerating and scaling up the abandonment of harmful practices such as FGM. If programmatic interventions and financial resources remain the same or decline, over 15.2 million girls will be subject to FGM by 2020. This number is staggering. However, if the 17 target countries achieve their targets, 4 million girls will be protected from FGM.⁴

1.2 Prevalence of female genital mutilation in West Africa

Nationally representative data on FGM are mainly available from two sources: Demographic and Health Surveys (DHS) and Multiple Indicator Cluster Surveys (MICS). Prevalence of FGM has been defined by DHS and MICS as “the percentage of girls and women of reproductive age (15–49 years) who have experienced any form of FGM”.⁵ Data on FGM prevalence⁶ show a wide variation in FGM prevalence across countries. Figure 1 provides an overview of the most recent FGM prevalence data (of girls and women aged 15 – 49 years) in the nine countries included in this study.

Figure 1: National FGM prevalence in West Africa, women and girls aged 15–49 years



The widely used definition of FGM prevalence—that is, the percentage of girls and women aged 15–49 who have experienced any form of FGM—does not capture recent changes in FGM prevalence. Therefore, UNFPA uses girls aged 15–19 as the indicator to measure FGM prevalence. Indicators that measure girls younger than age 15 only reflect the current FGM status of these girls, and can therefore result in underreporting of the actual prevalence of FGM because the girls are still at risk of undergoing this practice. Also, the indicator looking at the 15–19 age group is the closest to FGM incidence (new FGM cases), and it focuses on girls most recently cut. Another reason to use the 15–19 age group is data availability. All household surveys allow the calculation of FGM prevalence among this age group.⁷

Based on the percentage of women aged 45–49 having experienced any form of FGM, UNFPA has divided countries into high-prevalence countries (with more than 60 per cent national prevalence), medium-prevalence countries (20–60 per cent national prevalence) and low-prevalence countries (less than 20 per cent national prevalence).⁸ Table 1 provides an overview of this categorization in the nine countries included in this study, as well as the prevalence among girls aged 15–19. This clearly shows the differences in FGM prevalence rates between the youngest and oldest age groups—reflecting recent change.

Table 1: Prevalence of female genital mutilation in West Africa, women aged 45–49 and girls aged 15–19

Country	Percentage of women aged 45–49	Percentage of girls aged 15–19	Data source
High-prevalence countries			
Guinea	99.6	94.0	2012 DHS
Mali	83.9	83.1	2015 DHS
The Gambia	75.9	76.3	2013 DHS
Sierra Leone	97.8	74.3	2013 DHS
Mauritania*	75.2	65.9	2011 MICS
Medium-prevalence countries			
Burkina Faso	87.4	42.4	2015 EMC
Guinea-Bissau	45.2	41.9	2014 MICS
Senegal	26.0	20.6	2016 DHS
Low-prevalence countries			
Nigeria	35.8	15.3	2013 DHS

DHS, Demographic and Health Survey; EMC, Continuous Multisectoral Survey; MICS, Multiple Indicator Cluster Survey.

*Mauritania: since the 2015 MICS does not specify the different age groups, this table refers to the FGM prevalence data of the MICS 2011. Burkina Faso: The EMC is a survey that was conducted by the National Institute of Statistics and Demography in Burkina Faso in 2015.

Table 1 shows that, when comparing the FGM prevalence among older women (aged 45–49) and young girls (aged 15–19), prevalence has fallen in many countries among younger girls. For example, in Burkina Faso, 42.4 per cent of girls aged 15–19 have undergone FGM, compared with 87.4 per cent of women aged 45–49 years (a 45 per cent difference). In Nigeria, 15.3 per cent of girls aged 15–19 have undergone FGM, compared with 35.8 per cent of women aged 45–49 years (a 20 per cent difference). The lower prevalence rate among young girls suggests that abandonment of FGM is under way.⁹

1.3 Background

1.3.1 Female genital mutilation in the realm of international human rights law

The United Nations has classified FGM as a form of violence against women in the 1990s. Landmark events include the adoption of General Recommendation No. 14 on female circumcision¹⁰ (1990) and General Recommendation No. 19 on violence against women¹¹ (1992) by the Committee on the Elimination of Discrimination Against Women. The Committee explicitly included violence against women as falling under the scope of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and thus under international human rights law. This has been reinforced by various United Nations agencies—for example, in the inter-agency statements on eliminating FGM of 1997¹² and 2008.¹³ These statements expressed the common commitment of United Nations agencies¹⁴ to continue working towards elimination of FGM within a generation.

1.3.2 Global commitment to eliminate female genital mutilation

In September 2015, the international community agreed on the Sustainable Development Goals (SDGs) and adopted the 2030 Agenda for Sustainable Development.¹⁵ The global consensus on the need to eliminate all forms of FGM is also clearly reflected in target 5.3, “Eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation” of SDG 5: “Achieve gender equality and empower all women and girls”. This landmark global commitment was preceded by several United Nations resolutions, general recommendations and reports, which will be addressed below.

In 2012, the United Nations General Assembly adopted resolution 67/146 on intensifying global efforts for the elimination of female genital mutilations,¹⁶ reaffirmed by resolution 69/150 in 2014¹⁷ and resolution 71/168 in 2016.¹⁸ Introduced by African States, the resolution was adopted by consensus. United Nations Secretary-General Ban Ki-moon called the resolution “historic” and “an important step towards a world free from violence against women”.¹⁹ The resolution shows growing commitment to end FGM. The resolution emphasized that FGM is a human rights violation and called for stronger global efforts to end the practice. In this resolution, States were urged to “take all necessary measures, including enacting and enforcing legislation, to prohibit female genital mutilations and to protect women and girls from this form of violence, and to end impunity”.²⁰

In 2014, the Committee on the Elimination of Discrimination Against Women and the Committee on the Rights of the Child adopted a Joint General Recommendation on Harmful Practices.²¹ In this document, both

committees clarified the obligations of State Parties to the CEDAW and Convention on the Rights of the Child by providing “authoritative guidance on legislative, policy and other appropriate measures that must be taken to ensure full compliance with their obligations under the conventions to eliminate harmful practices”.²²

In March 2015, the Office of the United Nations High Commissioner for Human Rights issued the report *Good practices and major challenges in preventing and eliminating FGM*,²³ which also emphasized that “States have an obligation to respect, protect and fulfil the right of women and girls to live free from female genital mutilation”.²⁴

The United Nations Human Rights Council (HRC) adopted a resolution on the elimination of female genital mutilation in July 2016.²⁵ In this resolution, the HRC recognized FGM as an act of violence against women and girls, and urged States to adopt national legislation prohibiting FGM, consistent with international human rights law, and to take steps to ensure its strict application.²⁶

Most recently in July 2017, the Committee on the Elimination of Discrimination Against Women adopted General Recommendation No. 35 on Gender-Based Violence Against Women, updating General Recommendation No. 19 of 1992. In this general recommendation, the Committee explained that the prohibition of gender-based violence against women has become a norm of customary international law. Furthermore, the Committee provided State Parties with further guidance aimed at accelerating the elimination of gender-based violence against women.²⁷ The Committee recommended that State Parties ensure that all forms of gender-based violence against women are criminalized, and to introduce or strengthen legal sanctions and civil remedies.²⁸

1.3.3 African commitment to eliminate female genital mutilation

The African Union (AU) has been engaged in efforts to eliminate FGM for many years. In 1990, the African Charter on the Rights and Welfare of the Child was adopted. This treaty calls on States to “take all appropriate measures to eliminate harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child”.²⁹ In 2003, the AU Assembly adopted the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (Maputo Protocol). The Maputo Protocol is the only legally binding human rights instrument applicable in Africa in which FGM is specifically mentioned. Article 5, “Elimination of Harmful Practices”, obliges State Parties to take all necessary legislative and other measures to ensure that FGM is eliminated.

1.3.4 UNFPA-UNICEF Joint Programme on FGM/C

The commitment to eliminate FGM is also exemplified by the UNFPA-UNICEF Joint Programme on Female Genital Mutilation/Cutting: Accelerating Change (the Joint Programme hereafter), initiated in 2008. The Joint Programme currently supports 17 countries³⁰ to accelerate the abandonment of FGM and to provide care for its consequences. Working in partnership with national governments, civil society, religious leaders, the youth, medical professionals, communities and other key stakeholders, the Joint Programme aims to support and accelerate efforts already being undertaken at the national and regional levels. The Joint Programme adopts a culturally sensitive and human right based approach, while strategically leveraging social dynamics towards the abandonment of FGM. One of the Joint Programme's focus areas is creating an enabling political and institutional environment conducive to FGM elimination,³¹ which includes support for developing and implementing legislation, policies, costed national strategies and budget lines on FGM.

1.3.5 Implementation at the national level

States are urged to prohibit FGM by the enactment and effective enforcement of national legislation, including the prosecution of perpetrators of FGM. To ensure the effective implementation of national laws prohibiting FGM, States are implored to establish a concrete national mechanism for the implementation and monitoring of legislation, law enforcement and national policies, and to put in place adequate accountability mechanisms at the national and local levels to monitor adherence to and implementation of these legal frameworks. In addition, States should allocate sufficient resources to the implementation of legislative frameworks aimed at eliminating FGM. In the end, the challenge to ensure that human rights standards are translated into effective action, and bring positive change to the girls and women at risk of undergoing FGM, remains at the national level.

Since the 1990s, a large number of countries have enacted legislation and adopted policies against FGM. Many countries in West Africa have developed and initiated legal measures and reforms prohibiting the practice of FGM. Most recently, the governments of the Gambia and Nigeria adopted laws criminalizing FGM in 2015. More countries are also introducing and funding national budget lines to implement FGM policies and legislation. However, much variation exists in the efficacy of implementation and enforcement of these laws against FGM. Drawing on existing literature and studies in this field,³² this report will present and analyse the legal frameworks on FGM for nine countries in West Africa, and draw out key elements of a strong legal framework on its effective implementation through a case study.

1.4 Aim of this publication

The effectiveness of laws to end FGM has been questioned, particularly in light of the lack of research on the role of legislation in promoting behaviour change.³³ Critics argue that the legal prohibition fails to act as a deterrent, and can be ineffective or counterproductive. Although this is true in certain contexts—especially where there is still widespread resistance to abandoning the practice—legislation, particularly criminal law, is an important and necessary step that serves to dissuade, create discussion and educate people. This report demonstrates that laws against FGM can be effectively enforced, and work to prevent the practice from continuing. Laws also bring those who continue to practice FGM to justice, and end impunity. It also gives a detailed overview of the recommendations made to governments by treaty monitoring bodies (TMBs) and during the Universal Periodic Review (UPR) regarding legal and policy frameworks on FGM.

This publication contributes to ongoing advocacy for the development, enforcement and review of effective legislation on FGM, and for the social change that needs to accompany laws and their enforcement. It is intended to serve as guidance for legislators, parliamentarians, lawyers, judges, prosecutors, police, ministries, government officials, human rights advocates, policymakers, and all others involved in laws, programmes and policies that address FGM. This analysis serves as a reference for those wanting to examine and compare the different legal frameworks in place in the selected countries. This report also lays the groundwork for further in-depth research and analyses at the country level on law implementation and legislative review, and the social change that should accompany them.



↑ Women saying no to FGM in Mauritania

1.5 Methodology

1.5.1 Country selection

Nine countries in West Africa were selected for this analysis, including the eight countries supported by the Joint Programme: Burkina Faso, the Gambia, Guinea, Guinea-Bissau, Mali, Mauritania, Nigeria and Senegal. Sierra Leone is not in the Joint Programme, but experiences high national FGM prevalence, and was therefore also included.



↑ Representatives of 52 communities in Senegal declaring their abandonment of FGM

1.5.2 Desk research and interviews

The analysis started with an extensive desk research. The literature, documents, reports, legal and policy instruments included in the desk research can be found in annex 1. Through interviews (see annex 1 for the questionnaire), UNFPA country staff working on FGM shared their countries' legal and policy context. The desk research and interviews resulted in the development of standardized country fact sheets (annex 6)³⁴ that were used as input for chapter 3 of this report, which includes a comparative analysis of the main aspects of the legal frameworks on FGM in all nine countries.

1.5.3 Case study

Burkina Faso was chosen as a case study because of its unique track record in the application of the law criminalizing FGM (chapter 4). Burkina Faso was one of the first African countries to criminalize FGM. The implementation

of the law and the Government's approach towards the elimination of FGM are exemplary and unique. The Burkina law itself was recognized with the World Future Council's Silver Future Policy Award in 2014.³⁵ In addition, a study conducted in 2016 by Ben Crisman et al. on the impact of the law on FGM in Burkina Faso found evidence for a substantial drop in the likelihood of girls being cut in the country after the passage of the law. The scholars estimated that the law prevented approximately 240,000 girls and women from undergoing FGM in the past 10 years.³⁶ Burkina Faso is internationally recognized as one of the few countries where FGM legislation is systematically and effectively enforced,³⁷ and their approach could serve as an inspiration for other countries seeking to strengthen the application of their laws against FGM.

The field research in Burkina Faso was conducted in December 2016. The primary method of data collection was semi-structured in-depth interviewing with 20 stakeholders (see annex 1 for a list of interviewees).

1.6 Scope and limitations

History and experience tells us that laws alone cannot change social behaviour, including the practice of FGM. When laws banning FGM are introduced in contexts in which people are still socially expected to engage in the practice and fear social punishment if they do not, FGM will continue and may be driven underground. A legislative framework is important in providing an enabling environment for change,³⁸ but it should be accompanied by other strategies that encourage positive change in communities.³⁹ Therefore, eliminating FGM requires a multifaceted approach. The challenge is to develop, introduce and implement legislation in ways that contribute to social change and ultimately results in communities' decisions to eliminate the practice.

This report does not propose revisions to legal frameworks. Rather, it provides an overview of these frameworks to solicit use and further in-depth analysis at the national level. The analysis allows for general comparison of legislation on FGM, which can be used by advocates and programme managers working on the elimination of FGM in the region.

1.7 Terminology

The UNFPA adopted the term "female genital mutilation" to refer to the practice. UNFPA embraces a human rights perspective on the issue, and the term "mutilation" more accurately describes the practice from a human rights viewpoint, both in terms of the process and the outcome.⁴⁰

Female Genital Mutilation In International Human Rights Mechanisms



02

2.1 Female genital mutilation as a human rights violation

Female genital mutilation is a harmful practice that has been internationally recognized as a violation of the human rights and fundamental freedoms of girls and women. The international campaign to eliminate the practice has embraced the human rights framework, acknowledging that—although parents do not intend to hurt their daughters—FGM violates a number of recognized human rights. FGM reflects deep-rooted inequality between the sexes, and is a form of discrimination against women and girls. Given its harmful impacts, FGM violates the right to the highest attainable standard of health, including the right to sexual and reproductive health. FGM increases the risk of maternal mortality and morbidity, and of contracting sexually transmitted infections, including HIV. It also violates girls' and women's rights to physical integrity. FGM is nearly always carried out on minors, thereby constituting a violation of the rights of a child. The practice also violates the right to be free from torture, or cruel, inhuman or degrading treatment. When the practice results in death, it violates the right to life.

These human rights are codified in various international and regional human rights treaties, including:

- International Covenant on Civil and Political Rights
- International Covenant on Economic, Social and Cultural Rights
- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)
- African Charter on Human and Peoples' Rights (Banjul Charter)
- Convention on the Rights of the Child
- African Charter on the Rights and Welfare of the Child
- Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol)
- African Youth Charter

When a State accepts a treaty through ratification, accession or succession, it consents to be bound by the legally binding provisions in that treaty, including obligations to respect, protect and fulfil the rights set out in the treaty. As a consequence, governments have a duty to ensure that girls and women in their jurisdictions can enjoy their human rights set out in the treaty that their country is a party to. For example, article 5 of the Maputo Protocol stipulates that:

States Parties shall prohibit and condemn all forms of harmful practices which negatively affect the human rights of women and which are contrary to recognised international standards. States Parties shall take all necessary legislative and other measures to eliminate such practices, including: [...] b) prohibition, through legislative measures backed by sanctions, of all forms of female genital mutilation, scarification, medicalisation and para-medicalisation of female genital mutilation and all other practices in order to eradicate them.⁴¹

In other words, all States that have signed and ratified human rights treaties that are relevant to the elimination of FGM are obliged to take measures to prevent and eliminate FGM, including by taking legislative measures to prohibit FGM.⁴² Governments can be held responsible for failing to take steps to prohibit the practice of FGM through legislative and other measures to eliminate FGM.⁴³

2.2 Ratification status

Eight of the nine countries in this report⁴⁴ have ratified or acceded to⁴⁵ all treaties that are relevant to the elimination of FGM. Sierra Leone is the exception, since the Government of Sierra Leone has signed, but not yet ratified, the African Youth Charter. Annex 2 and Table 2 provide an up-to-date overview of the ratification status of the nine countries included in this study.

Table 2: Ratification status, as of 24 October 2017

Country	International Covenant on Civil and Political Rights	International Covenant on Economic, Social and Cultural Rights	Convention on the Elimination of All Forms of Discrimination Against Women	African Charter on Human and Peoples' Rights	Convention on the Rights of the Child	African Charter on the Rights and Welfare of the Child	Protocol to the ACHPR on the Rights of Women in Africa	African Youth Charter
Burkina Faso	x	x	x	x	x	x	x	x
The Gambia	x	x	x	x	x	x	x	x
Guinea	x	x	x	x	x	x	x	x
Guinea-Bissau	x	x	x	x	x	x	x	x
Mali	x	x	x	x	x	x	x	x
Mauritania	x	x	x	x	x	x	x	x
Nigeria	x	x	x	x	x	x	x	x
Senegal	x	x	x	x	x	x	x	x
Sierra Leone	x	x	x	x	x	x	x	

2.3 Recommendations of treaty monitoring bodies

Most human rights treaties have established a committee of independent experts—a treaty monitoring body (TMB)—that is tasked with monitoring the implementation of and compliance with the treaty by its State Parties.⁴⁶

Table 3 provides an overview of the treaties and respective TMBs that are relevant to the elimination of FGM. Only the African Youth Charter does not have a TMB to monitor its implementation.

In the past decades, the TMBs at both the United Nations and the AU level have made a plethora of recommendations to governments about FGM and, more specifically, about the legal and policy framework on FGM. These recommendations can be grouped into three categories (annex 3 contains details of the most recent recommendations in the nine countries of this study on legal and policy frameworks on FGM).

Table 3: Treaties and their monitoring bodies

Treaty	UN /AU	Treaty monitoring body
International Covenant on Civil and Political Rights	UN	Human Rights Committee
International Covenant on Economic, Social and Cultural Rights	UN	Committee on Economic, Social and Cultural Rights
Convention on the Elimination of All Forms of Discrimination Against Women	UN	Committee on the Elimination of Discrimination Against Women
African Charter on Human and Peoples' Rights (Banjul Charter)	AU	African Commission on Human and Peoples' Rights
Convention on the Rights of the Child	UN	Committee on the Rights of the Child
African Charter on the Rights and Welfare of the Child	AU	African Committee of Experts on the Rights and Welfare of the Child
Protocol to the ACHPR on the Rights of Women in Africa (Maputo Protocol)	AU	African Commission on Human and Peoples' Rights
African Youth Charter	AU	None

AU, Africa Union; UN, United Nations.

First of all, TMBs have made recommendations to governments regarding FGM laws and their implementation. These include recommendations to countries that do not have laws in place to explicitly prohibit FGM. Several TMBs have encouraged governments that already have laws and policies against FGM in place to enforce and implement them effectively. Other recommendations urge governments to prosecute and adequately punish those responsible for practicing FGM, including parents, and to compensate victims. TMBs further recommended that States establish reporting and complaints mechanisms.

The second category of TMB recommendations relate to the collaboration between different ministries and improved coordination of activities in the field of FGM elimination, including with neighbouring countries. Recommendations have been made to governments to support national coordination institutions, such as national committees against harmful practices, and to provide adequate human, technical and financial resources for the implementation of laws prohibiting FGM.

A third category of recommendations urge governments to support the police, other law enforcement officials and the judiciary on the application of legislation prohibiting FGM.

2.4 Recommendations of the Universal Periodic Review

The Universal Periodic Review (UPR) is a unique mechanism established by the United Nations General Assembly in 2006. It facilitates the review of the fulfilment by each United Nations Member State of its human rights obligations and commitments, with its full involvement, and with the objective of improving the human rights situation on the ground.⁴⁷ It gives States under review the opportunity to outline what steps they have taken to improve the human rights situation in their countries, and to overcome challenges to the enjoyment of human rights of their citizens. Through an interactive dialogue, United Nations Member States can make recommendations or comments, raise concerns and ask questions to the States under review about specific human rights challenges. The first cycle of the UPR covered 2008–2011 and the second cycle 2012–2016. The third cycle (2017–2021) has recently started.⁴⁸ All nine countries included in this study have been included in the UPR twice. Annex 4 provides overviews for the three UPR review cycles for the nine countries.

FGM has been frequently discussed during the two previous UPR cycles. During the first cycle, a total of 211 recommendations were made on FGM, approximately 120 of which focused on reviewing, enacting and implementing laws and policies.⁴⁹ Table 4 provides an overview of the total number of recommendations on FGM (116) in the second UPR cycle in the nine countries of this study, as well as those specifically on legal and policy frameworks on FGM (69). All 69 recommendations and the countries that made them can be found in annex 5.

Table 4: Number of recommendations on FGM received during the second cycle of the UPR

Country	Year	Recommendations on FGM (no.) ^a	Recommendations on legal and policy frameworks on FGM (no.)
Burkina Faso	2013	11	4
The Gambia	2014	15	10
Guinea	2015	19	11
Guinea-Bissau	2015	14	7
Mali	2013	13	6
Mauritania	2015	7	5
Nigeria	2013	8	5
Senegal	2013	8	5
Sierra Leone	2016	21	16
Total		116	69

a. This includes recommendations specifically on FGM. Recommendations more broadly focusing on “harmful (traditional) practices”, “violence against women”, “discrimination against women” and “gender-based violence” are not included in this table.

Analysis of National Legal Frameworks on Female Genital Mutilation



03

3.1 Constitutional guarantees

Article 2(a) of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) establishes the obligation of States Parties to condemn discrimination against women in all its forms, and “to embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle”.⁵⁰ In addition, CEDAW General Recommendation No. 28 explains that States must ensure that, “through constitutional amendments or by other appropriate legislative means, the principle of equality between women and men and of non-discrimination is enshrined in domestic law with an overriding and enforceable status”.⁵¹

All nine countries in this report have recognized the principles of non-discrimination and equality in their constitutions; see Table 5 for an overview.⁵²



Table 5: Constitutional guarantees of non-discrimination and equality

Country	Non-discrimination	Equality	Provision
Burkina Faso	Article 1	Preamble	All the Burkinabe are born free and equal in rights. All have an equal vocation to enjoy all the rights and all the freedoms guaranteed by this Constitution. Discrimination of all sorts, notably those founded on race, ethnicity, region, color, sex, language, religion, caste, political opinions, wealth and birth, are prohibited. RECOGNIZING that the promotion of gender is a factor for realization of the equality of law between men and women of Burkina Faso.
The Gambia	Article 33	Article 28	33.1 All persons shall be equal before the law. 33.4 In this section, the expression “discrimination” means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, color, gender, language, religion, political or other opinion, national or social origin, property, birth or other status whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject, or are accorded privilege or advantages which are not accorded to persons of another such description. 28.1 Women shall be accorded full and equal dignity of the person with men. 28.2 Women shall have the right to equal treatment with men, including equal opportunities in political, economic and social activities.
Guinea	Article 8	Article 8	All human beings are equal before the law. Men and women have the same rights. No one may be privileged or disadvantaged by virtue of their sex, of their birth, of their race, of their ethnicity, of their language, of their beliefs and of their political, philosophical or religious opinions.
Guinea-Bissau	Article 23	Article 24	23.0 All citizens shall be equal before the law, shall have the same rights, and shall be subject to the same duties, without distinction regarding race, sex, social, intellectual or cultural level, religious belief, or philosophical conviction. 24.0 Men and women shall be equal before the law in all areas of political, economic, social, and cultural life.
Mali	Article 2	Article 2	Every Malian shall be born and remain free and equal in rights and obligations. All discrimination founded on social origin, color, language, race, sex, religion and political opinion shall be prohibited.
Mauritania	Article 1	Article 1	The Republic assures to all citizens without distinction of origin, of race, of sex, or of social condition, equality before the law.

Country	Non-discrimination	Equality	Provision
Nigeria	Article 15	Article 17	15.2 Accordingly, national integration shall be actively encouraged, whilst discrimination on the grounds of place of origin, sex, religion, status, ethnic or linguistic association or ties shall be prohibited. 17.2 Every citizen shall have equality of rights, obligations and opportunities before the law.
Senegal	Article 5	Article 7	5.00 Any act of racial, ethnic, or religious discrimination, as well as any regionalist propaganda infringing the internal security of the State or the territorial integrity of the Republic is punished by the law. 7.00 All human beings are equal before the law. Men and Women are equal in right.
Sierra Leone	Article 27	Article 27	27.3 In this section the expression “discriminatory” means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, tribe, sex, place of origin, political opinions, color or creed whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject, or are accorded privileges or advantages which are not accorded to persons of another such description

Source: Provisions from the laws in Burkina Faso, Guinea, Mali, Mauritania and Senegal are translated from French to English by the Constitute Project (<https://www.constituteproject.org/search?lang=en>; developed by the authors of the Comparative Constitutions Project at the University of Texas at Austin).

As Table 5 shows, four countries (Guinea, Mali, Mauritania and Sierra Leone) merged both principles — non-discrimination and equality — into one provision in their constitutions, whereas the other countries have two separate provisions in their constitutions. It is noteworthy that the Constitution of the Gambia has a specific provision (article 28) entitled “Rights of Women” that specifies that “women shall be accorded full and equal dignity of the person with men” and that women shall have the right to equal treatment with men, including equal opportunities in political, economic and social activities.

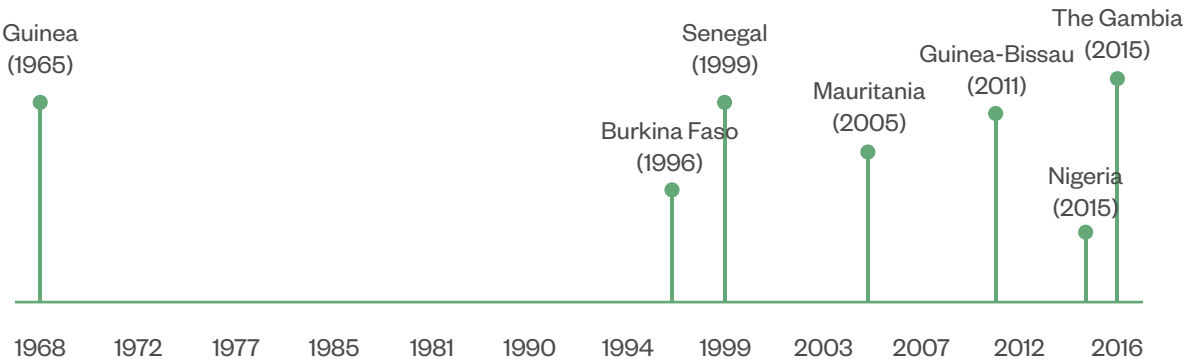
None of the constitutions of the nine countries in this study specifically protect women and girls against FGM, as is — for example — the case in Ghana⁵³ and Ethiopia.⁵⁴ The Senegalese Constitution, however, explicitly forbids “physical mutilations” in article 7:

“Every individual has the right to life, to liberty, to security, to the free development of his personality, to corporeal integrity, notably to protection against all physical mutilations”

3.2 National laws against female genital mutilation

Of the nine countries that are included in this study, only two countries (Mali and Sierra Leone) do not have explicit national laws against FGM. Guinea was the first country to institute a law against FGM through the Penal Code of 1965, which prohibited the genital mutilation of men (castration) and women (excision), and established life sentences for offenders (article 265). Although this is not a specific legal provision or law explicitly on FGM, the practice has been prohibited in Guinea since 1965. Most other African countries developed and initiated legal measures criminalizing FGM in the 1990s. Figure 2 provides a timeline of when such laws have been adopted.

Figure 2: Timeline of adoption of laws prohibiting female genital mutilation



3.2.1 Drafting of laws through a consultative process

Drafting laws through a consultative and participatory process greatly facilitates and enhances the effectiveness of law enforcement.⁵⁵ There is variety in the extent and ways through which this report’s nine countries have gone through such a consultative process when their national laws were drawn. Some countries such as Burkina Faso, the Gambia, Guinea, Guinea-Bissau and Nigeria consulted a wide array of stakeholders, including practising communities, women’s rights organizations, religious leaders, young people, cutters, health personnel, civil society organizations and United Nations organizations.

3.2.2 Different types of national laws

There are two ways to criminalize FGM at the national level—introduce a new law or amend an existing law. Burkina Faso, Guinea⁵⁶ and Senegal have amended the Penal Code to include provisions on FGM, whereas the

Gambia has amended the Women's Act. Nigeria has adopted a Violence Against Persons (Prohibition) (VAPP) Act in 2015, with one provision on the prohibition of FGM (article 6). Mauritania has adopted a Children's Code in 2005, of which one provision contains the prohibition of FGM (article 12). Similarly, Guinea also adopted a Children's Code (2008) that criminalized FGM (in articles 405–410),⁵⁷ as well as a Reproductive Health Law (2000) prohibiting violence against women and children, including FGM (article 6 and 13).⁵⁸ Guinea-Bissau is the only country that has adopted a separate and specific FGM law in 2011. Table 7 provides an overview of the different types of law in seven of the countries included in this report.

Table 7: National laws on female genital mutilation

Country	FGM law	Article	Date	Type of law
Burkina Faso	Law No. 043/96/ADP	Articles 380, 381, 382	13 Nov 1996	Penal Code
The Gambia	Women's (Amendment) Act	Sections 32A and 32B	27 Dec 2015	Women's Act
Guinea	1965 Penal Code	Article 265	1965	Penal Code
	1998 Penal Code	Article 305	31 Dec 1998	Penal Code
	2016 Penal Code	Articles 258-261	01 Nov 2016	Penal Code
	Law No. L/2000/010/AN	Article 6 and 13	10 Jul 2000	Reproductive Health Law
	Law No. L/2008/011/AN	Articles 405-410	19 Aug 2008	Children's Code
Guinea-Bissau	Law No. 14/2011	Articles 1-15	5 Jul 2011	Penal Law
Mauritania	Order No. 2005-015	Article 12	5 Dec 2005	Children's Code
Nigeria	Violence Against Persons (Prohibition) (VAPP) Act	Article 6	5 May 2015	Violence Against Persons Act
Senegal	Law No. 99-05	Article 299bis	29 Jan 1999	Penal Code

3.2.3 Applicability of national law

All laws mentioned in the previous section are applicable nationwide except for the Nigerian law. The Violence Against Persons (Prohibition) (VAPP) Act is not directly applicable in all 36 states, but only in the Federal Capital Territory, Ajuba. The Nigerian Government expects that states will pass a comparable law, or insert relevant sections in existing laws. The Committee of the Convention on the Elimination of Discrimination Against

Women (CEDAW) expressed the concern in July 2017 that the VAPP Act “applies only in the Federal Capital Territory and not in those federal states in which female genital mutilation is prevalent”.⁵⁹ The CEDAW Committee recommends therefore that Nigeria ensures that the VAPP Act is applicable in all federal states.⁶⁰ At the time of this research, 14 out of 36 states have passed laws criminalizing FGM (for more information, see the Nigeria fact sheet in annex 6).

3.2.4 Illegality among minors only

In Mauritania, FGM is criminalized by Order No. 2005-015 on the Protection of the Child. Because this is a child protection law, FGM in Mauritania is only illegal when performed on minors. When adult women undergo FGM, this is not a criminal offence and thus offenders cannot be prosecuted.⁶¹ The CEDAW Committee therefore urged Mauritania to “expedite the adoption of legislation criminalizing female genital mutilation and to address its harmful consequences for the lives of women”.⁶² In addition, it is important to note that article 12 of the child protection law is not a condemnation of the act itself, but only of the consequences. The penalty is only applicable if the act had resulted in harm to the child.

3.2.5 Terms used in national laws to refer to female genital mutilation

Several terms are used in national laws to refer to FGM, including female genital mutilation, female genital cutting and circumcision. For the countries in this report, the terms used are:

- Burkina Faso: “female genital mutilation”
- The Gambia: “female circumcision”
- Guinea: “female genital mutilation”
- Guinea-Bissau: “female excision” and “female genital mutilation”
- Nigeria: “circumcision” and “genital mutilation”
- Senegal: “sexual mutilation”

Article 12 of Order No. 2005-015 in Mauritania does not use a specific term to refer to the practice. The law only provides a definition: “the act of harming or attempting to harm the genital organ of a female child by infibulation, anaesthetization...”.

3.2.6 How national laws define female genital mutilation

The World Health Organization (WHO) defines FGM as “all procedures involving partial or total removal of the external female genitalia or other injury to the female genital organs for non-medical reasons”.⁶³ This definition is now widely used and generally accepted as standard.

Table 8 shows that FGM has been broadly defined in national laws in the countries in this report, and how national legislation makes reference to the WHO definition.

Table 8: Definition of female genital mutilation in national laws

Country	Definition in the national law
Burkina Faso	Anyone who harms or attempt to harm the integrity of the female genital organ by total ablation, excision, infibulation, by desensitization or by any other means
Guinea	Female genital mutilation means the partial or total removal of the external genital organs of girls or women or any other injury to these organs
Guinea-Bissau	For the purposes of this law, the term “excision” means any form of amputation, incision or partial or total ablation of the external genitalia of the female person, as well as all physical offenses committed against that organ for social, cultural, religious, hygiene or any other reason invoked
Mauritania	The act of harming or attempting to harm the genital organ of a female child
Nigeria	“Circumcision of a girl or women” means the cutting off all or part of the external sex organs of a girl or women other than on medical ground
Senegal	An attack on the integrity of the female genital organ by partial or total removal of one or more of its parts

Note: The law in Gambia (the Women's (Amendment) Act) does not provide a definition of FGM, but section 32A is very elaborate on the different types of FGM that are prohibited; see also section 3.2.7.

3.2.7 Types of female genital mutilation prohibited

To ensure international consistency, WHO has broken down the various forms of FGM into four categories with a standardized typology:

- **Type I:** Often referred to as a “clitoridectomy”, this is the partial or total removal of the clitoris (a small, sensitive and erectile part of the female genitals) and, in very rare cases, only the prepuce (the fold of skin surrounding the clitoris).
- **Type II:** Often referred to as “excision”, this is the partial or total removal of the clitoris and the labia minora (the inner folds of the vulva), with or without excision of the labia majora (the outer folds of skin of the vulva).
- **Type III:** Often referred to as “infibulation”, this is the narrowing of the vaginal opening through the creation of a covering seal. The seal is formed by cutting and repositioning the labia minora, or labia majora, sometimes through stitching, with or without removal of the clitoris.
- **Type IV:** This includes all other harmful procedures to the female genitalia for non-medical purposes (e.g. pricking, piercing, incising, scraping and cauterizing the genital area).

Of the seven countries with a national law against FGM, six countries explicitly prohibit all types of FGM. The only exception is Nigeria, where the VAPP Act (article 6(1)) does not explicitly specify which types of FGM it prohibits. Table 9 provides an overview of the different provisions in which the different types of FGM are specifically prohibited.



Table 9: Types of female genital mutilation prohibited in different countries

Country	All Types	Not specified	Specification
Burkina Faso	×		Anyone who harms or attempt to harm the integrity of the female genital organ by total ablation, excision, infibulation, by desensitisation or by any other means ...
The Gambia	×		Female circumcision includes: (a) the excision of the prepuce with partial or total excision of the clitoris (clitoridectomy); (b) the partial or total excision of the labia minora; (c) the partial or total excision of the external genitalia (of the labia minora and the labia majora), including stitching; (d) the stitching with thorns, straw, thread or by other means in order to connect the excision of the labia and the cutting of the vagina and the introduction of corrosive substances or herbs into the vagina for the purpose of narrowing it; (e) symbolic practices that involve the nicking and pricking of the clitoris to release drops of blood; or (f) engaging in any form of female genital mutilation or cutting
Guinea	×		All forms of female genital mutilation practiced by any person regardless of their quality are prohibited in the Republic of Guinea, in particular: (1) the partial or total removal of the prepuce of the clitoris; (2) the removal of the labia minora or labia majora; (3) infibulation which consists of sewing the labia minora or majora to leave only the meatus
Guinea-Bissau	×		Whoever, for any reason, performs the female excision in one of its various forms (clitorectomy, excision, incision, infibulation) ...
Mauritania	×		The act of harming or attempting to harm the genital organ of a female child by infibulation, anaesthetization, or by any other means
Nigeria		×	Not applicable
Senegal	×		By partial or total removal of one or more of its parts, by infibulation, by desensitization or by any other means

Law No. 14/2011 in Guinea-Bissau has a provision on reconstructive surgeries to female genitalia in article 3 sub 2, stating that this needs to be approved by a group of physicians who indicate the need for the surgery by diagnosis:

A medical intervention on the female genital organ, done in appropriate health facilities by a qualified health care provider for the purpose of correcting any anomalies resulting or not from the excision, is not considered to be female excision, for the purposes of applying this law, provided that the medical act has been approved by the group of physicians assigned to the service, based on a diagnosis that indicate the need for this surgery.

3 . 2 . 8 Attempt to perform female genital mutilation

Of the seven countries with a national law against FGM, four countries (Burkina Faso, Mauritania, Nigeria and Senegal) also prohibit the attempt to perform FGM. Those who are caught attempting FGM are subject punishment. Table 10 provides an overview of the different provisions in which this is specified.

Table 10: Provisions for attempting to perform female genital mutilation

Country	Specification
Burkina Faso	Anyone who harms or attempts to harm the integrity of the female genital organ
Mauritania	The act of harming or attempting to harm the genital organ of a female child
Nigeria	A person who attempts to commit the offence ...
Senegal	Those who have carried out or tried to carry out an attack on the integrity of the female genital organ

3.2.9 Consent of girls and/or women

The national laws in Burkina Faso, the Gambia, Guinea, Mauritania, Nigeria and Senegal do not specify if FGM is illegal regardless of the consent of girls or women. Only Law No. 14/2011 of Guinea-Bissau specifies that performing FGM “with or without the consent of the victim” is a punishable offence. This means that in Guinea-Bissau, even if the victim gives consent to be subjected to FGM, the person performing FGM is still punishable. Given that the practice of FGM acts as a social norm—which means that girls and women often experience high social pressure to conform to this norm—their ability to give consent, free from social or any other pressure can be questioned.

3.3 Efforts to criminalize female genital mutilation in Mali and Sierra Leone

Although several attempts have been made in both Mali and Sierra Leone to adopt a law criminalizing FGM, these efforts have not yet resulted in a national law against FGM.

3.3.1 Efforts in Mali

In 2002, a law against FGM was proposed by the Ministries of Health and Women, Family and Children in Mali. However, the passage of this law was blocked in Parliament by Islamic clerics. In 2009, another proposal for a law prohibiting FGM was submitted to the National Assembly, but it was dismissed. At the time of writing this analysis, a new draft law on gender-based violence that includes a component on FGM had been drafted by the National Program for the Fight Against Excision and various stakeholders, including civil society. This draft law has been submitted to the Ministry for the Promotion of Women, Children and the Family to present to the National Assembly for approval.

Despite the absence of a specific law against FGM, provisions in the Mali Penal Code outlaw voluntarily cutting, injuring or committing any violence against a person (articles 208–210), which could be interpreted to cover FGM. One court case invoked these articles, when a two-and-a-half-year-old girl died as a result of FGM. The father reported the case to the police and this case was judged in 2013 in Kayes. In addition, Circular Letter No. 0019/MSPAS-SG of 7 January 1999 of the Ministry of Health prohibits the practice of FGM in health facilities by stipulating: “given the role of institutions in preserving the health of populations, the practice of FGM/C cannot be tolerated. Therefore, I urge you and your staff to take appropriate measures for sanitary purposes under your moral and technical responsibility”.⁶⁴ However, no sanctions for persons practising FGM are mentioned, including when FGM is performed in health centres in Mali. This Circular Letter is not strictly enforced.

Since 2003, the Government of Mali adopted three national plans of action on FGM, with the latest covering 2015–2019. The National Action Committee for the Abandonment of Harmful Practices and the National Program for the Fight Against Excision were established in 1999 and 2002, respectively. The main mission of the National Program for the Fight Against Excision is to coordinate, monitor and evaluate national policies in the elimination of FGM.

In 2003, when the Human Rights Committee considered the second periodic report of Mali, it welcomed the programmes already implemented by the authorities and NGOs to combat FGM, but regretted the lack of a specific legal prohibition. The Committee therefore recommended the Malian Government to “prohibit and criminalize the practice of female genital mutilation so as to send a clear and strong signal to those concerned”.⁶⁵ In 2007, the Malian Government responded to the observations of the Human Rights Committee, and explained that it is aware of the need to pass legislation on FGM with a view to introducing a ban on the practice, but added the following:

“The question is when is the right moment to do so? Is it better to introduce legislation now, when there is no certainty that it will be implemented effectively, or to try to enlist the support of a majority in society and appropriate the necessary means for effective implementation?”⁶⁶

Although it is regrettable that Mali does not have a law against FGM, the problem sketched by the Government of Mali is of fundamental importance. We need to be aware that legal prohibitions can accelerate the elimination of FGM, but they can also be ineffective if there is no public support for such legislation.⁶⁷ The case study on Burkina Faso in chapter 4 supports this.

3.3.2 Efforts in Sierra Leone

Sierra Leone does not have a law explicitly criminalizing FGM. Both “early marriage” and “child betrothal” are specifically mentioned as “customary practices” that are prohibited in section 46 of the Child Rights Act of 2007, but there is no specific and explicit mention of FGM. Section 33(1) of the

Act prohibits torture, inhuman or degrading treatment or punishment, which could be interpreted to include FGM. This law is applicable on minors only, and there is no sanction or penalty given.

In 2007, during the adoption of the Child Rights Act, and through advocacy by anti-FGM activists, the Ministry of Social Welfare, Gender & Children's Affairs included FGM in the Child Rights Act. However, Parliament expunged the clauses that prohibited FGM from the Act.

In Sierra Leone, there are no mechanisms in place for reporting and referring of girls and women who are at risk of FGM. In the past years, there have been a couple of arrests relating to FGM, but no prosecutions.

FGM in Sierra Leone is closely linked to the Bondo secret society, as it is part of the initiation ritual into that society. Some chiefdoms in the northern part of Sierra Leone⁶⁸ have criminalized FGM locally by signing memorandum of understanding between traditional leaders, Bondo societal heads and the local councils to ban FGM of children. Some of the agreed deliverables in the memorandum of understanding include:

- Ensure that no girl that is below the age of 18 years is initiated into the Bondo society, prevent the infliction of FGM on such girls, and make and implement bylaws and other strategies to achieve this goal.
- Ensure that *Sowies* (women who perform the cutting in Bondo societies), in collaboration with the Ministry of Social Welfare, Gender and Children's Affairs, will cooperate in the investigation of all FGM-related cases on children.

The Ministry of Social Welfare, Gender and Children's Affairs in Sierra Leone—in collaboration with NGOs, United Nations agencies and communities—developed a National Strategy for the Reduction of FGM/C for 2016–2020. This is the first strategy on FGM in the country. In addition, a National Steering Committee for FGM/C Abandonment will be established. However, at the time of this publication, this strategy had not yet been adopted and the Committee had not yet established. The National Gender Mainstreaming Policy and the National Policy on the Advancement of Women (2000) do not specifically mention FGM.

As annex 3 shows, several treaty monitoring bodies have noted the lack of legal prohibition of FGM in Sierra Leone. In 2014, both the CEDAW Committee⁶⁹ and the Human Rights Committee⁷⁰ noted with serious concern, the rejection of a proposed provision to criminalize FGM during the adoption of the Child Rights Act. Both Committees recommended that Sierra Leone “explicitly prohibit female genital mutilation and other harmful practices”.⁷¹ In 2016, the Committee on the Rights of the Child expressed its serious concern that FGM was still practised “and not prohibited in

law for children”.⁷² In addition, annex 4 shows that several States made recommendations to the Government of Sierra Leone to enact legislation criminalizing FGM during the Universal Periodic Review.

3.4 Penalties

3.4.1 General provision

In all seven countries where FGM is criminalized, offenders are punished with imprisonment. Prison sentences vary from a couple of months up to several years (see Figure 3). Guinea-Bissau and Senegal have the highest maximum penalty (6 and 5 years, respectively). In Burkina Faso, the Gambia, Guinea, Mauritania and Nigeria, FGM is also sanctioned with fines, ranging from US\$200 to almost US\$1500 (see Figure 4).

Figure 3: Maximum prison sentences for FGM

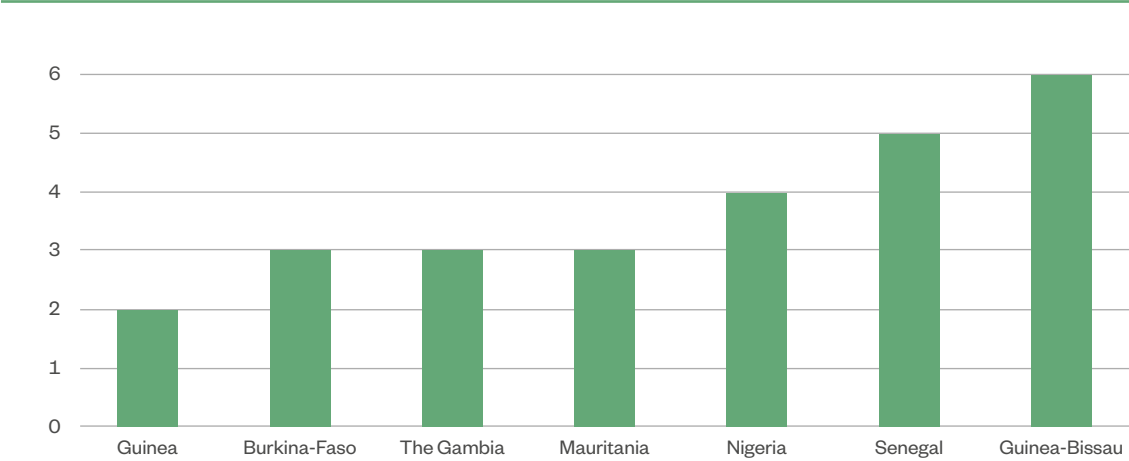
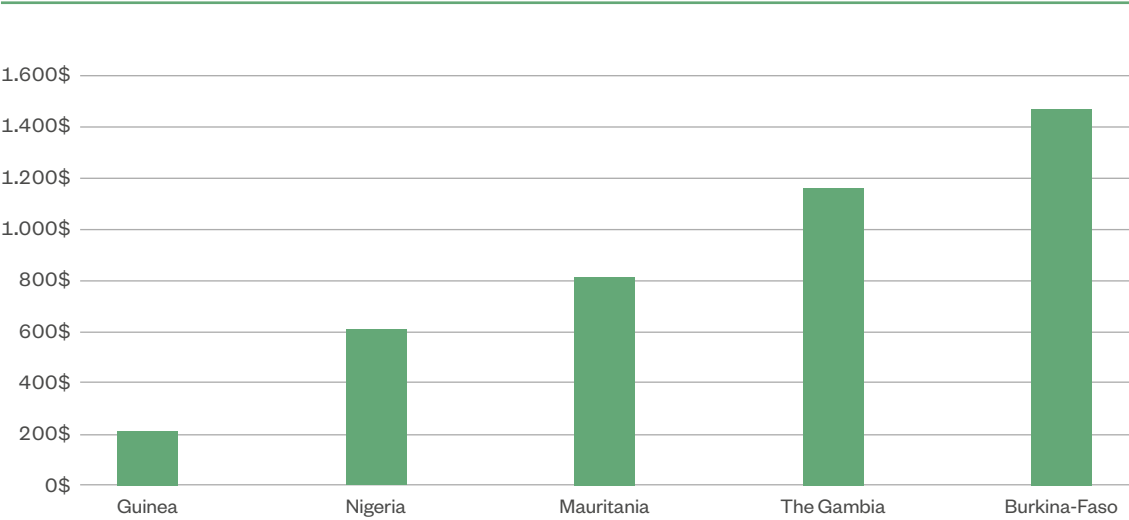


Figure 4: Maximum fines for FGM



3.4.2 Aggravating circumstances

When FGM leads to death, the penalty is increased in most countries (Burkina Faso, the Gambia, Guinea, Guinea-Bissau and Senegal). In the Gambia, the penalty “where female circumcision causes death” is life imprisonment, and in Senegal the penalty is hard work for life. In Burkina Faso, the penalty is increased up to 10 years’ imprisonment and in Guinea up to 20 years’ (see Table 11).

In Guinea and Guinea-Bissau, the penalty is also increased when FGM leads to disability of the victim, to a maximum of 10 and 8 years’ imprisonment, respectively. This is not the case for the other five countries (see Table 11).

Only in Guinea-Bissau, the penalty is increased when FGM is performed on minors. Article 5 of Law No. 14/2011 of 5 July 2011 is entitled “excision on minors” and stipulates in sub (1) that if FGM is practised on a minor, the punishment is 3–9 years’ imprisonment (instead of 2–6 years’ imprisonment).

In four of the seven countries, the penalty is increased when FGM is performed by medical or paramedical personnel. This is commonly referred to as the “medicalization of FGM”. For example, the Children’s Code and the Penal Code of Guinea specify in article 407 and article 259, respectively, both “traditional methods” and “modern methods” (which implies the medicalization of FGM) are criminalized. The Senegalese Penal Code is more specific in that regard, stating that “the maximum penalty will be applied if the sexual mutilations are carried out or promoted by a person in the medical or paramedical field”. In Burkina Faso, Guinea and Senegal, the maximum penalty applies if FGM is carried out by a member of the medical or paramedical profession. In Mauritania, the penalty is increased to 4 years’ imprisonment and a fine of MRO160,000–300,000 (US\$445–835) when FGM is carried out by medical or paramedical professional. The laws in the other countries (the Gambia, Guinea-Bissau, Nigeria) do not specify whether penalties are increased in case of medicalization of the practice. According to the Penal Code in Burkina Faso, the court “may also pronounce the prohibition to practice his profession for a period that may not exceed five years” if the offender is a member of the medical or paramedical profession. Medical or paramedical professionals cannot have their licence revoked by law in any of the other countries. None of the countries make a distinction between FGM taking place in a hospital, or in a public or private environment.

Table 11: Penalties for female genital mutilation

Country	Penalty	Penalty when FGM leads to death	Penalty when FGM leads to disability	Penalty when FGM is done by (para) medical personnel
Burkina Faso	6 months to 3 years imprisonment, and/or a fine of CFA150,000–900,000 (US\$244–1,465)	5–10 years of imprisonment	Not specified	Maximum penalty
The Gambia	3 years imprisonment and/or a fine of 50,000 Dalasis (US\$1,150)	Life imprisonment	Not specified	Not specified
Guinea ^a	3 months to 2 years imprisonment, and/or a fine of GNF500,000–2,000,000 (US\$54–216)	5–20 years of imprisonment	5–10 years of imprisonment and/or a fine of GNF1,000,000–3,000,000 (US\$108–326)	Maximum penalty
Guinea-Bissau	2–6 years imprisonment	4–10 years of imprisonment	2–8 years of imprisonment	Not specified
Mauritania	1–3 years imprisonment, and/or a fine of MRO120,000–300,000 (US\$335–835)	Not specified	Not specified	4 years of imprisonment and/or a fine of MRO 160,000–300,000 (US\$445–835)
Nigeria	Up to 4 years imprisonment and/or a fine of up to 200,000 Naira (US\$630)	Not specified	Not specified	Not specified
Senegal	6 months to 5 years imprisonment	Hard work for life	Not specified	Maximum penalty

a. This is the penalty in the Penal Code of November 2016. The fine in the Children's Code is slightly lower (GNF300,000–1,000,000).

3.5 Offenders

In all countries, the person performing FGM is punishable under the law. As described in the previous section, in some countries (Burkina Faso, Guinea, Mauritania and Senegal), medical and paramedical professionals are specifically mentioned in the law. In Guinea, parents are punished equally to the offenders and, in Guinea-Bissau, the failure of the parent to prevent FGM is punishable. Table 12 provides an overview of who is punishable under the respective national law.

Table 12: Offenders punishable by law

Country	Anyone	Medical professionals	Parents	Other	Provision
Burkina Faso	x				Anyone who harms or attempt to harm the integrity of the female genital organ by total ablation, excision, infibulation, by desensitisation or by any other means (article 380)
		x			The maximum penalty shall apply if the offender is a member of the medical or paramedical profession (article 381)
The Gambia	x				A person who engages in female circumcision (section 32A)
				x	A person who requests, incites or promotes female circumcision by providing tools or by any other means commits an offence and is liable on conviction to imprisonment for a term of three years or a fine of fifty thousand Dalasis or to both (section 32B)
Guinea	x				Anyone who, by traditional or modern methods, practices or favors female genital mutilation or participates in it, is guilty of willful violence against the person excised (article 259)
			x		The ascendants or any other person having authority over the child or the custodial who has authorized or favored female genital mutilation, are punished with the same penalties as the perpetrators (article 259)
		x			The maximum penalty is applied when female genital mutilation is practiced in public or private health facility and favored by a person in the paramedical or medical corps, in particular doctors, nurses, midwives and technical health workers (article 259)
Guinea-Bissau	x				Whoever , for any reason, performs female excision
				x	Whoever facilitates, urges, encourages, or contributes in any way to the practice of female excision (article 7)
			x		Parents, guardians, mentors in charge of education or any person who has custody of the child has a duty to prevent the practice of excision. Failure to comply with the provisions of the previous number and punishable by imprisonment from 1 to 5 years (article 5)

Table 12: Offenders punishable by law (continued)

Country	Anyone	Medical professionals	Parents	Other	Provision
Mauritania	x				The act of harming or attempting to harm the genital organ of a female child (article 12)
		x			The penalty is increased to four years imprisonment and a fine of 160,000 to 300,000 ouguiyas when the offender belongs to the medical or paramedical profession (article 12)
Nigeria	x				A person who performs female circumcision or genital mutilation or engages another to carry out such circumcision or mutilation (article 6)
				x	A person who incites, aids, abets, or counsels another person to commit the offence provided for in subsection (2) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 2 years or to a fine not exceeding N100,000.00 or both (article 6)
Senegal	x				Those who have carried out or tried to carry out an attack on the integrity of the female genital organ (article 299bis)
		x			The maximum penalty will be applied if the sexual mutilations are carried out or promoted by a person in the medical or paramedical field (article 299bis)
				x	The same punishment will be given to any person who gives instructions or causes them by gifts, promises, enticements, threats, intimidation, abuse of authority or of power (article 299bis)

In Burkina Faso, the Gambia, Guinea and Guinea-Bissau, active and passive accomplices can both be punished. This means that fines can be levied against anyone who knows that the procedure will take/took place, but fails to report this to the relevant authorities. The failure to report an incident of FGM to the authorities is not prohibited in Mauritania, Nigeria and Senegal (see Table 13).

Table 13: Penalty for failing to report female genital mutilation to the authorities

Country	Penalty
Burkina Faso	Fine of CFA50,000–100,000 (US\$82–164)
The Gambia	Fine of 10,000 Dalasis (US\$228)
Guinea	No fine ^a
Guinea-Bissau	Fine of CFA500,000–2,500,000 (US\$820–4,000)

a. The failure to report an incident of FGM to the authorities is not explicitly prohibited, although the Children's Code spells out in article 410 that the authorities "shall be informed without delay" by the health facilities.

3.6 Extraterritorial clause

The principle of extraterritoriality means that FGM is also punishable when it is committed outside the country. Guinea-Bissau is the only country where the law prohibiting FGM has an extraterritorial clause. Article 9 of Law No. 14/2011 explicitly extends the applicability of the law to citizens and foreign residents in Guinea-Bissau who have performed or undergone FGM in a foreign country.

3.7 Enforcement of national laws prohibiting FGM

3.7.1 Mechanisms for reporting

The number of court cases on FGM varies across countries. In most countries, mechanisms to report, refer and protect girls and women at risk of FGM are not sufficiently operational. However, in some countries (including Burkina Faso and Guinea), there is a free telephone line that people can call 24 hours a day to report anonymously acts (planned or completed) of FGM, forced marriage and gender-based violence. These calls help the relevant authorities to identify at-risk girls, to prevent FGM from taking place, but also to arrest offenders and accomplices if FGM already took place. In addition, NGO and protection structures are in place that help to alert cases to the OPROGEM (*Office de Protection de Genre, de l'Enfance et des Mineurs*) of the Ministry of Security and Civil Protection. Chapter 4 will elaborate on the mechanisms for reporting, referring and protecting girls and women at risk of FGM in Burkina Faso.

3.7.2 Countries where court cases took place

At the time of this publication, court cases to prosecute people for practising FGM occurred in Mali, the Gambia, Senegal, Guinea, Guinea-Bissau and Burkina Faso. Table 14 provides an overview of the number of court cases in these countries. In Mauritania, Nigeria and Sierra Leone, no court cases took place to this date.

As described in section 3.3.1, there has been one court case in Mali. In the Gambia, there have been two cases relating to FGM since the law was adopted in late 2015; one case involved a 5-month-old baby who died as a result of FGM in Sankandi Village. At the time of this analysis, both court cases were still pending.

There have been eight cases in Senegal, and the sentences ranged from 3 to 6 months of imprisonment. In Guinea and Guinea-Bissau, 29 and 37 cases have brought to court, respectively. Despite FGM being legally prohibited much earlier, the first court case in Guinea took place in 2012. The Mafanco Court in Conakry sentenced an 80-year-old woman to a conditional two-year prison sentence and a fine of GNF1,000,000 (US\$108) after she was apprehended while performing FGM on a 15-year-old girl. In 2015, 14 court cases were reported in Guinea, resulting in 7 convictions. In 2016, 11 cases in Guinea resulted in 2 convictions. In Guinea-Bissau, 37 court cases have led to 16 convictions since 2011. Although the maximum penalty on performing FGM is relatively high in Guinea-Bissau (2–6 years' imprisonment), 13 offenders received reduced penalties (less than 2 years), due to mitigating circumstances. Three offenders received a prison sentence of 3 years. Cutters and accomplices have been prosecuted in Guinea-Bissau.

Most court cases on FGM have been reported in Burkina Faso. Between 2009 and 2015, 223 FGM cases resulted in the conviction of 384 persons (including 31 cutters). More information on the enforcement of the law in Burkina Faso can be found in chapter 4.

Table 14: Number of court cases on female genital mutilation

Country	Court cases (no.)
Mali	1
The Gambia ^a	2
Senegal	8
Guinea	29
Guinea-Bissau	37
Burkina Faso	223
Total	300

a. At the time of writing, both cases in the Gambia were still pending.

3.8 Implementation of national laws prohibiting FGM

3.8.1 Policies, national strategies and action plans on FGM

In all countries—including Mali and Sierra Leone, which have no laws against FGM—national policies and strategies against FGM have been developed and are being implemented. All countries have appointed at least one ministry for the overall supervision of the implementation of these policies. All countries established a national committee, charged with coordinating all activities related to FGM (see Table 15).

Table 15: Policy frameworks on female genital mutilation

Country	Policies, national strategies and action plans on FGM	Ministry responsible for implementation policy framework	National committee
Burkina Faso	<ul style="list-style-type: none"> National Action Plan on FGM (1992–1995) National Action Plan on FGM (1999–2003) National action plan on Promoting the Elimination of FGM in the perspective of Zero Tolerance (2009–2013) National Strategic Plan for Promoting the Elimination of FGM in Burkina Faso (2016–2020) 	Ministry of Women, National Solidarity and Family	Permanent Secretariat of the National Council for the Fight against the Practice of Excision
The Gambia	<ul style="list-style-type: none"> National Plan of Action on FGM/C (2013–2017) 	Ministry of Women's Affairs	National Steering Committee on FGM/C
Guinea	<ul style="list-style-type: none"> National Strategic Plan to Combat female genital mutilation (2001–2010) National Strategic Plan for the acceleration of the Elimination of female genital mutilation (2012–2016) 	Ministry of Social Affairs and Promotion of Women and Children	National Committee for the Abandonment of female genital mutilation
Guinea-Bissau	<ul style="list-style-type: none"> National Action Plan to Combat female genital mutilation/cutting (2010–2015). 	Ministry of Women, Ministry of Justice, Ministry of Education, Ministry of Youth, Ministry of Health	National Committee for the Abandonment of Harmful Practices
Mali	<ul style="list-style-type: none"> National Plan of Action on FGM (2003–2007) National Plan of Action on FGM (2008–2012) National Plan of Action on FGM (2015–2019) 	Ministry of Women, Family and Children	National Action Committee for the Abandonment of Harmful Practices

Table 15: Policy frameworks on female genital mutilation (continued)

Country	Policies, national strategies and action plans on FGM	Ministry responsible for implementation policy framework	National committee
Mali	<ul style="list-style-type: none"> National Plan of Action on FGM (2003–2007) National Plan of Action on FGM (2008–2012) National Plan of Action on FGM (2015–2019) 	Ministry of Women, Family and Children	National Action Committee for the Abandonment of Harmful Practices
Mauritania	<ul style="list-style-type: none"> National Strategy to Promote the Abandonment of FGM (2007) National Strategy to Promote the Abandonment of FGM and a National Action Plan (2016–2019) National Strategy for the Promotion of Women (SNPF): (1995–2000) and (2004–2008) National Strategy on the Institutionalization of Gender (2015) National Strategic Plan for Reproductive Health (2016–2020) 	Ministry of Social Affairs, Children and the Family	National Committee against Gender-Based Violence
Nigeria	<ul style="list-style-type: none"> National Policy and Plan of Action on Elimination of female genital mutilation in Nigeria (2002) National Policy on female genital mutilation (2005) National Policy and Plan of Action for the Elimination of female genital mutilation in Nigeria (2013–2017) 	Federal Ministry of Health	National Advisory Committee on the Elimination of FGM FGM National Technical Committee
Senegal	<ul style="list-style-type: none"> National Plan of Action for the Abandonment of female genital mutilation (2000–2005) National Plan of Action to Accelerate the Abandonment of FGM/C (2010–2015) Medical Argument about Excision (2011) Islamic Argument for the Abandonment of Excision in Senegal (2013) 	Ministry of Women, Family and Children	National Technical Committee to Combat FGM
Sierra Leone	National Strategy for the Reduction of FGM/C (2016–2020) ^a	Ministry of Social Welfare, Gender and Children's Affairs	National Steering Committee for FGM/C Abandonment

a. At the time of publication, the National Strategy for the Reduction of FGM/C in Sierra Leone had not yet been adopted and the national steering committee was not yet established.

3.8.2 Government budget allocated to eliminating female genital mutilation

The effective implementation of national legislation and policies on FGM requires dedicated national and subnational FGM budget lines. Developing costed strategies for the elimination of FGM and ensuring that they are adequately resourced is an essential step towards ending FGM. Five out of the nine countries in this report currently have a dedicated national budget line for the elimination of FGM (Burkina Faso, Guinea, Mali, Mauritania and Senegal).



© Javier Acebal for UNFPA Senegal

Burkina Faso Case Study



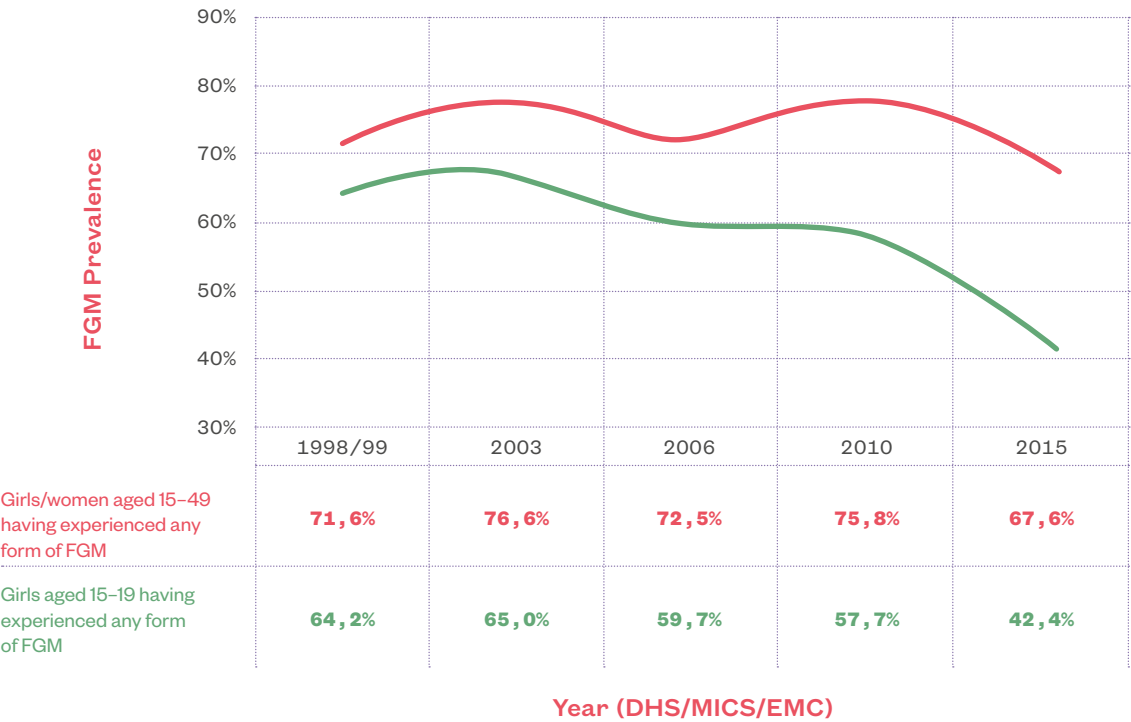
04

4.1 Prevalence of FGM in Burkina Faso

Burkina Faso has a national prevalence of FGM among girls aged 15–19 of 42.4 per cent⁷³ and 67.7 per cent among girls and women aged 15–49.⁷⁴ In the past 17 years, the national FGM prevalence has fluctuated (see Figure 5). Overall, the national prevalence of girls and women aged 15–49 decreased by 4.0 per cent in the past 17 years. The younger generation (15–19 years) has a lower prevalence than the 45–49 age group. In the past 17 years, the prevalence for 15–19-year-old girls has declined by 21.8 per cent (from 64.2 per cent in 1998 to 42.4 per cent in 2015).

Knowledge of FGM is almost universal throughout Burkina Faso, with 99.6 per cent of women and 98.0 per cent of men having heard of the practice.⁷⁵

Figure 5: Prevalence of female genital mutilation in Burkina Faso, 1998–2015



DHS, Demographic and Health Survey; MICS, Multiple Indicator Cluster Survey; EMC, Continuous Multisectoral Survey

Most girls in Burkina Faso undergo FGM at a young age.⁷⁶

- 60.4 per cent before the age of 5
- 28.2 per cent between 5 and 9 years
- 8.9 per cent between 10 and 14 years
- 2.0 per cent after the age of 15

Therefore, the prevalence of FGM among young girls (i.e. aged 0–14 years) is very relevant, since only a few girls in Burkina Faso are cut after they are 15 years old.

Surveys before 2010 did not include any information on the prevalence of FGM among young girls (aged 0–14 years). The 2010 DHS and the EMC 2015 collected prevalence data for this age group. According to the 2010 DHS, 13.3 per cent of young girls have undergone FGM (as reported by their mothers), down to 11.8 per cent in 2015.

4.2 Ratification status

Burkina Faso has ratified or acceded to all international and regional conventions on the rights of women and children condemning FGM, including the following (see also annex 2):

- International Covenant on Civil and Political Rights (1999)
- International Covenant on Economic, Social and Cultural Rights (1999)
- Convention on the Elimination of All Forms of Discrimination Against Women (1987)
- African Charter on Human and Peoples' Rights (1984)
- Convention on the Rights of the Child (1990)
- African Charter on the Rights and Welfare of the Child (1992)
- Maputo Protocol (2006)
- African Youth Charter (2008)

These international and regional human rights treaties have provided a framework for interventions towards ending FGM in Burkina Faso.

In addition, Burkina Faso,⁷⁷ together with other States, called on the United Nations General Assembly to adopt resolution 67/146 on intensifying global efforts for the elimination of female genital mutilation.⁷⁸ This resolution enshrined the global ban on FGM and reinforces the legitimacy of laws adopted by countries.⁷⁹ The resolution was adopted by the UN General Assembly on 20 December 2012 by consensus.

4.3 Constitutional guarantees

The Constitution of Burkina Faso does not specifically have a provision on FGM, but the preamble of the Constitution recognizes that “the promotion of gender is a factor for realization of the equality of law between men and women of Burkina Faso”. Furthermore, article 1 of the Constitution enshrines the principle of equality and the principle of non-discrimination. Article 2 of the Constitution guarantees the protection of life, security and physical integrity.

Burkina Faso has a “monist” legal system, which means that international law does not need to be translated into national law, but it has automatic effect in national laws. Article 151 explicitly states that “the treaties and agreements regularly ratified or approved have, on their publication, an authority superior to that of the laws, under reserve, for each agreement or treaty, of its application by the other party”. Consequently, international human rights treaties ratified by Burkina Faso are incorporated into the domestic legal system. International law becomes directly applicable within the legal order of Burkina Faso and, accordingly, can be invoked directly before the national courts.

4.4 Historical perspective

The current favourable environment in Burkina Faso for the elimination of FGM at both the institutional and community level has been achieved through sustained efforts over a long time. These efforts began during colonization, when the Catholic missionaries tried to put an end to FGM by threatening to excommunicate⁸⁰ those who practised it. The effect of this on people’s behaviour was limited,⁸¹ mainly because uncut girls still had to undergo FGM when they got married. In the 1960s, the First Republic attempted to put an end to the practice by initiating awareness-raising campaigns, but they faced fierce resistance by the traditional and customary chieftainship.⁸²

1975, with the institutionalization of International Women's Day and the denunciation of FGM by NGOs, women's associations and the media, marked a turning point in Burkina Faso. In particular, a national radio broadcast—in which FGM was condemned for the first time and information on the harm caused by the practice was given—had a big impact. Government support for the campaigns to eliminate FGM took off in the 1980s. In the following decade, the Government organized several campaigns and seminars⁸³ to discuss issues related to practices harmful to women's health, including FGM, and women's rights more generally. These seminars were covered by national radio programming, television and newspapers.

In May 1990, before introducing a national law against FGM, the commitment of national authorities to ending the practice led to the establishment of a National Committee to Fight the Practice of Excision⁸⁴ by Presidential Decree (Kiti n°AN VII-318/FP/SAN-AS/SEAS). The Committee is tasked with coordinating the resources and activities towards the elimination of FGM in the country. The Committee liaises with 13 ministries, women's rights and other NGOs, religious and community leaders, law enforcement officials, and the judiciary. The Committee gained a permanent secretariat (SP) in 1997 to improve operational efficiency. It was converted to a national council in 2010, which made it stronger. The National Council for the Fight against the Practice of Excision (CNLPE) operates under the administrative supervision and responsibility of the Ministry of Social Action and National Solidarity. For a long time, the First Lady of Burkina Faso, Chantal Compaoré, was the Honorary Chair of the CNLPE, reflecting the Government's strong engagement to end FGM.

In 1992, a first national action plan for eliminating FGM was developed for 1992–1995, a second for 1999–2003 and a third for 2009–2013.⁸⁵

According to the most recent National Strategic Plan for promoting the elimination of FGM 2016–2020, the Government of Burkina Faso “has established the elimination of genital mutilation as a national priority”.⁸⁶

The continuous efforts during the past few decades have enabled the Burkina Government, in collaboration with technical and financial partners, and civil society, to play a leading role at the African and international level in promoting the elimination of FGM.

4.5 National law against FGM

On 13 November 1996, the Government of Burkina Faso amended the Penal Code by Law No. 043/96/ADP to include a prohibition of FGM throughout the national territory. The Penal Code entered into force in February 1997, and punishes offenders and accomplices with sentences of imprisonment and fines according to articles 380–382. Section 2 of the Penal Code is entitled “female genital mutilations” (“des mutilations génitales féminines”). This law prohibits all types of FGM and is applicable nationwide.

4.5.1 Definition, types and female genital mutilation among minors

As shown in Figure 6, article 380 defines FGM and prohibits all types. The act itself and the attempt to perform FGM (“attempt to harm”) are punishable. Since the Penal Code prohibits FGM, it is illegal among both children/minors and adult women.

Figure 6: Articles 380–382 of the Penal Code of Burkina Faso

Article 380

Every person who violates or attempts to violate the physical integrity of the female genital organ by total ablation, excision, infibulation, desensitization, or any other means shall be punished by imprisonment for a term of six months to three years or a fine ranging from 150,000 to 900,000 francs, or both. Should the offence result in death, the punishment shall be imprisonment for a term of five to ten years.

Article 381

The maximum punishment shall be imposed if the guilty person is a member of the medical or paramedical profession. The competent authority may also prohibit the guilty person from practising his profession for a period of not more than five years.

Article 382

Every person who has knowledge of the acts described in Article 380 and who fails to notify the competent authorities shall be punished by a fine of not less than 50,000 francs and not more than 100,000 francs.

4.5.2 Penalty

FGM in Burkina Faso is sanctioned with six months to three years' imprisonment, and/or a fine of 150,000–900,000 CFA francs (US\$244–1,465). The penalty is increased to 5–10 years' imprisonment when FGM leads to death of the victim (article 380). The Penal Code does not specify whether the penalty is also increased when FGM leads to disability of the victim or when FGM is performed on minors.

4.5.3 Offenders

When a medical or paramedical professional carries out FGM, the maximum penalty shall apply (article 381). In addition, the court can decide to revoke the medical licences of medical or paramedical professionals who have performed FGM, for a maximum period of five years. No distinction is made whether FGM took place in a hospital, or in public or private environment. In Burkina Faso, anyone who harms or attempt to harm the integrity of the female organ is punishable under the law (article 380). The failure to report an incident of FGM to the authorities is also prohibited (article 382) and punishable with a fine of 50,000–100,000 CFA francs (US\$82–164). There is no extraterritorial clause that extends restrictions to citizens who commit FGM outside the country.

4.6 Knowledge of the law

The law prohibiting FGM is well known to people in Burkina Faso, especially the punishments that it prescribes for those found guilty.⁸⁷ DHS and MICS data show that 78 per cent of women in 1998–1999 reported that they were aware of the law criminalizing the practice; in 2006, this rose to 92 per cent. The law has been translated into four different local languages (Moore, Dioula, Gourmantchéma, Fulfuldeé) and is distributed in communities. In Burkina Faso, the percentage of men and women who are of the opinion that FGM should stop is very high—90 per cent of women (versus 9 per cent of women who support its continuation) and 87 per cent of men (versus 12 per cent of men who support its continuation).⁸⁸

4.7 Amending the Penal Code

At the time of writing, the Penal Code of Burkina Faso was being revised for the first time in 20 years. A proposal has been made to also amend articles 380–382 that refer to FGM. The proposal would raise the sentence from 6 months to 3 years' imprisonment to 1–5 years' imprisonment, and the fine from 150,000–900,000 CFA francs (US\$244–1,465) to 300,000–1,500,000

CFA francs (US\$488–2,440). The penalty when FGM leads to death of the victim would stay the same (5–10 years' imprisonment). Similarly, the maximum penalty for medical or paramedical professionals would remain unchanged, and licences would still be revoked for a maximum of five years. However, at the time of writing, the draft provisions on FGM (articles 222 and 223) of the new Penal Code had been validated by various stakeholders, but the new Penal Code had not yet been adopted by the National Assembly.

4.8 Court cases

Unlike in most other African countries, the law prohibiting FGM in Burkina Faso is systematically enforced. Since the law has been in place, many convictions have resulted in the imprisonment or fining of cutters and accomplices. During the early years after the passage of the Penal Code, the local police and court administrations did not collect exact data about the enforcement of the law.⁸⁹ The National Committee to Fight the Practice of Excision started recording the cases in 2008. This means that the exact number of court cases since the law entered into force is unknown, but, between 1997 and 2005, 94 cutters and parents were sentenced for practising FGM.⁹⁰ Between 2005 and 2009, a further 40 cutters and 646 parents have been prosecuted.⁹¹

In 2009, the Government of Burkina Faso reported to the CEDAW Committee that more than 300 cutters and accomplices had been arrested, convicted and serving actual or suspended prison sentences.⁹² In 2016, the Government reported to the CEDAW Committee that, according to the data of all regional courts of Burkina Faso, in 2009, 241 persons were convicted for violating the law prohibiting FGM.⁹³

The records of the Ministry of Justice and the SP/CNLPE indicate that, between 2009 and 2015, 384 persons (including 31 cutters) have been sentenced.

Offenders of articles 380–382 of the Penal Code in Burkina Faso are divided in two categories: cutters and accomplices.

4.8.1 Cutters

In Burkina Faso, FGM is almost exclusively carried out by traditional practitioners (99.0 per cent), including traditional cutters and traditional birth attendants.⁹⁴ Medical and paramedical professionals rarely perform FGM (only in 0.3 per cent of the cases).⁹⁵ The records of the Ministry of Justice and the SP/CNLPE reveal only one case where a midwife performed FGM.

Some interviewees suggested that the strong law enforcement, paired with the high sentences and the risk to have licences revoked, play an important role in discouraging (para-)medical professionals from practising, or assisting in the practice of FGM.⁹⁶

4.8.2 Accomplices

Accomplices include parents, other family members or relatives, community members, or those who have witnessed FGM. Judges are reluctant to deprive children of their parent's care by imprisoning parents, and this issue is widely debated in the context of the best interest of the child. In some cases, measures are being taken to avoid children having to go to prison with their parents, such as providing them with foster families. In other cases, it has been decided to only prosecute one of the parents or to give a conditional sentence. However, there have also been some cases where children (especially new-born babies) have spent time in prison with their mothers, because of the need to breastfeed.

4.9 Sentences

Until 2008, mostly cutters were prosecuted. The most common sentence for FGM was just over three months in prison. The reason for these relatively lenient sentences was that many jails had no separate facilities for women and it was difficult to imprison the cutters for extended periods with a modicum of dignity.⁹⁷ Furthermore, most cutters are elderly women, and concerns about their health in prison resulted in a large number of conditional sentences extended to them. Remarkably, this situation has changed in the past decade, and now more accomplices are being prosecuted and serve prison sentences compared with the number of cutters.

The records of the Ministry of Justice and the SP/CNLPE indicate that, since 2008, the minimum (unconditional) prison sentence given was one month and the highest (unconditional) prison sentence was five years (given in 2009, when FGM led to severe health consequences). The average sentence of imprisonment ranges from 1 to 12 months but, in recent years, both fines and sentences have been increasing. In general, offenders in Burkina Faso serve the full prison sentence. Conditional or suspended sentences are given as well (ranging from 1 to 36 months), but their effectiveness is questioned.⁹⁸ Fines usually range between 150,000 and 200,000 CFA francs. The highest fine was 300,000 CFA francs, given to a cutter in 2013.

4.10 Free telephone line

In 1990, before the adoption of the Penal Code criminalizing FGM, National Committee to Fight the Practice of Excision established a national telephone helpline called “SOS Excision”, to encourage people to report cases of FGM.⁹⁹ This free phone line allows people to anonymously report planned or completed cases of FGM, and has proven to be a powerful tool in the elimination of FGM in Burkina Faso.

The anonymity is especially important, because relatives or neighbours of the victims of FGM may hesitate to call the police, fearing social disapproval from their family or community. However, since anonymity is guaranteed, people are willing to report FGM through the phone line. Callers tend to be women, educated individuals and young people. It has been estimated that about 150 calls a year are made. The number of calls increases during school vacations and the rain season, which are the times most girls undergo FGM in Burkina Faso.

When a person calls the telephone line to report a case of an upcoming FGM, the police and/or gendarmerie immediately go to the scene to halt it. If they arrive in time to prevent the act, the parents, relatives and cutter are informed about the dangers of FGM and the fact that it is against the law.¹⁰⁰ If FGM has already been carried out, they take the girl to a health clinic for medical examination and treatment, and the people involved are arrested.

Approximately 70 per cent of all cases before the courts start with an anonymous tip via the telephone line. The remainder of cases are reported at police stations, customs offices, through religious leaders and local administrators, and directly to the SP/CNLPE.

Since the establishment of the free telephone line, some important lessons have been learned, including:

- At first the telephone line was only attended to during office hours, which reduced its effectiveness because most cases of FGM take place at night. The free telephone line now operates 24 hours a day.
- At first the telephone line was not free, and this proved to be an obstacle for many people.
- At the time of publication, a point of discussion was the number of digits to dial. Some respondents argued that the current eight-digit number is too long. Burkina Faso also has a free telephone line to report violence against children (116). Some people argue that reporting FGM should be included in this free telephone line.

4.11 Capacity-building of the justice sector

In the 10 years after the adoption of the law, the criminalization of FGM was not yet widely supported by the public. Police officials and local political leaders faced intimidation and pressure of practising communities to not enforce the law.¹⁰¹ In addition, some judges and judicial staff were not convinced of the harmful effects of FGM and the benefits of ending it. To increase knowledge and discussion of FGM and the law, the CNLPE built the capacity of lawyers, judges, the police, gendarmes and security officers. This ensures that they understand the need to apply the law, and for them to become advocates against FGM and agents of change in their communities.

4.12 Community patrols

Several provinces have set up community patrols (mobile security teams) to dissuade people from practising FGM and to contribute to the law's implementation.¹⁰² The police and gendarmerie visit a village to raise the community's awareness about the harmful consequences of FGM, and about the the law criminalizing the practice. The main purpose of the community patrols is to create awareness, build trust within the communities and discourage the population to perform FGM. One of the respondents clearly explained the functioning of the community patrols:

The community patrols are a good practice. It is a successful strategy to get someone's attention. It is impressive when a policeman with a microphone is talking about the practice. This really works well for remote areas. The message of the policeman is very clear: "Today we are here to sensitize you. But next time, when we come here and we hear that there is a case, we will arrest and punish you directly". This contributes to strong implementation and law enforcement, especially in the provinces with a high prevalence.

Law enforcement officials are key to increase the knowledge of FGM and its illegality in practising communities and in changing attitudes. Unfortunately, due to insufficient financial resources, the geographical coverage of community patrols is relatively low.



↑ Women trying to follow a public hearing through a window because of a full hall

4.13 Public hearings

The mobile community courts (*audiences foraines*) in Burkina Faso are an innovative way to combine awareness-raising with law enforcement. Judges travel to the communities where FGM and the arrests occurred, and the sentencing hearing is public. These public hearings are usually big events that all members of the community attend. Before they proceed to the actual court case, judges discuss FGM, and people can ask questions. The judge explains the harmful consequences of FGM and why FGM is a crime in the Penal Code. Afterwards, the court case starts and the judge proclaims its verdict, which reinforces the message that FGM is prohibited and that offenders will be brought to justice. The media is always present during these public hearings, documenting the application of the law, which increases this effect.

All respondents considered this strategy to be a best practice of Burkina Faso that can serve as inspiration for neighbouring countries. All respondents noted the big impact of these public hearings on the attitude and behaviour of community members regarding FGM. One respondent said, “I hope that in the future all cases could be processed through the public hearing system”. However, the organization of these public hearings is costly and therefore their numbers are limited. Table 16 provides an overview of the 13 public hearings that took place in Burkina Faso between 2009 and 2016.

Table 16: Public hearings, Burkina Faso, 2009—2016

Date	Village/ Province	Tribunal	Sentence
3 Sep 2009	Dédougou/ Mouhoun	Dédougou	<ul style="list-style-type: none"> 1 cutter and 6 women received prison sentences of 6–24 months 71 accomplices received a conditional sentence of 36 months
8 May 2015	Bere/ Zoundweogo	Manga	<ul style="list-style-type: none"> 1 cutter received a 12-month prison sentence and a fine of 150,000 CFA francs 3 accomplices received a 6-month prison sentence and a fine of 150,000 CFA francs
2 Jun 2015	Boulsa/ Namentenga	Kaya	×
1 Jun 2015	Zorgho/ Ganzourgou	Ziniare	<ul style="list-style-type: none"> Cutter received a 1-year prison sentence and a fine of 150,000 CFA francs Accomplices received a 6-month prison sentences and 150,000 CFA franc fines
24 Jun 2015	Koti/Tuy	×	<ul style="list-style-type: none"> 1 cutter received a 1-month prison sentence 1 accomplice received a 6-month conditional sentence
02 Sep 2015	Djiguè/Poni	Gaoua	×
05 Oct 2015	Dissin/Loba	Gaoua	×
05 Nov 2015	Koumba/ Zondoma	Ouahigouya	<ul style="list-style-type: none"> Cutter received an 8-month prison sentence Accomplices received 2-month prison sentences
29 Dec 2015	Gourcy/ Zondoma	Ouahigouya	<ul style="list-style-type: none"> Cutter received an 8-month prison sentence Accomplices received 2-month prison sentences
20 Jun 2016	Hounde/Tuy	Boromo	<ul style="list-style-type: none"> 1 cutter received an 8-month prison sentence and a fine of 150,000 CFA francs 3 accomplices received 6-month prison sentences and 150,000 CFA franc fines 2 men received 2-month prison sentences and fines of 150,000 CFA francs
27 Jun 2016	Koti/Tuy	Boromo	<ul style="list-style-type: none"> Cutter fled 3 accomplices received fines of 150,000 CFA francs
08 Dec 2016	Ouargaye/ Koulpelogo	Tenkodogo	<ul style="list-style-type: none"> 1 cutter received a 6-month prison sentence 1 cutter received an 8-month prison sentence 1 cutter received a 12-month prison sentence 1 head of the family received an 8-month prison sentence 2 accomplices received 8-month prison sentences 4 accomplices received 6-month prison sentences

4.14 Challenges in the implementation of the law

Although it is clear that the Penal Code criminalizing FGM is being enforced effectively in Burkina Faso, respondents also expressed concern about potential negative effects of its enforcement, including:

1. **Clandestine cases of FGM:** There has been anecdotal evidence that the practice of FGM has gone underground in some areas since the adoption and strong enforcement of the law against FGM.¹⁰³ During the interviews, respondents expressed this concern, although no hard evidence substantiates this potentially negative effect.
2. **Tendency to lower the age of girls undergoing FGM:** One of the potentially negative effects of a law against FGM being strongly enforced can be that FGM is increasingly performed on younger girls. Parents and cutters think that they will avoid detection: the younger the girl, the less likely she speaks out and reports the practice. During the interviews, respondents said that they have observed a trend towards cutting girls at younger ages. The DHS data confirm this finding. When comparing the data of the DHS from 1999 with that of 2010, the percentage of women that reported having undergone FGM before their fifth birthday increased from 24.5 per cent in 1999¹⁰⁴ to 60.4 per cent in 2010.¹⁰⁵ Academic research confirms this trend towards cutting girls at younger ages.¹⁰⁶ Treaty monitoring bodies have also noticed this. The CEDAW Committee stated that “the Committee remains highly concerned that the practice ... is being performed with a higher degree of secrecy and at a younger age”.¹⁰⁷ The Convention on the Rights of the Child Committee also shared its concerns about “the continuing prevalence of FGM, the rise in infant FGM, especially in the north of the country”.¹⁰⁸
3. **Cross-border FGM:** Burkina Faso is a landlocked country that borders with countries where FGM is not criminalized (Mali) or where laws are not effectively enforced. Therefore, people cross the border to have FGM performed, or invite cutters from neighbouring countries to perform FGM.

Conclusions



05

In recent decades, much progress had been made towards eliminating female genital mutilation. There is a global consensus on the need to eliminate all forms of FGM, which is clearly reflected in the adoption of several United Nations resolutions on intensifying global efforts for the elimination of FGM¹⁰⁹ and the 2030 Agenda for Sustainable Development.

FGM is recognized as a violation of the human rights of girls and women, which are codified in various international and regional human rights treaties, including the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention on the Rights of the Child, and the African Charter on Human and Peoples' Rights and its Maputo Protocol.

Eight of the nine countries included in this report have ratified or acceded to all the treaties relevant to the elimination of FGM. These States are obliged to take measures—including legislative measures—to prevent and eliminate FGM.

Much progress has been made at the national levels as well. The commitment of the governments in West Africa to end FGM is illustrated by the fact that most of the countries in the region have condemned and prohibited all forms of FGM.¹¹⁰ In addition, almost all have national strategies and national committees against FGM, and more and more governments are introducing national budget lines dedicated to ending FGM.

This report shows the variations in the types of laws, what exactly is criminalized, to whom the laws apply and what penalties are applicable. For example, most laws in this analysis penalize both offenders and accomplices, but important differences exist regarding the height of penalties—prison sentences vary from a couple of months up to several years. The highest maximum penalty is in Guinea-Bissau (6 years' imprisonment). In some countries, FGM is also sanctioned with fines of up to US\$1500.

In most countries, penalties are increased when FGM leads to death of the victim and when FGM is carried out by a (para-)medical professional. Burkina Faso, the Gambia, Guinea and Guinea-Bissau go further and also criminalize the failure to report a case of FGM to the relevant authorities. The country fact sheets in annex 6 illustrate the differences in the legal and policy frameworks of the seven countries that have laws in place prohibiting FGM and allow for comparisons between them. The report also describes which countries have held court cases on FGM and what the sentencing was.

This report explains why having a legal framework that criminalizes FGM is a crucial step to end the practice. Research has shown that when FGM is contested, a law and its sanctions can encourage people who are leaning towards abandoning the practice. On the other hand, as highlighted by the report, having a law is not enough; a law needs to be implemented and enforced, and—perhaps more importantly—it has to be accompanied by strategies that encourage positive social change in communities.

5.1 Key steps to strong legal frameworks on FGM

As this report has shown, strong political commitment at the national level is crucial to develop, enact and enforce legal frameworks that protect the full enjoyment of all human rights and fundamental freedoms of girls and women, and to end the practice of FGM. It is important that national policymakers, parliamentarians, law enforcement officials and the justice sector, civil society, communities and their leaders, and other key stakeholders work together according to their complementary roles and responsibilities to end FGM.

The steps to strong legal frameworks on FGM are:

- **Developing and adopting legislation.** Human rights treaties oblige State Parties to enact legislation against FGM to protect girls and women. These legal measures should be accompanied by effective sanctions and enforcement measures. Countries that already have laws in place prohibiting FGM need to enforce those laws and implement policies aimed at the elimination of FGM. Countries that do have not yet adopted such laws, such as Sierra Leone and Mali, should continue efforts to introduce a law that criminalizes FGM, and continue to promote the social change that needs to accompany such a law for it to be effective.
- **Reviewing existing laws.** This analysis showed that national laws prohibiting FGM vary in their scope. In some countries, the existing legal framework could be reviewed and strengthened. In Mauritania, for example, the child protection law only prohibits FGM when performed on minors. The CEDAW

Committee therefore urged Mauritania to adopt legislation to also prohibit FGM of adult women. In addition, this child protection law is not a condemnation of the act itself, but only of the harmful consequences of FGM. The outline of the varying laws and provisions in this report can help to identify aspects of existing laws that could be reviewed according to national contexts.

- **Enforcing laws and monitoring this enforcement.** As this analysis shows, in many countries FGM still is performed without legal consequences for offenders, despite a law prohibiting the practice. The number of court cases in most countries is low or non-existent, especially when compared to prevalence rates. To ensure effective enforcement of national laws prohibiting FGM, States must establish a concrete national mechanism for the implementation and monitoring of legislation, law enforcement and national policies. A comprehensive monitoring system is needed to track implementation of the law.
- **Ensuring that law enforcement goes hand in hand with social change.** A major challenge in the prosecution of offenders is the lack of cases reported to the police. Because FGM is acting as a social norm in practising communities, people can be unwilling to report cases because of the social pressures they face. These dynamics make it extremely difficult for the authorities to secure evidence for prosecutions, and illustrate the need to work on promoting social change to accompany law enforcement.
- **Allocating sufficient resources to programmes, policies and law enforcement to eliminate FGM.** Most countries included in this analysis cope with a lack of resources for effective law and policy implementation to end FGM. Introducing and funding national budget lines, and having costed national strategies to end FGM are crucial for effective law and policy implementation. United Nations resolutions and treaty monitoring bodies highlight the need for governments to allocate adequate resources (material, financial and human) to the legislative and policy frameworks aimed at eliminating FGM.

5.2 Good practices from Burkina Faso

The case study on Burkina Faso provides some key insights into how a legal framework prohibiting FGM can be effectively implemented and enforced, while also contributing to social change. Since the law criminalizing FGM has been in place, a large number of cases have been brought to court in Burkina Faso, resulting in the convictions of cutters, parents and accomplices. Between 2009 and 2015, 384 persons had been convicted through 223 FGM cases. The FGM prevalence of girls aged 15–19 in Burkina Faso has dropped by 21.8 per cent from 1999 to 2015. Although a causal relationship between the decrease in FGM prevalence and the strong law enforcement cannot be

easily established, it is likely they are connected. The case study illustrates how a law prohibiting FGM can be a useful tool in changing attitudes and behaviour outcomes, thereby promoting social change. Some key elements that can be extracted from the Burkina Faso case study case are:

- **Political will in favour of the elimination of female genital mutilation is key.** The government of Burkina Faso has made the elimination of FGM one of its priorities.¹¹¹ This strong political commitment has been demonstrated through several public statements by government officials, the development and implementation of several national action plans and strategies with “zero tolerance” to FGM, and a dedicated national budget for ending FGM. The political commitment of the Government of Burkina Faso at all levels has been crucial to the effective implementation of laws and policies against FGM. The current favourable environment at both the institutional and community level has been achieved through long-term national efforts, which started in the 1980s.
- **People need to know and understand the law.** In the past decades, the population of Burkina Faso has been widely informed and educated on the issue of FGM, including that it is prohibited by law. Because many people do not speak or read the official national language (French), the law has been translated into four different local languages and distributed in communities. In addition, considering the literacy rate (36 per cent),¹¹² alternative strategies have been used to inform and educate the population about the law through radio and television broadcasts, newspapers, pamphlets in local languages, comedy/theatre and plays, information sessions in communities. Police also discuss FGM and explain why it is harmful and illegal in the communities that practice it.¹¹³ Now, the law prohibiting FGM, including the penalties for those found guilty, is very well known to the people in Burkina Faso¹¹⁴ (more than 90 per cent reported knowledge).¹¹⁵
- **A strong institutional framework is necessary.** The National Committee to Fight the Practice of Excision was established by Presidential Decree in Burkina Faso in 1990. It is tasked with coordinating resources and activities towards ending FGM in Burkina Faso, including enforcing the law on FGM and implementing the national action plans and strategies. The National Committee oversees all activities regarding FGM, and liaises with 13 ministries, women’s rights organisations and other NGOs, religious and community leaders, law enforcement officials, and the judiciary. The Committee gained a permanent secretariat (SP) in 1997 to improve operational efficiency, and was converted into a National Council for the Fight against the Practice of Excision (CNLPE) in 2010. The SP-CNLPE has a strong operational infrastructure at all levels, which enables them to coordinate FGM activities. Furthermore, the CNLPE has funds allocated from the national budget dedicated to ending FGM.

- **Collaboration with law enforcement and the judiciary is important.** The CNLPE is continuously training and building the capacity of all professionals involved in the implementation of the law (e.g. lawyers, judges, police officers, gendarmes and security officers). This is to convince them that FGM is harmful, and why the law to end FGM should be implemented and enforced. By making all actors at all levels understand the importance of ending FGM, the entire justice chain becomes a key element in change.
- **Anonymous telephone line increases cases being reported.** Burkina Faso, like Guinea, has introduced a free telephone line to report harm to people, including FGM, child marriage and gender-based violence, as a way to overcome the lack of reporting to the police. These phone lines are anonymous, free and operate 24 hours a day, and have encouraged people to report future or past incidences of FGM. This in turn helps the relevant authorities to arrest offenders and accomplices, and to prevent FGM in some instances. Most FGM arrests in Burkina Faso are the result of anonymous tips.
- **Community patrol teams can dissuade people from practising female genital mutilation.** Several provinces have set up community patrols to dissuade people from practising FGM, which strengthens the implementation of the law.¹¹⁶ Police and gendarmerie visit a village and discuss and explain the harmful consequences of FGM, and that the practice is prohibited by law. The main purpose of the community patrols is to create awareness, build trust within the communities and discourage the population to perform FGM. The communities see the police and gendarmerie as a service to them, increasing the willingness to report cases of FGM to the police. Local law enforcement officials thus become important advocates against FGM.
- **Mobile community courts combine sentencing with dialogue.** The mobile community courts (audiences foraines) in Burkina Faso are an innovative approach of combining awareness-raising with law enforcement. Instead of summoning people to the capital, judges travel to the communities where FGM occurred, and where the cutters and accomplices were arrested. Here, sentencing hearings are held publicly. These public hearings are usually big events that all members of the community attend. Before they proceed to the actual court case, judges discuss FGM and people are provided the opportunity to ask questions. The judge explains the harmful consequences of FGM and explains why FGM is a crime in the Penal Code. Afterwards, the court case starts and the judge proclaims its verdict, which reinforces the message that FGM is prohibited and that offenders will be prosecuted. The media is always present during these public hearings, documenting the application of the law, which increases the effect.

5.3 Recommendations for further research

This report produced four recommendations for further research:

1. **Research to understand the effects of laws on behaviour.** The relationship between legislation prohibiting FGM and positive social change is complex. This analysis shows that laws prohibiting FGM can be a supportive tool in strengthening the environment for the elimination of FGM. However, little research has been undertaken on the role that legislation plays in promoting behaviour change in FGM.¹¹⁷ More research is necessary to fully understand the positive and potential negative effects of strong implementation and enforcement of FGM laws on behaviour change. There is also a need to identify ways in which these laws can effectively contribute to a social change process that results in the elimination of the practice.
2. **Country-specific analyses of impediments to law enforcement.** As this analysis has shown, the enforcement of laws prohibiting FGM continues to be a major challenge in many countries. Country-specific analyses that identify the factors that hamper the implementation and enforcement of laws prohibiting FGM would be helpful. More specifically, more research is necessary to understand why criminalization of FGM in some contexts remains of limited effectiveness.
3. **Identification and further analysis of good practices of FGM law enforcement.** The Burkina Faso case study identified elements of effective law enforcement. It would be helpful to identify ways in which these elements can be replicated in other countries or social contexts, and how this approach can be tailored to each context. Laws from other countries that are effective should be reviewed more in-depth. This includes practices and approaches to law implementation and enforcement from other regions that are affected by FGM, such as Eastern and Southern Africa, and the Middle East.
4. **Analysis of the possibility of a regional Model Law on female genital mutilation.** In 2016, the Southern African Development Community Parliamentary Forum adopted a first-ever regional Model Law on Eradicating Child Marriage. This Model Law aims to harmonize national laws on child marriage and address gaps in laws that weaken enforcement. It is also a reference for lawmakers who seek to develop laws aimed at preventing child marriage. Model Laws exist on several other issues. It would be interesting to examine the feasibility and scope of such a Model Law on FGM to harmonize existing laws and guide lawmakers in countries that have not yet adopted a law prohibiting FGM.

5.4 A way forward

Despite the increase in international, regional and national efforts to promote the elimination of FGM, the practice still remains widespread in different parts of the world, including in West Africa. In the past decade, many Treaty Monitoring Bodies expressed their deep concern that, notwithstanding the measures taken by State Parties to eliminate FGM, including adopting legislative and policy frameworks, the practice continues to persist (see annex 3).

The case study of Burkina Faso illustrated how a country's commitment and unique approach to ending FGM through effective law enforcement, paired with strategies promoting social change, have had a real impact towards ending FGM. The country has been internationally known and recognized for this successful approach. However, this was not achieved overnight, as illustrated in a 2009 report that noted: "In Burkina Faso as in many developing countries, the wheels of justice turn slowly; enforcing laws against deeply ingrained cultural practices such as FGM/C is fraught with difficulties".¹¹⁸ This shows us that progress can be accelerated when there is commitment and innovative collaboration across sectors.

Important progress has been made towards ending FGM that we need to build on. Most of the countries in West Africa have seen a decline in the prevalence of FGM, albeit varied and not sufficient. The practice is condemned more widely and prohibited in more countries than ever before. More and more governments are developing, funding and implementing national strategies to promote the abandonment of FGM. The United Nations Population Fund will continue to support governments, parliamentarians, communities, civil society and other key stakeholders to end FGM by 2030.



Notes

1. World Health Organization. Eliminating female genital mutilation: an interagency statement. Geneva: WHO; 2008, p. 4 and World Health Organization. Female genital mutilation, fact sheet. Geneva: WHO; 2017 (<http://www.who.int/mediacentre/factsheets/fs241/en/>, accessed 24 October 2017).
2. However, healthcare providers increasingly perform FGM due to the belief that the procedure is safer when medicalized.
3. United Nations Children's Fund. UNICEF's data work on FGM/C. New York: UNICEF; 2016 (https://www.unicef.org/media/files/FGMC_2016_brochure_final_UNICEF_SPREAD.pdf, accessed 24 October 2017).
4. United Nations Population Fund. Demographic perspectives on female genital mutilation. New York: UNFPA; 2015, p. 52.
5. Yoder PS, Khan S. Number of women circumcised in Africa: the production of a total, DHS Working Papers, No. 39. Calverton: USAID; 2008, p. 3.
6. The national prevalence of FGM has been measured using a standard survey method developed by the DHS of Macro International (now ICF International). DHS surveys collect data from nationally representative probability samples of households, and from adult women and men in the sampled households, in more than 90 countries. Since 2000, UNICEF's Multiple Indicator Cluster Surveys have used a similar method to collect information on FGM.
7. United Nations Population Fund. Demographic perspectives on female genital mutilation. New York: UNFPA; 2015, p. 27.
8. Ibid, p. 27–28.
9. UNFPA-UNICEF Joint Programme on FGM/C: Accelerating Change by the Numbers: 2016 Annual Report of the UNFPA-UNICEF Joint Programme on Female Genital Mutilation/Cutting: Accelerating Change. New York: UNFPA-UNICEF; 2016, p. 1.
10. Committee on the Elimination of Discrimination against Women, General Recommendation No. 14: Female Circumcision, (A/45/38 and Corrigendum), 1990.
11. Committee on the Elimination of Discrimination against Women, General Recommendation No. 19: Violence Against Women, adopted at the Eleventh Session, contained in document A/47/38, 1992.
12. World Health Organization. Female genital mutilation: a joint WHO/UNICEF/UNFPA statement. Geneva: WHO; 1997.
13. World Health Organization. Eliminating female genital mutilation: an interagency statement. Geneva: WHO; 2008.
14. The Office of the United Nations High Commissioner for Human Rights, the Joint United Nations Programme on HIV/AIDS, the United Nations Development Programme, the Economic Commission for Africa, the United Nations Educational, Scientific and Cultural Organization, the United Nations Population Fund, the Office of the United Nations High Commissioner for Refugees, the United Nations Children's Fund, the United Nations Development Fund for Women and the World Health Organization.
15. United Nations General Assembly, Resolution 70/1 on Transforming our World: the 2030 Agenda for Sustainable Development, A/RES/70/1, 21 October 2015.

16. United Nations General Assembly, Resolution 67/146 on Intensifying Global Efforts for the Elimination of Female Genital Mutilations, A/RES/67/146, 5 March 2013.
17. United Nations General Assembly, Resolution 69/150 on Intensifying Global Efforts for the Elimination of Female Genital Mutilations, A/RES/69/150, 18 December 2014.
18. United Nations General Assembly, Resolution 71/168 on Intensifying Global Efforts for the Elimination of Female Genital Mutilation, A/RES/71/168, 2 February 2017.
19. United Nations News Centre. Ban welcomes UN General Assembly resolutions eliminating female genital mutilation, 21 December 2012 (<http://www.un.org/apps/news/story.asp?NewsID=43839#.VfKMt2TtHw>, accessed 24 October 2017).
20. United Nations General Assembly. Resolution 67/146 on Intensifying Global Efforts for the Elimination of Female Genital Mutilations, A/RES/67/146, 5 March 2013, para. 4.
21. Committee on the Elimination of Discrimination Against Women and the Committee on the Rights of the Child, Joint general Recommendation No. 31 of the Committee on the Elimination of Discrimination Against Women/General Comment No. 18 of the Committee on the Rights of the Child on Harmful Practices, CEDAW/C/GC/31-CRC/C/GC/18, 14 November 2014, para. 2.
22. Website Sustainable Development Knowledge Platform. Sustainable Development Goal 5, Targets (<https://sustainabledevelopment.un.org/sdg5>, accessed 24 October 2017).
23. United Nations Human Rights Council. Report of the Office of the United Nations High Commissioner for Human Rights, good practices and major challenges in preventing and eliminating female genital mutilation, A/HRC/29/20, 27 March 2015.
24. Ibid, p. 16.
25. United Nations Human Rights Council. Resolution 32/21 on the Elimination of Female Genital Mutilation, A/HRC/RES/32/21, 19 July 2016.
26. Ibid, para. 3.
27. Committee on the Elimination of Discrimination Against Women. General Recommendation No. 35 on Gender-Based Violence Against Women, updating General Recommendation No. 19, CEDAW/C/GC/35, 26 July 2017.
28. Ibid, para. 29.
29. African Commission on Human and Peoples' Rights. African Charter on the Rights and Welfare of the Child. ACHPR, Banjul, 1990, article 21.
30. Of the 17 countries, 16 are in Africa, and 8 of the 9 countries included in this report are part of the Joint Programme.
31. Shell-Duncan B et al. Legislating Change? Responses to Criminalizing Female Genital Cutting in Senegal, Law and Society Review. 2013; 47(4).
32. United Nations Children's Fund. Legislative reform to support the abandonment of female genital mutilation/cutting. New York: UNICEF; 2010; United Nations Population Fund. Driving forces in outlawing the practice of female genital mutilation/cutting in Kenya, Uganda and Guinea-Bissau. New York: UNFPA; 2013; United Nations Children's Fund, Female genital mutilation/cutting: a statistical overview and exploration of the dynamics of change. New York: UNICEF; 2013; United Nations Population Fund. Demographic perspectives on female genital mutilation. New York; UNFPA; 2015.

33. United Nations Population Fund. Driving forces in outlawing the practice of female genital mutilation/cutting in Kenya, Uganda and Guinea-Bissau. New York: UNFPA; 2013, p. 8.
34. Of the nine countries that are included in this study, two countries (Mali and Sierra Leone) do not have explicit national laws against FGM. Only seven country fact sheets for the countries where a national legal framework against FGM exists were developed.
35. Future Policy, Winner Silver Award. Burkina Faso's law prohibiting FGM, 2014 (http://www.futurepolicy.org/wp-content/uploads/2015/06/fpa2014brochure_en_2nd_ed-1.pdf, accessed 24 October 2017).
36. Chrisman B et al. The impact of legislation on the hazard of female genital mutilation/cutting: regression discontinuity evidence from Burkina Faso, abstract, Working Paper 432. Washington DC: Center for Global Development; 2016.
37. Diop NJ et al. Analysis of the evolution of the practice of female genital mutilation/cutting in Burkina Faso. New York: Population Council; 2008.
38. Shell-Duncan B et al. Legislating Change? Responses to Criminalizing Female Genital Cutting in Senegal, *Law and Society Review*. 2013; 47(4).
39. United Nations Population Fund. Driving forces in outlawing the practice of female genital mutilation/cutting in Kenya, Uganda and Guinea-Bissau. New York: UNFPA; 2013, p. 22.
40. For a more detailed explanation about why UNFPA has formally adopted the term "female genital mutilation" instead of "female genital mutilation/cutting", see United Nations Population Fund. Implementation of the International and Regional Human Rights Framework in the elimination of female genital mutilation. New York: UNFPA; 2014, p. 12–13.
41. African Union. Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa. Addis Ababa: AU; 2003, article 5.
42. The UNFPA publication Implementation of the International and Regional Human Rights Framework for the elimination of female genital mutilation (2014) further laid out the international human rights framework relating to FGM in the context of the United Nations and the AU. An analysis of the human rights of girls and women that are being violated by FGM, the treaties in which they are enshrined and the corresponding duties for governments under human rights law can be found in this publication.
43. See also Center for Reproductive Rights. Female genital mutilation, a matter of human rights: an advocate's guide to action. New York: Center for Reproductive Rights; 2006, p. 17.
44. Burkina Faso, the Gambia, Guinea, Guinea-Bissau, Mali, Mauritania, Nigeria and Senegal.
45. Ratification is the international act whereby a State indicates its consent to be bound to a treaty. Accession is the act whereby a State accepts the offer or the opportunity to become a party to a treaty already negotiated and signed by other States. It has the same legal effect as ratification. Accession usually occurs after the treaty has entered into force.
46. There are currently 10 United Nations human rights treaty bodies: (1) the Human Rights Committee, (2) the Committee on Economic, Social and Cultural Rights, (3) the Committee on the Elimination of Racial Discrimination, (4) the Committee on the Elimination of Discrimination against Women, (5) the Committee against Torture, (6) the Subcommittee on Prevention of Torture, (7) the Committee on the Rights of the Child, (8) the Committee on Migrant Workers, (9) the Committee on the Rights of Persons with Disabilities and (10) the Committee on Enforced Disappearances. There are currently two AU human rights treaty bodies: (1) the African Commission on Human and Peoples' Rights and (2) the African Committee of Experts on the Rights and Welfare of the Child.
47. United Nations Population Fund. Lessons from the first cycle of the Universal Periodic Review: from commitment to action on sexual and reproductive health and rights. New York: UNFPA; 2014, p.3.
48. The Third Cycle started on 1 May 2017 during the 27th session of the Human Rights Council.

49. United Nations Population Fund. Implementation of the International and Regional Human Rights Framework in the elimination of female genital mutilation. New York: UNFPA; 2014, p. 52.
50. United Nations General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 18 December 1979, United Nations, Treaty Series, Volume 1249, article 2(a).
51. Committee on the Elimination of Discrimination Against Women, General Recommendation No. 28 on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination Against Women, CEDAW/C/GC/28, 16 December 2010, para. 31.
52. Constitute Project (<https://www.constituteproject.org/search?lang=en>, accessed 24 October 2017).
53. Article 39(2) of Ghana's Constitution provides that traditional practices that are injurious to a person's health and wellbeing are abolished.
54. Article 35(4) of Ethiopia's Constitution proclaims that the State has the duty to guarantee the right of women to be free from the influence of harmful customary practices. All laws, stereotyped ideas and customs that oppress women or otherwise adversely affect their physical and mental wellbeing are prohibited.
55. Shell-Duncan B. From Health to Human Rights: Female Genital Cutting and the Politics of Intervention, *American Anthropologist*. 2008;110(2).
56. The Penal Code of 1965 is revised in 1998. Article 305 of the 1998 Penal Code defined and punished genital mutilation, of both men and women: "Castration is the removal or mutilation of genital organs, both on the man and the woman. Any person guilty of this crime shall be punished with life imprisonment. If death ensued within forty days following the crime, the offender shall be sentenced to death". The Penal Code of 1998 was recently revised and criminalizes FGM in Chapter 5, Section 2 (articles 258–261). The National Assembly approved the new Penal Code in July 2016, and it was promulgated by the President of the Republic in November of the same year, making it enforceable. This means that article 305 is no longer applicable and replaced by articles 258–261.
57. Articles 405–410 of Law No. L/2008/011/AN of 19 August 2008 prohibits "all forms of female genital mutilation practiced by any person".
58. Law No. L/2000/010/AN on Reproductive Health of 10 July 2000 prohibits violence against women and children, including FGM. Article 6 specifically provides that no one should harm the "reproductive organs". Article 13 criminalizes and punishes "all female genital mutilations".
59. Committee on the Elimination of Discrimination Against Women, Concluding observations on the combined seventh and eighth periodic reports of Nigeria, CEDAW/C/NGA/CO/7-8, 24 July 2017, para. 23.
60. *Ibid*, para. 24. See also Annex 3.
61. Unfortunately, the DHS and MICS do not provide data on the exact number of adult women who undergo FGM at a later age (>18) in Mauritania. However, according to the DHS in 2000 (the MICS does not provide data on age), only 1 per cent of the women underwent FGM when they were 5 years or older. This indicates that it is not very likely that many adult women in Mauritania undergo FGM.
62. Committee on the Elimination of Discrimination Against Women. Concluding observations on the combined second and third periodic reports of Mauritania, CEDAW/C/MRT/CO/2-3, 24 July 2014, para. 25.
63. World Health Organization. Eliminating female genital mutilation: an interagency statement. Geneva: WHO; 2008, p. 4. See also World Health Organization. Female genital mutilation, fact sheet. Geneva: WHO; 2017 (<http://www.who.int/mediacentre/factsheets/fs241/en/>, accessed 24 October 2017).

64. This quotation from the Circular letter is translated from French to English
65. Human Rights Committee, Concluding Observations Mali, CCPR/CO/77/MLI, 16 April 2003, para. 11. See Annex 3.
66. Human Rights Committee. Comments by the Government of Mali on the Concluding Observations, CCPR/CO/77/MLI/Add.1, 30 November 2007, para. 11.
67. See also United Nations Population Fund. Driving forces in outlawing the practice of female genital mutilation/cutting in Kenya, Uganda and Guinea-Bissau. New York: UNFPA; 2013, p. 22.
68. This has been done in the districts of Western Area Rural, Western Area Urban, Bo, Kambia, Port Loko, Pujehun, Bonthe, and Kailahun.
69. Committee on the Elimination of Discrimination Against Women. Concluding observations on the sixth periodic report of Sierra Leone, CEDAW/C/SLE/CO/6, 10 March 2014, para. 19.
70. Human Rights Committee. Concluding observations on the initial report of Sierra Leone, CCPR/C/SLE/CO/1, 17 April 2014, para. 12.
71. Ibid; Committee on the Elimination of Discrimination Against Women. Concluding observations on the sixth periodic report of Sierra Leone, CEDAW/C/SLE/CO/6, 10 March 2014, para. 19.
72. Committee on the Rights of the Child. Concluding observations on the combined third to fifth periodic reports of Sierra Leone, CRC/C/SLE/CO/3-5, 1 November 2016, para. 22–23.
73. Continuous Multisectoral Survey 'EMC' 2015.
74. Continuous Multisectoral Survey 'EMC' 2015.
75. Institut National de la Statistique et de la Démographie (INSD) et ICF International. Enquête démographique et de santé et à indicateurs Multiples du Burkina Faso 2010. Calverton, MD, USA: INSD et ICF International; 2012, p. 290.
76. Ibid, p. 293.
77. More specifically, the First Lady of Burkina Faso, HE Mrs Chantal Compaoré and the Minister of Social Affairs and National Solidarity at that time, Mrs Clemence Traore Some.
78. United Nations General Assembly. Resolution 67/146 on Intensifying Global Efforts for the Elimination of Female Genital Mutilations, A/RES/67/146, 5 March 2013.
79. Ministre de l'Action Sociale et de la Solidarité Nationale. Plan stratégique national de promotion de l'élimination des mutilations génitales au Burkina Faso 2016–2020. Ouagadougou: Ministre de l'Action Sociale et de la Solidarité Nationale; 2015, p. 22.
80. Institutional act of religious censure used to deprive, suspend or limit membership in a religious community or to certain rights within it, in particular receiving of the sacraments.
81. Diop NJ et al. Analysis of the evolution of the practice of female genital mutilation/cutting in Burkina Faso. New York: Population Council; 2008, p. 15.
82. Ibid, p. 15.
83. For example, in 1985 by l'Union des Femmes Burkinabé (UFB) and in 1988 by Front Populaire.
84. In French, Comité National de Lutte contre la Pratique de l'Excision.
85. See also Ministre de l'Action Sociale et de la Solidarité Nationale. Evaluation du plan d'actions national (2009–2013) de promotion de l'élimination des mutilations génitales féminines dans la perspective de la tolérance zero. Ouagadougou: Ministre de l'Action Sociale et de la Solidarité Nationale; 2014.
86. Plan strategique national de promotion de l'élimination des mutilations genitales au Burkina Faso 2016–2020: "le gouvernement du Burkina Faso a érigé l'élimination des mutilations génitales au rang des priorités nationales".

87. Diop NJ et al. Analysis of the evolution of the practice of female genital mutilation/cutting in Burkina Faso. New York: Population Council; 2008, p. 4.
88. Institut National de la Statistique et de la Démographie (INSD) et ICF International. Enquête démographique et de santé et à indicateurs multiples du Burkina Faso 2010. Calverton, MD, USA: INSD et ICF International; 2012, p. 299.
89. UNFPA-UNICEF Joint Programme on FGM/C: Accelerating Change. Burkina Faso has a strong law against FGM/C, but winning hearts and minds remains crucial. New York: UNFPA-UNICEF Joint Programme; 2009, p. 6 (<http://www.unfpa.org/sites/default/files/resource-pdf/burkinafaso.pdf>, accessed 24 October 2017).
90. Ibid, p. 6.
91. Ibid.
92. Committee on the Elimination of Discrimination Against Women. Sixth Periodic Report, Burkina Faso, CEDAW/C/BFA/6, 1 October 2009, p. 20.
93. Committee on the Elimination of Discrimination Against Women. Seventh Periodic Report, Burkina Faso, CEDAW/C/BFA/7, 27 May 2016, p. 19.
94. Institut National de la Statistique et de la Démographie (INSD) et ICF International. Enquête démographique et de santé et à indicateurs multiples du Burkina Faso 2010. Calverton, MD, USA: INSD et ICF International; 2012, p. 297.
95. Ibid.
96. One respondent explained that “most of the cutters are traditional cutters. They are old women. Medical practitioners are too afraid to lose their job”. See also 28 Too Many. Country profile: FGM in Burkina Faso. London, UK: 28 Too Many; 2015, p. 33
97. UNFPA-UNICEF Joint Programme on FGM/C: Accelerating Change. Burkina Faso has a strong law against FGM/C, but winning hearts and minds remains crucial. New York: UNFPA-UNICEF Joint Programme; 2009, p. 5 (<http://www.unfpa.org/sites/default/files/resource-pdf/burkinafaso.pdf>, accessed 24 October 2017).
98. This is because people in Burkina Faso often did not understand the concept of conditional sentences, since they can go back home after the court case and do not serve a prison sentence or have to pay a fine.
99. UNFPA-UNICEF Joint Programme on FGM/C: Accelerating Change. Burkina Faso has a strong law against FGM/C, but winning hearts and minds remains crucial. New York: UNFPA-UNICEF Joint Programme; 2009, p. 2 (<http://www.unfpa.org/sites/default/files/resource-pdf/burkinafaso.pdf>, accessed 24 October 2017).
100. Although the attempt to perform FGM is also criminalized in Burkina Faso (article 380), arrests and convictions for the attempt to perform FGM are not frequent.
101. UNFPA-UNICEF Joint Programme on FGM/C: Accelerating Change. Burkina Faso has a strong law against FGM/C, but winning hearts and minds remains crucial. New York: UNFPA-UNICEF Joint Programme; 2009, p. 5 (<http://www.unfpa.org/sites/default/files/resource-pdf/burkinafaso.pdf>, accessed 24 October 2017).
102. Diop NJ et al. Analysis of the evolution of the practice of female genital mutilation/cutting in Burkina Faso. New York: Population Council; 2008, p. 4.
103. Research also shows that increased awareness of the existence of the law made the practice go underground in Senegal, see Middelburg MJ. Empty promises? Compliance with the Human Rights Framework in relation to female genital mutilation/cutting in Senegal, PhD dissertation. Tilburg University, the Netherlands; 2016, p. 288.
104. Institut National de la Statistique et de la Démographie, et Macro International Inc. 2000. Enquête Démographique et de Santé, Burkina Faso 1998-1999, p. 156.

105. Institut National de la Statistique et de la Démographie (INSD) et ICF International, 2012. Enquête Démographique et de Santé et à Indicateurs Multiples du Burkina Faso 2010., p. 293.
106. Chikhungu LC, Madise NJ. Trends and protective factors of female genital mutilation in Burkina Faso: 1999 to 2010, *International Journal for Equity in Health*. 2015;14(42).
107. Committee on the Elimination of Discrimination Against Women. Concluding observations Burkina Faso, CEDAW/C/BFA/CO/6, 5 November 2010, para. 25.
108. Committee on the Rights of the Child. Concluding observations on the combined third and fourth periodic reports of Burkina Faso, CRC/C/BFA/CO/3-4, 9 February 2010, para. 58.
109. United Nations General Assembly, Resolution 67/146 on Intensifying Global Efforts for the Elimination of Female Genital Mutilations, A/RES/67/146, 5 March 2013; United Nations General Assembly, Resolution 69/150 on Intensifying Global Efforts for the Elimination of Female Genital Mutilations, A/RES/69/150, 18 December 2014; United Nations General Assembly, Resolution 71/168 on Intensifying Global Efforts for the Elimination of Female Genital Mutilation, A/RES/71/168, 2 February 2017.
110. Of the nine countries in this analysis, Burkina Faso, tThe Gambia, Guinea, Guinea-Bissau, Mauritania, Nigeria and Senegal have a national law prohibiting FGM. Sierra Leone and Mali to date do not yet have such a law in spite of several attempts to introduce such a national law.
111. Programme conjoint UNFPA-UNICEF sure les MGF/E: Accélérer le changement. Évaluation conjointe Burkina Faso (2008-2012). New York: UNFPA-UNICEF; 2013, p. 1.
112. UNESCO. Adult literacy rate, population 15+ years (both sexes, female, male). Paris: UIS Data Centre, UNESCO; 2015 (retrieved 19 November 2015).
113. UNFPA-UNICEF Joint Programme on FGM/C: Accelerating Change. Burkina Faso has a strong law against FGM/C, but winning hearts and minds remains crucial. New York: UNFPA-UNICEF Joint Programme; 2009.
114. Diop NJ et al. Analysis of the evolution of the practice of female genital mutilation/cutting in Burkina Faso. New York: Population Council; 2008, p. 4.
115. Enquête par Grappes à Indicateurs Multiples (MICS) 2006. Rapport Final Burkina Faso, Suivi de la Situation des Enfants et des Femmes, Février 2008.
116. Diop NJ et al. Analysis of the evolution of the practice of female genital mutilation/cutting in Burkina Faso. New York: Population Council; 2008, p. 4.
117. United Nations Population Fund. Demographic perspectives on female genital mutilation. New York: UNFPA; 2015, p. 8.
118. UNFPA-UNICEF Joint Programme on FGM/C: Accelerating Change. Burkina Faso has a strong law against FGM/C, but winning hearts and minds remains crucial. New York: UNFPA-UNICEF Joint Programme; 2009, p. 5.

Annexes

Annex 1 - Methodology 80

Annex 2 - Overview ratification status 88

Annex 3 - Recommendations of Treaty Monitoring Bodies 90

Annex 4 - Universal Periodic Review Cycles 95

Annex 5 - Recommendations of Universal Periodic Review 96

Annex 6 - Country Fact Sheets 102

Bibliography 124

Annex 1 → Methodology

The following documents were included in the desk research:

1. DHS and MICS in the nine countries were analysed in order to gain a better understanding of the phenomenon of FGM in the specific countries.
2. The national reports that the governments submitted to the subsequent TMBs that monitor implementation of the United Nations and AU human rights instruments were thoroughly studied, as well as the 'alternative reports' of Civil Society Organisations. In addition, the 'concluding observations' of the TMBs were analysed in order to find out how they assessed the countries performance towards eliminating FGM. The same applies for the 'national reports' that states submitted to the Working Group on the Universal Periodic Review of the Human Rights Council. In these reports, governments explain what actions they had taken to improve the human rights situations in their country and to fulfil their human rights obligations. In addition, the 'compilation of UN information', 'summary of stakeholders' information' and the 'report of the working group' were essential to study in order to gain a better understanding of the action taken in the field of FGM.
3. Academic literature, such as journal articles, books and dissertations about FGM in West Africa were consulted.
4. Reports and evaluations of Civil Society Organisations and UN Agencies were studied. These reports provided practical information about the role of the governments, the role of Civil Society Organisations at the community level and the role of the Joint Programme in eliminating FGM at the national level.
5. National legal texts in relation to FGM (including applicable national laws, constitutions), as well as national case law documentation.
6. National policy documents and strategies on FGM in particular, but also Gender-Based Violence or Violence Against Women more broadly.
7. A search on the Internet was conducted in order to find (non- academic) articles – or so-called 'grey literature' and blogs – about (recent) developments concerning FGM in all nine countries to make sure all (and the most up- to-date) information was included in the study.

All relevant documents were uploaded in an online document repository.

Questionnaire For UNFPA Focal Points

Country: _____

1. Constitutional Guarantees

Does the constitution specifically provide protection of women and girls against FGM?

☐ YES ☐ NO

Please specify which article: _____

Is the principle of equality between men and women and the principle of non-discrimination enshrined in the constitution?

☐ YES ☐ NO

Please specify which article: _____

2. National Law

2.1 Type of Law

Is there a specific law criminalizing FGM?

☐ YES

If yes, what kind of law?

<input type="radio"/> Penal Code	<input type="radio"/> Domestic Violence Act
<input type="radio"/> Children's Act/Child Protection Code	<input type="radio"/> Reproductive Health Law
<input type="radio"/> Women's Act	<input type="radio"/> Other, namely _____
<input type="radio"/> NO	

If not, can FGM be prosecuted under a general (criminal) law provision?

☐ Yes, namely _____ ☐ No

Is this a national or sub-national law?

☐ National law ☐ Sub-national law

2.2 Definition of FGM

Which term is used in the law to refer to the practice?

- | | |
|--|--|
| <input type="radio"/> Female genital mutilation
(<i>Mutilation Génitale Féminine</i>) | <input type="radio"/> Excision (<i>l'Excision</i>) |
| <input type="radio"/> Circumcision | <input type="radio"/> Sexual Mutilation |
| | <input type="radio"/> Other, namely _____ |

Does the law provide a definition on FGM?

- ☐ YES, the definition corresponds with the WHO definition
- ☐ YES, other definition: namely _____
- ☐ NO

Which type of FGM is prohibited?

- | | |
|--------------------------------|--|
| <input type="radio"/> Type I | <input type="radio"/> Type IV |
| <input type="radio"/> Type II | <input type="radio"/> All types of FGM |
| <input type="radio"/> Type III | <input type="radio"/> Not explicitly specified |

Is there a provision and/or punishment especially for infibulation?

- ☐ YES, namely _____
- ☐ NO

Is the attempt to perform FGM also subject to punishment?

- ☐ YES, namely _____
- ☐ NO
- ☐ Not Specified

Does the law allow exceptions in the case of medical need?

- ☐ YES, namely _____
- ☐ NO
- ☐ Not Specified

2.3 Victims of FGM

Is FGM only illegal among children/minors, or also among adult women?

- | | |
|--|---|
| <input type="radio"/> Only children/minors and excluding adult women | <input type="radio"/> Not specified |
| <input type="radio"/> Both minors and adult women | <input type="radio"/> Other, namely _____ |

Is FGM illegal regardless the consent of girls or women?

- ☐ YES, consent of the victim will not protect someone from prosecution for the offence.
- ☐ NO, consent of the victim will protect someone from prosecution for the offence.
- ☐ Not Specified

2.4 Penalties

What is the penalty/sanction for FGM?

- ☐ Imprisonment of _____ months/years to _____ months/years
- ☐ Fine of _____ (local currency), which is equivalent to US \$ _____

Penalties increased if FGM leads to death of the victim?

- ☐ YES, sentence is increased from _____ to _____
- ☐ YES, maximum sentence applies
- ☐ NO
- ☐ Not Specified

Penalties increased if FGM leads to disability of the victim?

- ☐ YES, sentence is increased from _____ to _____
- ☐ YES, maximum sentence applies
- ☐ NO
- ☐ Not Specified

Penalties increased when FGM is performed on minors?

- ☐ YES, sentence is increased from _____ to _____
- ☐ YES, maximum sentence applies
- ☐ NO
- ☐ Not Specified

Does the same penalty apply when the victim is brought from another country to undergo FGM?

- ☐ YES
- ☐ NO
- ☐ Not Specified

2.5 Medicalisation of FGM

Are the penalties increased if FGM is carried out and/or promoted by medical or paramedical professional?

- ☐ YES, the penalty is the maximum punishment, which is ____ years
- ☐ YES, the penalty is increased from ____ months/years to ____ months/years
- ☐ NO
- ☐ Not Specified

Will medical or paramedical professionals performing FGM have their licences revoked?

- ☐ YES, for up to ____ months/years
- ☐ NO
- ☐ Not Specified

Is a distinction made whether FGM took place in hospital or in public or private environment?

- ☐ YES If yes, distinction is: _____
- ☐ NO

2.6 Offenders

Who is (specifically) punishable?

- ☐ Traditional cutter carrying out FGM
- ☐ Medical or paramedical professional carrying out FGM
- ☐ Other person that performs FGM
- ☐ Person assisting the cutter
- ☐ Parents who perform FGM
- ☐ Parents who requested FGM
- ☐ Someone who pushes towards FGM
- ☐ Ascendants or any other person having authority over the child requesting FGM
- ☐ Other, namely _____

Is the failure to report an incident of FGM to the authorities criminalized?

- ☐ YES, the penalty is: _____

If yes, who must report?

- ☐ Medical or paramedical professional
- ☐ Other professionals, specify _____
- ☐ Family member
- ☐ Community member
- ☐ Anyone
- ☐ Not specified
- ☐ NO

Is there an extraterritorial clause, extending restrictions to citizens who commit FGM outside the country's border?

- ☐ YES, namely _____
- ☐ NO

2.7 Drafting process

Is the legislation drafted through a consultative process?

- ☐ YES, because _____ ☐ NO, because _____

2.8 Social exclusion

Does the law protect those girls and women who have not undergone FGM from discrimination and social exclusion?

- ☐ YES, in article _____ ☐ NO

3. Court Cases

Are mechanisms for reporting, referral and protection of girls and women at risk of FGM in place and functional?

- ☐ YES, because _____ ☐ NO
(for example SOS Hotline, surveillance, safe houses...)

Who has standing to file a criminal complaint?

- ☐ Victim of FGM
☐ Parent or any other person having authority over the child
☐ NGO on behalf of the victim
☐ Other

Are there any FGM court cases?

- ☐ YES ☐ NO

If yes, how many?

- ☐ 0-10 ☐ 10-20 ☐ 20-30 ☐ 30-40 ☐ 40-50 ☐ 50+

If yes, who has been prosecuted?

- | | |
|--|---|
| <input type="radio"/> Person that performs FGM | <input type="radio"/> Parents who requested FGM |
| <input type="radio"/> Traditional cutter carrying out FGM | <input type="radio"/> Someone who pushes towards FGM |
| <input type="radio"/> Medical or paramedical professional carrying out FGM | <input type="radio"/> Ascendants or any other person having authority over the child requesting FGM |
| <input type="radio"/> Person assisting the cutter | <input type="radio"/> Other, namely _____ |
| <input type="radio"/> Parents who perform FGM | |

If yes, what was the sanction?

- ☐ Imprisonment of _____ months/years to _____ months/years
- ☐ Fine of _____ (local currency), which is equivalent to US \$ _____

If yes, did perpetrators serve full prison sentence?

- ☐ YES
- ☐ NO
- If not, specify _____

4. Implementation

Are effective and appropriate measures developed in order to ensure the effective implementation of national legislative frameworks?

☐ YES, namely:

- ☐ National Action Plans on FGM
- ☐ Strategies on FGM
- ☐ Guidelines/protocols for professionals
- ☐ Trainings for professionals
- ☐ Rules and regulations
- ☐ Other policies, namely _____

☐ NO

Is government budget allocated for the implementation of legal frameworks on FGM?

- ☐ YES, namely _____ (local currency), which is equivalent to US \$ _____
- ☐ NO, the Government does rely on donor funding

Is the legislation and national policies on FGM being implemented?

- ☐ YES, because _____
- ☐ NO

Are national mechanisms for the implementation and monitoring of legislation, law enforcement and national policies established?

☐ YES, namely:

- ☐ Independent self-monitoring mechanism
- ☐ National institutional mechanism
- ☐ National coordination and monitoring bodies
- ☐ Establishment of complaint mechanisms

☐ NO

Persons Interviewed in Burkina Faso

City: Ouagadougou

<u>Ministry of Justice</u>	Mrs Pulchérie Bamba Sawadogo
<u>UNFPA</u>	Mrs Edwige Adekambi Domingo; Mrs Edith Ouedraogo; Mr Lacina Zerbo
<u>UNICEF</u>	Mr Désiré Yameogo
<u>SP/CNLPE</u>	Mrs Rachelle Badolo; Mr Noel Ouaba; Mr Stanyslas Benao; Mrs Aimée Sankara
<u>Voix de Femmes</u>	Ms Mariam Lamizana

City: Kaya

<u>L'Action Sociale</u>	Mr Michel Kaboré; Mr Ayouba Tao
<u>Gendarmerie</u>	Mr Timothé Kambiré
<u>Health Center</u>	Mr Honoré Tinguéri; Mr Salé Mady Keita; Mrs Judith Pitroipa
<u>Police</u>	Mr Moumouni Ouedraogo
<u>Prison</u>	Mr Claude Ouedraogo; Mr Yves Dabiré
<u>Deputy prosecutor</u>	Ms Kotim Yameogo

Annex 2 → Overview Ratification Status

	ICCPR (1966)		ICESCR (1966)		CEDAW (1979)		ACHPR (1981)	
	International Covenant on Civil and Political Rights		International Covenant on Economic, Social and Cultural Rights		Convention on the Elimination of All Forms of Discrimination against Women		African Charter on Human and Peoples' Rights	
Country	Year Ratification*/ Accession**		Year Ratification*/ Accession**		Year Ratification*/ Accession**		Year Ratification	
Burkina Faso	1999	accession	1999	accession	1987	accession	1984	
the Gambia	1979	accession	1978	accession	1993	ratification	1983	
Guinea	1978	ratification	1978	ratification	1982	ratification	1982	
Guinea-Bissau	2010	ratification	1992	accession	1985	ratification	1985	
Mali	1974	accession	1974	accession	1985	ratification	1981	
Mauritania	2004	accession	2004	accession	2001	accession	1986	
Nigeria	1993	accession	1993	accession	1985	ratification	1983	
Senegal	1978	ratification	1978	ratification	1985	ratification	1982	
Sierra Leone	1996	accession	1996	accession	1988	ratification	1983	

Last updated: 24 October 2017

ICCPR (1966) Source: Unite Nations Treaty Collection
https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-4&chapter=4&clang=_en

ICESCR (1966) Source: Unite Nations Treaty Collection
https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4&clang=_en

CEDAW (1979) Source: Unite Nations Treaty Collection
https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&clang=_en

ACHPR (1981) Source: African Commission on Human and People's Rights
<http://www.achpr.org/instruments/achpr/ratification/>

* Ratification: the international act whereby a state indicates its consent to be bound to a treaty if the parties intended to show their consent by such an act. In the case of bilateral treaties, ratification is usually accomplished by exchanging the requisite instruments, while in the case of multilateral treaties the usual procedure is for the depositary to collect the ratifications of all states, keeping all parties informed of the situation. The institution of ratification grants states the necessary time-frame to seek the required approval for the treaty on the domestic level and to enact the necessary legislation to give domestic effect to that treaty. [Arts. 2 (1) (b), 14 (1) and 16, Vienna Convention on the Law of Treaties 1969]

	CRC (1989)		ACRWC (1990)	Maputo Protocol (2003)	AYC (2006)	
	Convention on the Rights of the Child		African Charter on the Rights and Welfare of the Child	"Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa"	African Youth Charter	
	Year Ratification/ Accession		Year Ratification	Year Ratification	Year Ratification	If not ratified, year signature
	1990	ratification	1992	2006	2008	ratification
	1990	ratification	2000	2005	2009	ratification
	1990	accession	1999	2012	2011	ratification
	1990	ratification	2008	2008	2008	ratification
	1990	ratification	1998	2005	2007	ratification
	1991	ratification	2005	2005	2012	ratification
	1991	ratification	2001	2004	2009	ratification
	1990	ratification	2001	2004	2009	ratification
	1990	ratification	2002	2015	x	2008

CRC (1989) Source: Unite Nations Treaty Collection
https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV11&chapter=4&clang=_en

ACRWC (1990) Source: Arican Union
<http://pages.au.int/acerwc/pages/acerwc-ratifications-table>

Maputo Protocol (2003) Source: African Commission on Human and People's Rights
<http://www.achpr.org/instruments/women-protocol/ratification/>

AYC (2006) Source: African Union
http://www.au.int/en/sites/default/files/treaties/7789-sl-african_youth_charter_2.pdf

** Accession: the act whereby a state accepts the offer or the opportunity to become a party to a treaty already negotiated and signed by other states. It has the same legal effect as ratification. Accession usually occurs after the treaty has entered into force. [Arts. 2 (1) (b) and 15, Vienna Convention on the Law of Treaties 1969]

NB: This table does not contain reservations made by states because they were not deemed relevant for this publication.

Annex 3 → Recommendations of Treaty Monitoring Bodies

Country receiving recommendation	Treaty Monitoring Body	Year	Recommendations (Concluding Observations) on legal and policy frameworks on FGM
Burkina Faso	African Committee of Experts on the Rights and Welfare of the Child	2009	The Committee recommends the State party to: [...] sensitize the competent services on the urgency of implementing the legal instruments of repression of such practices, in particular the provisions in the Criminal Code concerning excision. The Committee suggests collaboration between the Ministry of Social Action and National Solidarity, the other ministries, CSOs and NGOs in taking care of this issue.
	Committee on the Elimination of Discrimination against Women	2010	The Committee encourages the State party to increase its efforts to fully eradicate female genital mutilation and to carry on its robust public advocacy strategy, especially among parents and traditional leaders so as to change traditional perceptions connected with this practice. It also calls upon the State party to bring offenders, including parents, to justice .
	Committee on the Rights of the Child	2010	The Committee calls upon the State party to: (a) Pursue its efforts to eradicate FGM throughout its territory, in particular by better coordinating anti-FGM related activities, ensuring that offenders are prosecuted and adequately punished and continuing awareness-raising efforts to change cultural perceptions connected with FGM; (b) Reinforce cooperation with neighbouring countries in the region to combat FGM
	Committee on Economic, Social and Cultural Rights	2016	To redouble its efforts to combat female genital mutilation by such means as acting on the findings of studies, corroborated by empirical data, on the root causes of this practice and conducting regular awareness-raising campaigns against it.
The Gambia	Committee on the Elimination of Discrimination against Women	2015	The Committee notes that many provisions of the Convention have been incorporated into national law through the adoption of relevant legislation, in particular the Women's Act in 2010. It remains concerned, however, that the legislation does not adequately address female genital mutilation , marital rape or child marriage. The Committee urges the State party: (a) To expedite the adoption of legislation criminalizing female genital mutilation, prosecute and adequately punish those responsible, and compensate victims .
	Committee on the Rights of the Child	2015	The Committee urges the State party: (a) To adopt legal provisions fully criminalizing the practice of female genital mutilation; (b) To ensure the effective implementation of the National Plan of Action for Accelerated Abandonment of female genital mutilation 2013–2017; (c) To provide physical and psychological recovery programmes for victims of female genital mutilation, and establish reporting and complaints mechanisms accessible to girls who have been victims, or fear becoming victims, of the practice.

Country receiving recommendation	Treaty Monitoring Body	Year	Recommendations (Concluding Observations) on legal and policy frameworks on FGM
Guinea	Committee on the Rights of the Child	2013	The Committee notes with regret that in spite of the enactment of law L010/AN/2000 of 10 July 2000 on reproductive health, prohibiting female genital mutilation (FGM) (art.13) and the elaboration of a strategic plan against FGM (2012-2016), 96 per cent of girls and women are still subject to FGM as indicated by the delegation during the dialogue. The Committee recommends that the State party: (a) Enforce existing legislation prohibiting FGM [...] by bringing perpetrators to justice , and ensure that other harmful practices are outlawed and punished.
	Committee on the Elimination of Discrimination against Women	2014	The Committee urges the State party: (a) To strengthen efforts, in cooperation with civil society, traditional and religious leaders, to lead its preventive strategies and raise awareness of the negative impact of female genital mutilation on the lives of girls and women and the need for both men and women to recognize it as a human rights violation , in order to eliminate the practice of female genital mutilation and its underlying cultural and traditional beliefs; (b) To provide training for the police and other law enforcement officials , health and social workers and the judiciary on the strict application of legislation prohibiting female genital mutilation ; (c) To ensure that the perpetrators and practitioners of female genital mutilation are effectively investigated, prosecuted and punished .
	African Committee of Experts on the Rights and Welfare of the Child	2014	The Committee gives the State Party credit for introducing help line and prosecuting one woman for committing excision. Nevertheless, the Committee notes with great concern the high rate of FGM which stands at 97% prevalence in the country. The Committee recommends that the elimination of FGM becomes one of the priority areas of the Government and take the following measures to urgently address this violation: a. Effectively enforce the law which forbids FGM, b. Conducts aggressive awareness raising campaigns involving the media and traditional leaders and assess the impact of the awareness raising results to assert that it is efficient, c. Thoroughly investigate, prosecute and convict perpetrators , d. Puts an obligation on Government officials and public servants to report FGM cases .
Guinea-Bissau	Committee on the Elimination of Discrimination against Women	2009	The Committee urges the State party to enact without delay legislation explicitly prohibiting female genital mutilation and to ensure that offenders are prosecuted and punished in accordance with the severity of this violation, including, in the interim, under existing provisions of the Penal Code.

Country receiving recommendation	Treaty Monitoring Body	Year	Recommendations (Concluding Observations) on legal and policy frameworks on FGM
Guinea-Bissau	Committee on the Rights of the Child	2013	The Committee urges the State party to strengthen its efforts to prevent female genital mutilation, including through: (a) Effectively enforcing the criminalization of FMG/C, ensuring that offenders are prosecuted and punished in accordance with the severity of this violation; (b) Implementing the National Plan of Action in a comprehensive manner and ensuring that adequate resources are allocated for its implementation, in particular in rural areas; (c) Reinforcing public education and awareness-raising programmes, including campaigns targeting both men and women, including officials at all levels, and traditional, community and religious leaders, to eliminate this practice; (d) Providing support to the National Committee against Harmful Practices .
Mali	Human Rights Committee	2003	The State party should prohibit and criminalize the practice of female genital mutilation so as to send a clear and strong signal to those concerned.
	Committee on the Rights of the Child	2007	The Committee urges the State party to: (a) Implement legislative measures on the prohibition of female genital mutilation and the prohibition of traditional marriage practices, including early and forced marriages, which are harmful to children, and ensure that perpetrators are brought to justice .
	African Committee of Experts on the Rights and Welfare of the Child	2009	Given the extent of the practice of female genital mutilation in Mali, the Committee strongly recommends to the Government of Mali to adopt a law to prohibit these practices and severely punish offenders like the other countries in the sub-region.
	Committee on the Elimination of Discrimination against Women	2013	The Committee reiterates its previous recommendation that the State party finalize the bill to prohibit female genital mutilation , ensure that the practice is sanctioned under the Child Protection Code and provide training for law enforcement officers , health-care and social workers and the judiciary on the strict application of these sanctions to ensure that perpetrators and practitioners of female genital mutilation are effectively investigated, prosecuted and punished . The Committee recommends that sufficient resources be allocated to ensure the implementation of the national plan of action to combat female genital mutilation, including activities to raise the awareness of traditional and religious leaders of the negative impact of the practice on women and girls.

Country receiving recommendation	Treaty Monitoring Body	Year	Recommendations (Concluding Observations) on legal and policy frameworks on FGM
Mauritania	Committee on the Rights of the Child	2009	The Committee recommends that the State party strengthen its efforts to enforce the criminalization of FGM and ensure that it applies in all circumstances.
	Human Rights Committee	2013	The State party should ensure the effective implementation of article 12 of the ordinance on the judicial protection of children and adopt the bill specifically criminalizing female genital mutilation .
	Committee on the Elimination of Discrimination against Women	2014	The Committee urges the State party: (a) To expedite the adoption of legislation criminalizing female genital mutilation and to address its harmful consequences for the lives of women; [...] To amend its legislation on the judicial protection of children in order to prosecute practitioners whenever female genital mutilation occurs; (d) To strengthen efforts to raise awareness of the negative impact of female genital mutilation on the lives of women and recognize it as a human rights violation.
Nigeria	Committee on the Rights of the Child	2010	The Committee urges the State party, as a matter of priority: [...] (d) To eliminate FGM and other harmful traditional practices, including by enacting legislation to prohibit FGM and to conduct awareness raising programmes for, and involving, parents, women and girls, heads of families, religious leaders and traditional dignitaries.
	Committee on the Elimination of Discrimination against Women	2017	The Committee reiterates its concern that, notwithstanding the measures taken by the State party to combat female genital mutilation, including the adoption of the Violence against Persons (Prohibition) Act in 2015, this harmful practice continues CEDAW/C/NGA/CO/7-8 8/17 17-11289 to be prevalent. The Committee is particularly concerned that the Act, which proscribes female genital mutilation, applies only in the Federal Capital Territory and not in those federal states in which female genital mutilation is prevalent. The Committee recommends that the State party: (a) Ensure that the Violence against Persons (Prohibition) Act of 2015 applies in all federal states, including those in which female genital mutilation is prevalent; (b) Raise awareness among religious and traditional leaders and the general public about the criminal nature of female genital mutilation, including so-called “female circumcision”, and its adverse effect on the human rights of women.
Senegal	Committee on the Elimination of Discrimination against Women	2015	The Committee recommends that the State party to ensure the effective implementation of Law No. 99-05 of 29 January 1999 criminalizing female genital mutilation and of the second national action plan to accelerate the elimination of female genital mutilation (2010-2015).

Country receiving recommendation	Treaty Monitoring Body	Year	Recommendations (Concluding Observations) on legal and policy frameworks on FGM
Senegal	Committee on the Rights of the Child	2016	The Committee recommends that the State party take all measures necessary to [...] ensure the effective enforcement of existing laws , in particular [...] Law No. 99-05 of 1999 prohibiting rape, female genital mutilation, assault and battery, and incest, [...] and on the protection of victims, including by providing adequate human, technical and financial resources for their implementation ; (d) Ensure that customary and traditional practices do not prevent children from enjoying the rights contained in the Convention.
Sierra Leone	Human Rights Committee	2014	The Committee is concerned by the continuing reports of harmful traditional practices, especially female genital mutilation. The Committee welcomes the Child Rights Act (2007), which criminalizes the commission of some harmful traditional practices, but notes with serious concern the rejection of a proposed provision to criminalize female genital mutilation during the adoption of the Child Rights Act. The Committee regrets that impunity for perpetrators of this unlawful and harmful practice still prevails (arts. 2, 3, 7 and 26). The State party should explicitly prohibit female genital mutilation.
	Committee on the Elimination of Discrimination against Women	2014	The Committee notes with concern: [...] The continued prevalence of female genital mutilation and the lack of legal prohibition of this harmful practice and the rejection of a provision criminalizing child female genital mutilation during the adoption of the Child Rights Act , despite the memorandum of understanding signed between the "Soweis", local chiefs and civil society organizations on the banning of child female genital mutilation throughout the country. The Committee recommends that the State party: [...] Explicitly prohibit female genital mutilation and other harmful practices. To this end, it should intensify its efforts in holding consultations with civil society and women's organizations and traditional leaders, at the provincial and local levels, with a view to fostering a dialogue on eliminating female genital mutilation and other harmful practices, and changing stereotypes, discriminatory attitudes and practices.
	Committee on the Rights of the Child	2016	Despite the huge success of the Government's efforts to include practitioners of female genital mutilation in the fight against submitting children to female genital mutilation, the Committee is seriously concerned that: (a) Female genital mutilation is still practiced and is not prohibited in law for children.

Annex 4 → Universal Periodic Review Cycles

Country	First Cycle (2008-2011)	Second Cycle (2012-2016)	Third Cycle (2017-2021)
Burkina Faso	2008	2013	2018
The Gambia	2010	2014	2019
Guinea	2010	2015	2020
Guinea-Bissau	2010	2015	2020
Mali	2008	2013	2018
Mauritania	2010	2015	2020
Nigeria	2009	2013	2018
Senegal	2009	2013	2018
Sierra Leone	2011	2016	2021

Annex 5 → Recommendations of Universal Periodic Review

made during the Second Cycle (2012-2016)

Country under review	Country making recommendation	Year	Recommendations on legal and policy frameworks on FGM
Burkina Faso	Uruguay	2013	Continue and increase efforts to eradicate female genital mutilation (FGM) throughout the country; bring perpetrators to justice and ensure adequate punishment ; and adopt measures to prohibit traditional matrimonial practices, including forced marriages which are particularly harmful to children
	Denmark	2013	Take concrete steps , especially in regions displaying a high prevalence, to eliminate harmful customary practices, such as FGM, prohibited by law .
	Finland	2013	In order to eradicate FGM, increase public advocacy and training of judiciary and public officials, traditional leaders and parents, both men and women.
	Slovenia	2013	Further strengthening national efforts to eliminate all forms of violence against women, including FGM, and taking all the necessary measures to enable women to participate in public and private life on an equal footing with men
The Gambia	Slovenia	2014	Enact legislation prohibiting female genital mutilation.
	Germany	2014	Enact and enforce effective legislation prohibiting the practice of female genital mutilation
	Ghana	2014	Take urgent steps to incorporate the prohibition of female genital mutilation in its law and enforce it
	India	2014	Consider enacting a comprehensive law prohibiting the practice of female genital mutilation
	Canada	2014	Introduce legislation to criminalize the practice of female genital mutilation
	Maldives	2014	Enact domestic violence legislation with the aim of eliminating domestic violence, and enact specific legislation criminalizing acts such as female genital mutilation.
	Spain	2014	Follow up effectively the national plan of action to accelerate the eradication of female genital mutilation and the implementation of preventative measures.
	Italy	2014	Adopt and implement effective legislation aimed at banning female genital mutilation and punishing the perpetrators .
	Angola	2014	Strengthen and accelerate mechanisms aiming at eradicating the harmful practice of female genital mutilation.
	Australia	2014	Take all necessary measures to prohibit and eliminate the practice of female genital mutilation.

Country under review	Country making recommendation	Year	Recommendations on legal and policy frameworks on FGM
Guinea	the Philippines	2015	Consider taking steps towards strict implementation of its laws prohibiting traditional practices harmful to women and children.
	United States of America	2015	Continue to implement and build on efforts to address female genital mutilation/cutting, including by engaging state and non-state stakeholders in dialogue on education, programming, and legislation needed to eliminate this harmful practice and advance gender equality
	Argentina	2015	Strengthen actions against discrimination, violence against women and female genital mutilation; ensure effective access to justice ; and strengthen the implementation of sanctions against this type of crimes.
	Chile	2015	Strengthen and broaden the Strategic Plan to effectively implement the prohibition of female genital mutilation, promoting a change in custom.
	Czech Republic	2015	Adopt a comprehensive strategy to fight against female genital mutilation, including the punishment of its perpetrators , educational and awareness-raising programmes as well as medical support to women and girls affected.
	France	2015	Combat violence against women, in particular female genital mutilation, by ensuring that these are systematically brought to justice and by raising awareness
	Ireland	2015	Take all necessary measures to ensure the effective enforcement of Law L010/AN/2000 , with a view to the eradication of FGM, and to undertake additional awareness raising measures about the risks and harm associated with this practice as well as its prohibition.
	Italy	2015	Make all efforts to apply existing national legislation in order to reduce the current rate of FGM in the country, including effective criminal prosecution of the practice, appropriate awareness campaigns, and education in schools.
	the Netherlands	2015	Take adequate measures to combat female genital mutilation, that is to enforce existing legislation prohibiting FGM and to ensure that perpetrators of female genital mutilation are prosecuted .
	Republic of Korea	2015	Strengthen the enforcement of existing legislation prohibiting female genital mutilation and at the same time enhance awareness-raising activities by focusing on the health risks of this harmful practice.
	Slovenia	2015	Redouble efforts to eliminate FGM and other harmful traditional practices, including through strict enforcement of the legal prohibition and increased awareness-raising of the harmful consequences of such practices.

Country under review	Country making recommendation	Year	Recommendations on legal and policy frameworks on FGM
Guinea-Bissau	Germany	2015	Implement existing laws to prosecute sexual and gender-based violence, in particular female genital mutilation as well as domestic violence, and to address legal gaps and other deficiencies in measures to combat sexual and gender-based violence effectively.
	Australia	2015	Raise awareness of the criminalization of female genital mutilation and also ensure perpetrators of female genital mutilation are brought to justice .
	Chile	2015	Accelerate the implementation of the national plan to combat female genital mutilation so that this practice is eradicated and effectively criminalized , and additionally, strengthen education and awareness-raising programmes.
	Ireland	2015	Take measures to enforce the criminalization of female genital mutilation, ensuring that offenders are prosecuted and punished in accordance with the law, as well as re-enforcing public education and awareness-raising programmes aimed at eliminating this practice.
	Italy	2015	Assess the implementation of the National Action Plan to Combat female genital mutilation/Cutting. Identify lessons learned and develop a new action plan to reduce the incidence of the heinous practice of female genital mutilation/cutting.
	Mexico	2015	Draw up a follow-up plan to the Action Plan to Combat female genital mutilation and Cutting, which includes evaluation mechanisms of outcomes and measures to make effective the punishment of such practices, as well as appropriate budget allocations for its implementation in rural areas.
	Spain	2015	Improve the implementation of the National Action Plan on female genital mutilation, by strengthening it with awareness-raising campaigns and by working with traditional leaders in order to fully eradicate this practice, while strengthening likewise the means and initiatives of the National Committee for the Elimination of Harmful Practices .
Mali	Switzerland	2013	Adopt a specific legislation aimed at prohibiting all forms of FGM.
	Germany	2013	Adopt criminal laws explicitly prohibiting FGM and excisions and provide appropriate penalties.
	Czech Republic	2013	Intensify the public awareness campaign against FGM and adopt, and implement, legislation prohibiting and criminalizing FGM .
	Hungary	2013	Take legislative measures to prohibit all forms of FGM and ensure that perpetrators of this harmful practice are brought to justice .

Country under review	Country making recommendation	Year	Recommendations on legal and policy frameworks on FGM
Mali	Montenegro	2013	Enact legislation prohibiting all forms of traditional practice of FGM in line with recommendations made by CEDAW and the Committee on the Rights of the Child.
	Portugal	2013	Urgently adopt legislation to ban FGM.
Mauritania	United Kingdom of Great Britain and Northern Ireland	2015	Develop a National Action Plan to prevent and criminalise acts of sexual and gender based violence, including female genital mutilation and sexual offences against children.
	Philippines	2015	Intensify efforts to combat violence against women, including the elimination of female genital mutilation, by increasing resources for public awareness and educational campaigns, and by encouraging faster legislative action against gender-based violence.
	Canada	2015	Continue and intensify efforts to eradicate female genital mutilations and gavage, including implementation of legal measures to penalise these practices.
	Namibia	2015	Implement laws combating child and early and forced marriage and female genital mutilation.
	Sweden	2015	Strengthen the National Human Rights Commission and the national commission to combat gender-based violence, and the capacities needed to secure advancement in the field of human rights, particularly in the area of human rights of women as well as to increase efforts in order to ban such practices as female genital mutilation.
Nigeria	Ireland	2013	Introduce laws against female genital mutilation in all states, takes steps to ensure access to justice for women who are victims of violence; and that the Violence Against Persons (Prohibition) Bill is passed by the Senate.
	Republic of Korea	2013	Continue to make efforts to curb violence against women, especially with regard to the prohibition of female genital mutilation, at the national level.
	Austria	2013	Enact a comprehensive national law prohibiting FGM and continue awareness-raising campaigns to eradicate this scourge.
	Japan	2013	Legislation for the eradication of FGM as well as to take effective measure to raise awareness of the people.
	Italy	2013	Continue fighting against gender-related violence, including FGM, by enhancing measures, such as ad hoc awareness-raising campaigns and legal aid programme to increase victims' access to justice.
Senegal	Angola	2013	Continue, in the framework of the fight against female genital mutilation, its action in the implementation of the second National Action Plan for accelerating the abandonment of this practice until 2015
	Paraguay	2013	Continue to strengthen all public policies with a view to eliminating feminine genital mutilation.

Country under review	Country making recommendation	Year	Recommendations on legal and policy frameworks on FGM
Senegal	Burkina Faso	2013	Prosecute and punish persons who, despite awareness campaigns, continue to be perpetrators or accomplices of FGM , according to the law of 22 January 1999.
	Rwanda	2013	Continue its positive engagement toward the total eradication of excision by 2015 as indicated in national Action Plan .
	Algeria	2013	Continue its efforts to achieve the goals of the second national Plan to eliminate excision (2012–2015).
Sierra Leone	Madagascar	2016	Adopt national legislation prohibiting female genital mutilation and implement standards on women's rights in order to ensure that they can enjoy autonomy.
	France	2016	Ensure that all legal standards are in conformity with the Convention on the Elimination of All Forms of Discrimination against Women and actively fight against the practice of female genital mutilation.
	Poland	2016	Enact legislation to prohibit female genital mutilation and conduct awareness-raising programmes in this regard, particularly for parents, women and girls
	Lebanon	2016	Pass laws prohibiting female genital mutilation.
	Zambia	2016	Totally ban female genital mutilation as opposed to the age limit of 18 age and criminalize the practice .
	Slovenia	2016	Explicitly prohibit all harmful practices against women of all ages, including female genital mutilation, child, early and forced marriage and practices inflicted on elderly women in relation to allegations of witchcraft, and take all necessary measures to enforce the prohibition.
	Germany	2016	Address the issue of female genital mutilation in an appropriate manner through awareness-raising programmes for parents, women, girls and traditional and religious leaders and suitable legal instruments , as previously recommended in the first universal periodic review and accepted by Sierra Leone.
	Spain	2016	Punish the practice of female genital mutilation and any harmful practices for physical and psychological health of girls and women.
	Australia	2016	Explicitly criminalize female genital mutilation and cutting in the domestic laws of Sierra Leone to achieve further progress in eliminating this harmful practice.
	Congo	2016	Adopt a law prohibiting participation of minor girls in initiation rites.
	Botswana	2016	Ensure the protection of the rights of women, especially by criminalizing and implementing laws on female genital mutilation, domestic and sexual violence.
	Switzerland	2016	Prohibit legally female genital mutilation, as previously recommended.

Country under review	Country making recommendation	Year	Recommendations on legal and policy frameworks on FGM
Sierra Leone	Czech Republic	2016	Introduce the total legislative ban of female genital mutilation, to initiate a public discussion and awareness-raising campaign on female genital mutilation as a violation of human rights of girls and women.
	Uganda	2016	Strengthen the ban on the initiation of women with the view to totally eliminating the practice of female genital mutilation in the country.
	Japan	2016	Continue to take measures to protect and promote the human rights of women, including the introduction of legislation to prohibit female genital mutilation.
	Cabo Verde	2016	Adopt pertinent measures for economic empowerment of women, and intensify actions against female genital mutilation and early marriage.

**Annex 6 → Country fact sheets on laws
against female genital mutilation**

Burkina Faso 103

The Gambia 106

Guinea 109

Guinea-Bissau 112

Mauritania 115

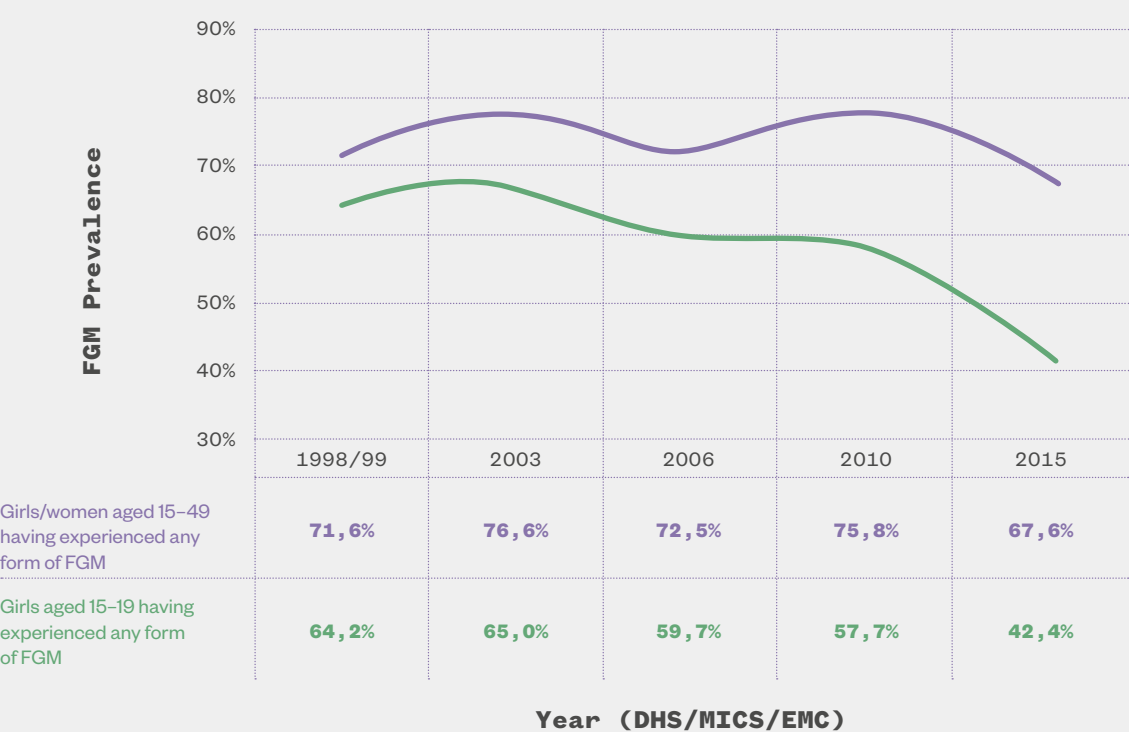
Nigeria 118

Senegal 121

Burkina Faso

Legislation on female genital mutilation and its enforcement

Figure 1: Prevalence of female genital mutilation in Burkina Faso, 1998–2015



Ratification of international treaties

Burkina Faso has ratified all international and regional conventions on the rights of women and children condemning FGM:

- International Covenant on Civil and Political Rights, 1999
- International Covenant on Economic, Social and Cultural Rights, 1999
- Convention on the Elimination of All Forms of Discrimination Against Women, 1987
- African Charter on Human and Peoples’ Rights, 1984
- Convention on the Rights of the Child, 1990
- African Charter on the Rights and Welfare of the Child, 1992
- Maputo Protocol, 2006
- African Youth Charter, 2008



“If death has resulted, the penalty is increased to five to ten years’ imprisonment”.
(Article 380)

“The maximum penalty shall apply if the offender is a member of the **medical or paramedical profession**. The court may also pronounce the prohibition to practice his profession for a period that may not exceed five years”. (Article 381)

National law prohibiting female genital mutilation



Female genital mutilation (FGM) has been criminalized in Burkina Faso by Law No. 043/96/ADP of 13 November 1996, which amended the Penal Code. This law prohibits all types of FGM and is applicable nationwide, for FGM on both women and girls.

Penalties



Not only the act itself, but also the attempt to perform FGM is subjected to punishment as well as the failure to report it. The penalty is 6 months to 3 years’ imprisonment and/or a fine (150,000–900,000 CFA francs).

Consultative process



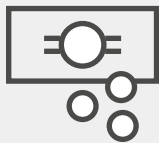
The Government consulted practising communities, women’s rights organizations and religious leaders while drafting the law prohibiting FGM.

National coordination



The Government of Burkina Faso has adopted several policies in relation to FGM, including national action plans on FGM and the National strategic plan for promoting the elimination of FGM 2016–2020. In 2011, the National Council for the Fight against the Practice of Excision (CNLPE) was created (replacing the National Committee to Combat the Practice of Excision), which is under the Administration of the Ministry of Women, National Solidarity and Family. The CNLPE coordinates all efforts to eliminate FGM in Burkina Faso.

Budget line



The Government of Burkina Faso has had a national budget line dedicated to the elimination of FGM since 1997.

Legal framework

Legal framework on female genital mutilation in Burkina Faso	Yes	No
Ratification of all international and regional human rights treaties	x	
Equality between men and women + non-discrimination enshrined in constitution	x	
Explicit law prohibiting FGM	x	
Law provides a definition of FGM	x	
All types of FGM are prohibited	x	
Attempt to perform FGM prohibited	x	
FGM is illegal among both minors and adult women	x	
Penalty increased when FGM leads to death of the victim	x	
Penalty increased when FGM leads to disability of the victim		x
Penalty increased when FGM is carried out by a (para)medical professional	x	
Failure to report an incident of FGM to the authorities criminalized	x	
Extraterritorial clause		x

Law enforcement



223

Number of court cases since 2009

In Burkina Faso, mechanisms are in place for reporting, referring and protecting girls and women at risk of FGM. The police and justice sector are well trained, and the law on FGM has been systematically enforced. Between 2009 and 2015, a total of 384 people, including 31 cutters, have been prosecuted. Community patrols inform and educate people, and a free telephone line allows people to anonymously report planned or completed acts of FGM.

The Gambia

Legislation on female genital mutilation and its enforcement

Figure 1: Prevalence of female genital mutilation in the Gambia, 2005–2013



Ratification of international treaties

The Gambia has ratified all international and regional conventions on the rights of women and children condemning FGM:

- International Covenant on Civil and Political Rights, 1979
- International Covenant on Economic, Social and Cultural Rights, 1978
- Convention on the Elimination of All Forms of Discrimination Against Women, 1993
- African Charter on Human and Peoples’ Rights, 1983
- Convention on the Rights of the Child, 1990
- African Charter on the Rights and Welfare of the Child, 2000
- Maputo Protocol, 2005
- African Youth Charter, 2009



“A person who engages in female circumcision commits an offence and liable on conviction where female circumcision causes **death**, to life imprisonment”. (Article 32A)

“A person who knows that female circumcision is about to take place or has taken place, and fails, without good cause, to **warn or inform**, as the case may be, **the proper authorities promptly**, commits an offence and is liable on conviction to a fine of ten thousand Dalasis”. (Article 32B)

National law prohibiting female genital mutilation



FGM has been criminalized in the Gambia by the Women’s (Amendment) Act 2015 of 27 December 2015, with the insertion of Sections 32A and 32B. This law prohibits all types of FGM and is applicable nationwide, for FGM on both women and girls.

Penalties



Only the act itself is subjected to punishment, not the attempt to perform FGM. The failure to report FGM to the authorities is criminalized. The law does not specify whether the penalty is increased when FGM is carried out or facilitated by a medical or paramedical professional. The penalty is: 3 years’ imprisonment and/or a fine (50,000 Dalasis).

Consultative process



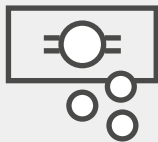
The Government consulted and involved all actors concerned (including young people, cutters, health personnel and religious leaders, civil society organizations and United Nations agencies) while drafting the law prohibiting FGM.

National coordination



The Government of the Gambia has adopted a national action plan on FGM for 2013–2017. The Ministry of Women’s Affairs and Women’s Bureau have the overall responsibility of all stakeholders, to coordinate and guide interventions towards ending FGM. Furthermore, national and regional steering committees on FGM have been established to provide additional guidance.

Budget line



The Gambia currently does not have a national budget line dedicated to the elimination of FGM.

Legal framework

Legal framework on female genital mutilation in The Gambia	Yes	No
Ratification of all international and regional human rights treaties	x	
Equality between men and women + non-discrimination enshrined in constitution	x	
Explicit law prohibiting FGM	x	
Law provides a definition of FGM		x
All types of FGM are prohibited	x	
Attempt to perform FGM prohibited		x
FGM is illegal among both minors and adult women	x	
Penalty increased when FGM leads to death of the victim	x	
Penalty increased when FGM leads to disability of the victim		x
Penalty increased when FGM is carried out by a (para)medical professional		x
Failure to report an incident of FGM to the authorities criminalized	x	
Extraterritorial clause		x

Law enforcement



2

Number of court cases since 2015

In the Gambia, mechanisms are in place for reporting, referring and protecting girls and women at risk of FGM. Since the adoption of the law in 2015, there have been two court cases in relation to FGM. In one case, a five-month-old baby died as a result of FGM in Sankandi Village (Kiang West). At the time of this analysis, both court cases were still pending.

Guinea

Legislation on female genital mutilation and its enforcement

Figure 1: Prevalence of female genital mutilation in Guinea, 1999–2012



Ratification of international treaties



Guinea has ratified all international and regional conventions on the rights of women and children condemning FGM:

- International Covenant on Civil and Political Rights, 1978
- International Covenant on Economic, Social and Cultural Rights, 1978
- Convention on the Elimination of All Forms of Discrimination Against Women, 1982
- African Charter on Human and Peoples' Rights, 1982
- Convention on the Rights of the Child, 1990
- African Charter on the Rights and Welfare of the Child, 1999
- Maputo Protocol, 2012
- African Youth Charter, 2011

“If the **death** of the child has followed, the perpetrator(s) will be punished with 5 to 20 years’ imprisonment”. (Article 409 of the Children’s Code)

“The maximum penalty is applied when female genital mutilation is practiced in a public or private health facility and favored by a person in the **paramedical or medical corps**, in particular doctors, nurses, midwives and technical health workers”. (Article 259 of the 2016 Penal Code)

National law prohibiting female genital mutilation



Three different laws in Guinea prohibit FGM:

- the Penal Code (1965, revised in 1998 and 2016)
- the Law on Reproductive Health (Law No. L/2000/010/AN) of 10 July 2000
- the Children’s Code (Law No. L/2008/011/AN) of 19 August 2008

Penalties



Only the act itself is subject to punishment, not the attempt to perform FGM. The failure to report FGM to the authorities is criminalized. The penalties are: 3 months to 2 years’ imprisonment (Child Code and the 2016 Penal Code) | fine of GNF 300,000–1,000,000 (Child Code) | fine of GNF 500,000–2,000,000 (2016 Penal Code)

Consultative process



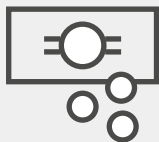
The Government consulted civil society and other stakeholders while drafting the laws prohibiting FGM.

National coordination



The Government of Guinea has adopted several policies in relation to FGM, including the National strategic plan to combat female genital mutilation 2001–2010 and the National strategic plan for the acceleration of the elimination of female genital mutilation 2012–2018. The Government also adopted a joint decision prohibiting FGM in public and private health-care facilities. The Ministry of Social Affairs and Promotion of Women and Children is responsible for implementing strategies on FGM in Guinea. To ensure implementation at the regional and local levels, committees have been established at the national, regional and prefectural level.

Budget line



The Government of Guinea has had a national budget line dedicated to the elimination of FGM since 2011.

Legal framework

Legal framework on female genital mutilation in Guinea	Yes	No
Ratification of all international and regional human rights treaties	x	
Equality between men and women + non-discrimination enshrined in constitution	x	
Explicit law prohibiting FGM	x	
Law provides a definition of FGM	x	
All types of FGM are prohibited	x	
Attempt to perform FGM prohibited		x
FGM is illegal among both minors and adult women	x	
Penalty increased when FGM leads to death of the victim	x	
Penalty increased when FGM leads to disability of the victim	x	
Penalty increased when FGM is carried out by a (para)medical professional	x	
Failure to report an incident of FGM to the authorities criminalized	x	
Extraterritorial clause		x

Law enforcement



29

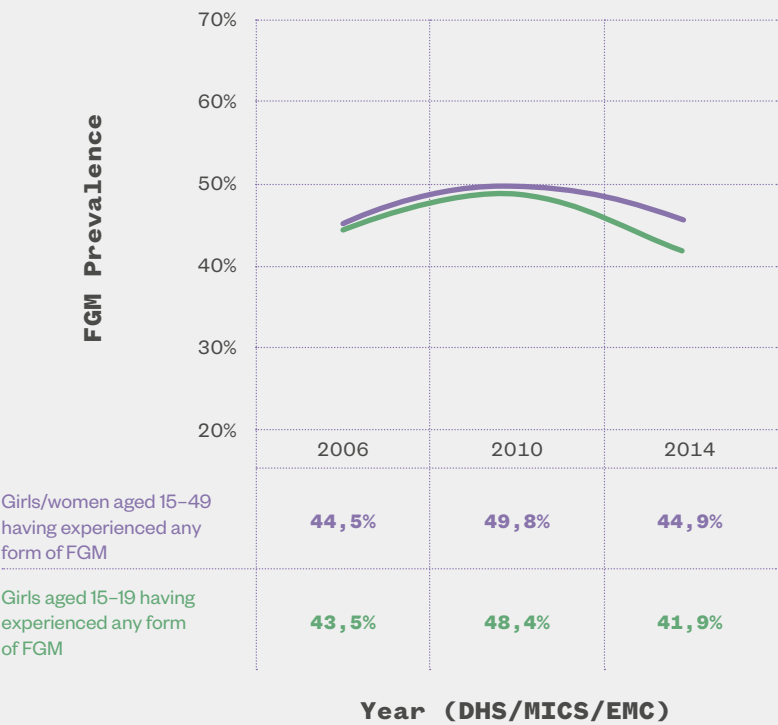
Number of court cases since 1965

In Guinea, mechanisms are in place for reporting, referring and protecting girls and women at risk of FGM. The first court case on FGM took place in 2012. There is a toll-free hotline for harmful practices (including FGM, forced marriage and gender-based violence) that operates 24 hours a day and allows people to anonymously report cases of FGM. In addition, NGOs and protection structures are established that help to alert cases to a police unit in the Ministry of Security and Civil Protection. Since 2012, 29 court cases have been reported in Guinea in relation to FGM, resulting in 10 convictions.

Guinea-Bissau

Legislation on female genital mutilation and its enforcement

Figure 1: Prevalence of female genital mutilation in Guinea-Bissau, 2006–2014



Ratification of international treaties



Guinea-Bissau has ratified all international and regional conventions on the rights of women and children condemning FGM:

- International Covenant on Civil and Political Rights, 2010
- International Covenant on Economic, Social and Cultural Rights, 1992
- Convention on the Elimination of All Forms of Discrimination Against Women, 1985
- African Charter on Human and Peoples’ Rights, 1985
- Convention on the Rights of the Child, 1990
- African Charter on the Rights and Welfare of the Child, 2008
- Maputo Protocol, 2008
- African Youth Charter, 2008

“If the acts referred to in sub 1 of this article result in the **death** of the victim, the penalty will be 4 to 10 years in prison”. (Article 6)

“Whoever, for any reason, performs female excision in one of its various forms (clitoridectomy, excision, incision, infibulation) with or without the consent of the victim, is punished with 2 to 6 years’ imprisonment”. (Article 4)

National law prohibiting female genital mutilation



FGM has been prohibited in Guinea-Bissau by Law No. 14/2011 of 5 July 2011. Articles 1–15 of this law to prevent, fight and suppress female genital mutilation prohibits all types of FGM and is applicable nationwide, for FGM on both women and girls.

Penalties



Only the act itself is subject to punishment, not the attempt to perform FGM. The failure to report FGM to the authorities is criminalized. The law does not specify whether the penalty is increased when FGM is carried out or promoted by a medical or paramedical professional. The penalty is: 2–6 years’ imprisonment.

Consultative process



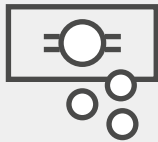
The Government consulted many stakeholders from different regions while drafting the law prohibiting FGM.

National coordination



The Government of Guinea-Bissau has adopted several policies in relation to FGM, including the National strategy and action plan for the abandonment of female genital mutilation/cutting 2010–2015 and the National policy for gender equality and equity 2012–2015. The Government of Guinea-Bissau has put in place an institutional mechanism for combating FGM. The National Committee for the Abandonment of Harmful Practices is the main coordinating body.

Budget line



Guinea-Bissau currently does not have a national budget line dedicated to the elimination of FGM.

Legal framework

Legal framework on female genital mutilation in Guinea-Bissau	Yes	No
Ratification of all international and regional human rights treaties	x	
Equality between men and women + non-discrimination enshrined in constitution	x	
Explicit law prohibiting FGM	x	
Law provides a definition of FGM	x	
All types of FGM are prohibited	x	
Attempt to perform FGM prohibited		x
FGM is illegal among both minors and adult women	x	
Penalty increased when FGM leads to death of the victim	x	
Penalty increased when FGM leads to disability of the victim	x	
Penalty increased when FGM is carried out by a (para)medical professional		x
Failure to report an incident of FGM to the authorities criminalized	x	
Extraterritorial clause	x	

Law enforcement



37

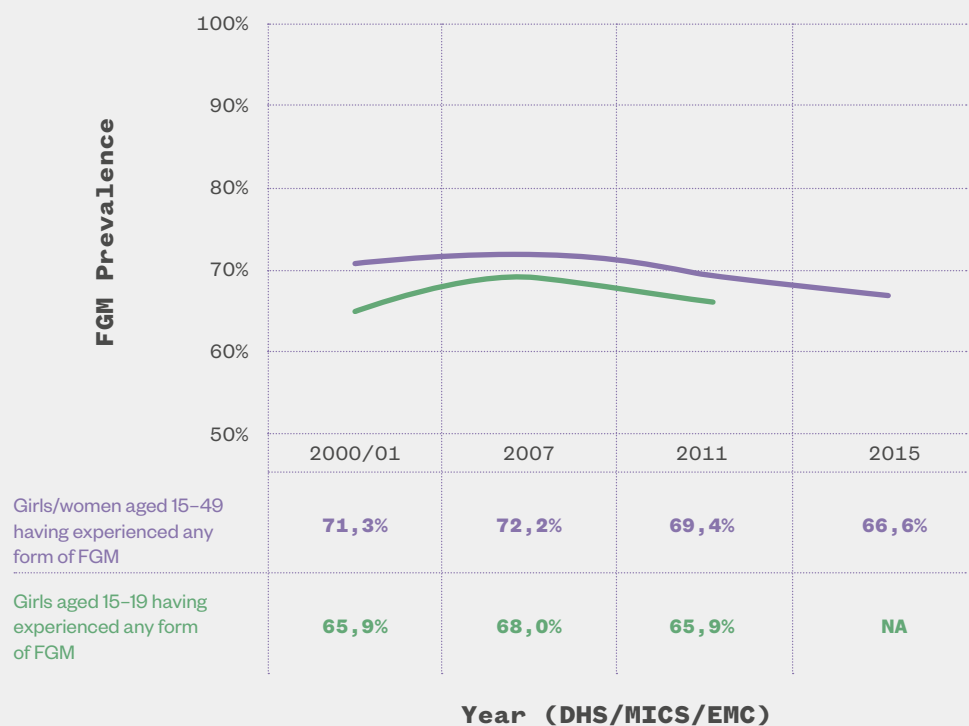
Number of court cases since 2011

In Guinea-Bissau, mechanisms are in place for reporting, referring and protecting girls and women at risk of FGM. Since the adoption of the law in 2011, there have been 37 court cases in Guinea-Bissau in relation to FGM, with 16 condemnations. In total, 13 people received reduced penalties (less than 2 years), due to mitigating circumstances. Three offenders received a prison sentence of 3 years. Cutters as well as accomplices have been prosecuted.

Mauritania

Legislation on female genital mutilation and its enforcement

Figure 1: Prevalence of female genital mutilation in Mauritania, 2000–2015



Ratification of international treaties



Mauritania has ratified all international and regional conventions on the rights of women and children condemning FGM:

- International Covenant on Civil and Political Rights, 2004
- International Covenant on Economic, Social and Cultural Rights, 2004
- Convention on the Elimination of All Forms of Discrimination Against Women, 2001
- African Charter on Human and Peoples’ Rights, 1986
- Convention on the Rights of the Child, 1991
- African Charter on the Rights and Welfare of the Child, 2005
- Maputo Protocol, 2005
- African Youth Charter, 2012

“The penalty is increased to four years’ imprisonment and a fine of 160,000 to 300,000 ouguiyas when the offender belongs to the **medical or paramedical profession**”. (Article 12)

National law prohibiting female genital mutilation



FGM has been prohibited in Mauritania by Order No. 2005-015 of 5 December 2005 on the Protection of the Child. This law prohibits all types of FGM on girls, and is applicable nationwide. Since this is a child protection law, FGM of adult women is not prohibited. The law is not a condemnation of the act itself, but only of the consequences. The penalty is only applicable if the act resulted in harm to the child.

Penalties



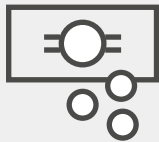
The act itself and the attempt to perform FGM are subject to punishment. The failure to report FGM to the authorities is not criminalized. The penalty is: 1–3 years’ imprisonment and/or a fine of 120,000–300,000 ouguiyas.

National coordination



The Government of Mauritania has adopted several policies in relation to FGM, including the National strategy to promote the abandonment of FGM (2007), the National action plan on FGM 2016–2019, the National strategy for the promotion of women and the National strategy on the institutionalization of gender and a national strategic plan for reproductive health 2016–2020. In 1997, the National Commission to Combat Practices Harmful to the Health of Women and Children was established, which was transformed in 2008 into a National Committee Against Gender-Based Violence, including FGM. The Ministry of Social Affairs, Children and the Family (MASEF) expanded its functions in 2007 to include gender-based violence, after it replaced the State Secretariat for the Status of Women, which had dealt with this issue since 1992. The MASEF coordinates all matters relating to women’s rights and is responsible for monitoring the implementation of the strategies on FGM. In 2007, regional and departmental committees against gender-based violence were established.

Budget line



The Government of Mauritania introduced a national budget line dedicated to the elimination of FGM in 2016.

Legal framework

Legal framework on female genital mutilation in Mauritania	Yes	No
Ratification of all international and regional human rights treaties	x	
Equality between men and women + non-discrimination enshrined in constitution	x	
Explicit law prohibiting FGM	x	
Law provides a definition of FGM	x	
All types of FGM are prohibited	x	
Attempt to perform FGM prohibited	x	
FGM is illegal among both minors and adult women		x
Penalty increased when FGM leads to death of the victim		x
Penalty increased when FGM leads to disability of the victim		x
Penalty increased when FGM is carried out by a (para)medical professional	x	
Failure to report an incident of FGM to the authorities criminalized		x
Extraterritorial clause		x

Law enforcement



0

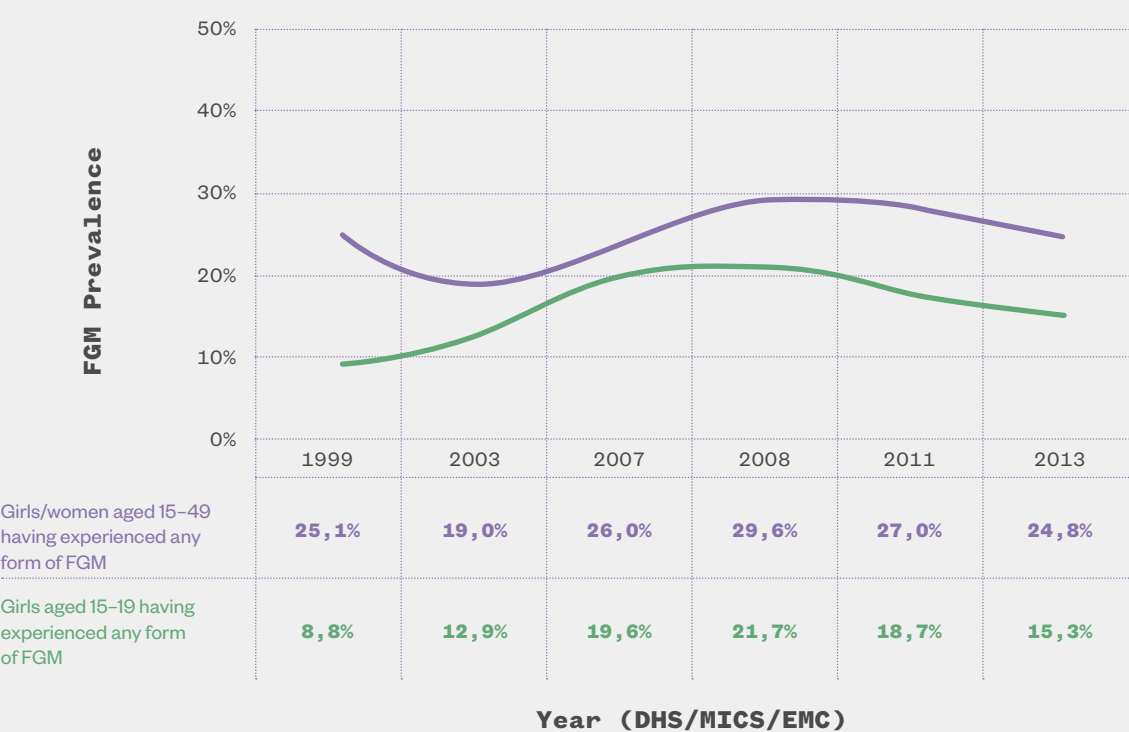
Number of court cases since 2005

In Mauritania, mechanisms are in place for reporting, referring and protecting girls and women at risk of FGM. However, since the adoption of the law in 2005, there have been no court cases in Mauritania. There has been an attempt to start a case in relation to FGM in 2016, when a girl in the Néma region died as a result of FGM. The parents and cutter were arrested, but they fled and could not be prosecuted.

Nigeria

Legislation on female genital mutilation and its enforcement

Figure 1: Prevalence of female genital mutilation in Nigeria, 1999–2013



Ratification of international treaties

Nigeria has ratified all international and regional conventions on the rights of women and children condemning FGM:

- International Covenant on Civil and Political Rights, 1993
- International Covenant on Economic, Social and Cultural Rights, 1993
- Convention on the Elimination of All Forms of Discrimination Against Women, 1985
- African Charter on Human and Peoples' Rights, 1983
- Convention on the Rights of the Child, 1991
- African Charter on the Rights and Welfare of the Child, 2001
- Maputo Protocol, 2004
- African Youth Charter, 2009



“A person who incites, aids, abets, or counsels another person to commit the offence provided for in subsection (2) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 2 years or to a fine not exceeding N100,000.00 or both”. (Article 6)

Law prohibiting female genital mutilation



FGM has been criminalized in Nigeria by the Violence Against Persons (Prohibition) (VAPP) Act of 5 May 2015. This law does not explicitly state which types of FGM are prohibited. This law is applicable to women and girls. The VAPP Act has been enacted at the national level, which means that the VAPP Act is not directly applicable in all 36 states; it only applies in the Federal Capital Territory, Ajuba. States are expected to formally adopt and adapt the VAPP Act as state laws. At the time of this analysis, 14 states have passed laws prohibiting FGM.

Penalties



The act itself and the attempt to perform FGM are subject to punishment. The failure to report FGM to the authorities is not criminalized. The law does not specify whether the penalty is increased when FGM is carried out or promoted by a medical or paramedical professional. The penalty is: up to 4 years' imprisonment and/or fine up to 200,000 Naira.

Consultative process



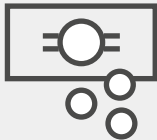
The Government consulted practising communities, and civil society and religious leaders while drafting the law prohibiting FGM, to ensure ownership and buy-in, and to reflect the perspectives of grass-roots organizations in the law.

National coordination



The Federal Government of Nigeria has adopted several policies in relation to FGM, including the National policy and plan of action on elimination of female genital mutilation (2002), the National policy on female genital mutilation (2005) and a National policy and plan of action for the elimination of female genital mutilation 2013–2017. To ensure implementation at the regional and local levels, committees were established, supervised by the Federal Ministry of Health.

Budget line



Nigeria currently does not have a national budget line dedicated to the elimination of FGM.

Legal framework

Legal framework on female genital mutilation in Nigeria	Yes	No	NA
Ratification of all international and regional human rights treaties	x		
Equality between men and women + non-discrimination enshrined in constitution	x		
Explicit law prohibiting FGM	x		
Law provides a definition of FGM	x		
All types of FGM are prohibited			x
Attempt to perform FGM prohibited	x		
FGM is illegal among both minors and adult women	x		
Penalty increased when FGM leads to death of the victim		x	
Penalty increased when FGM leads to disability of the victim		x	
Penalty increased when FGM is carried out by a (para)medical professional		x	
Failure to report an incident of FGM to the authorities criminalized		x	
Extraterritorial clause		x	

Law enforcement



0

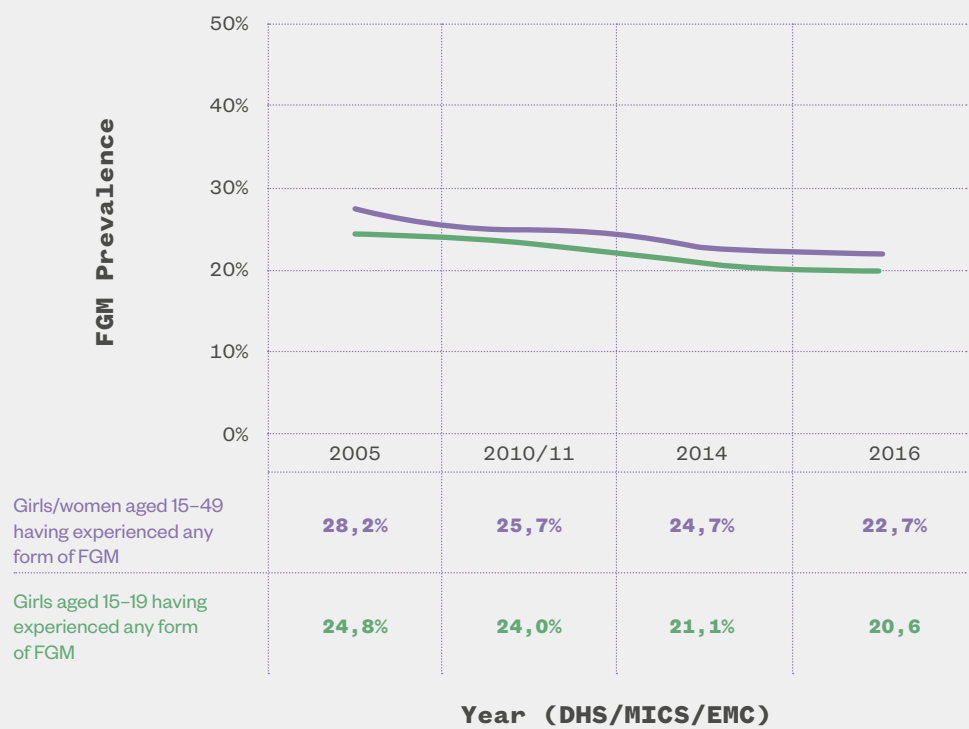
Number of court cases since 2015

Since the adoption of the law in 2015, there have been no court cases in Nigeria in relation to FGM.

Senegal

Legislation on female genital mutilation and its enforcement

Figure 1: Prevalence of female genital mutilation in Senegal, 2005–2016



Ratification of international treaties



Senegal has ratified all international and regional conventions on the rights of women and children condemning FGM:

- Convention on the Elimination of All Forms of Discrimination Against Women, 1985
- African Charter on Human and Peoples’ Rights, 1982
- Convention on the Rights of the Child, 1990
- African Charter on the Rights and Welfare of the Child, 2001
- Maputo Protocol, 2004
- African Youth Charter, 2009

“When the operation leads to **death**, the penalty will be hard work for life”.

(Article 299bis)

“The maximum penalty will be applied if the sexual mutilations are carried out or promoted by a person in the **medical or paramedical field**”. (Article 299bis)

National law prohibiting female genital mutilation



FGM has been criminalized in Senegal by Law No. 99-05 of 29 January 1999, which amended the Penal Code. This law prohibits all types of FGM on women and girls, and is applicable nationwide.

Penalties



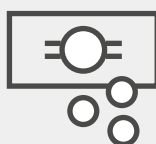
The act itself and the attempt to perform FGM are subject to punishment. The failure to report FGM to the authorities is not criminalized. The penalty is: 6 months to 5 years imprisonment.

National coordination



The Government of Senegal has adopted several policies in relation to FGM, including national action plans on FGM, the Medical argument about excision (2011) and the Islamic argument for the abandonment of excision in Senegal (2013). The Ministry of Women, Family and Children is responsible for coordinating, monitoring and evaluating the interventions for the abandonment of FGM in Senegal.

Budget line



The Government of Senegal has had a national budget line dedicated to the elimination of FGM, which falls under the Ministry of Family, Women and Children.

Legal framework

Legal framework on female genital mutilation in Senegal	Yes	No
Ratification of all international and regional human rights treaties	×	
Equality between men and women + non-discrimination enshrined in constitution	×	
Explicit law prohibiting FGM	×	
Law provides a definition of FGM	×	
All types of FGM are prohibited	×	
Attempt to perform FGM prohibited	×	
FGM is illegal among both minors and adult women	×	
Penalty increased when FGM leads to death of the victim	×	
Penalty increased when FGM leads to disability of the victim		×
Penalty increased when FGM is carried out by a (para)medical professional	×	
Failure to report an incident of FGM to the authorities criminalized		×
Extraterritorial clause		×

Law enforcement



8

Number of court cases since 1999

Between 1999 and 2010, there have been seven court cases in Senegal: one in Matam, one in Tambacounda and five in Kolda. Between 2011 and 2016, only one court case resulted in a sentence of 3–6 months' imprisonment.

Bibliography

Reports of UN Agencies

UNFPA

- United Nations Population Fund. Global Consultation on Female Genital Mutilation/Cutting. Technical Report. New York: UNFPA; 2009.
- United Nations Population Fund. Driving forces in outlawing the practice of female genital mutilation/cutting in Kenya, Uganda and Guinea-Bissau. New York: UNFPA; 2013.
- United Nations Population Fund. Implementation of the International and Regional Human Rights Framework in the elimination of female genital mutilation. New York: UNFPA; 2014.
- United Nations Population Fund. Lessons from the first cycle of the Universal Periodic Review: from commitment to action on sexual and reproductive health and rights. New York: UNFPA; 2014.
- United Nations Population Fund. Demographic perspectives on female genital mutilation. New York: UNFPA; 2015.

UNICEF

- United Nations Children's Fund. Legislative reform to support the abandonment of female genital mutilation/cutting. New York: UNICEF; 2010.
- United Nations Children's Fund. Female genital mutilation/cutting: a statistical overview and exploration of the dynamics of change. New York: UNICEF; 2013.
- United Nations Children's Fund. UNICEF's data work on FGM/C. New York: UNICEF; 2016, available at https://www.unicef.org/media/files/FGMC_2016_brochure_final_UNICEF_SPREAD.pdf.

UNFPA-UNICEF Joint Programme on FGM/C

- UNFPA-UNICEF Joint Programme on FGM/C: Accelerating Change. Burkina Faso has a strong law against FGM/C, but winning hearts and minds remains crucial. New York: UNFPA-UNICEF Joint Programme; 2009, available at <http://www.unfpa.org/sites/default/files/resource-pdf/burkinafaso.pdf>.
- UNFPA-UNICEF Joint Programme on FGM/C: Accelerating Change by the Numbers: 2016 Annual Report of the UNFPA-UNICEF Joint Programme on Female Genital Mutilation/Cutting: Accelerating Change. New York: UNFPA-UNICEF; 2016.
- Programme conjoint UNFPA-UNICEF sur les MGF/E: Accélérer le changement. Évaluation conjointe Burkina Faso (2008-2012). New York: UNFPA-UNICEF; 2013.

WHO

- World Health Organization. Female genital mutilation: a joint WHO/UNICEF/UNFPA statement. Geneva: WHO; 1997.
- World Health Organization. Eliminating female genital mutilation: an interagency statement. Geneva: WHO; 2008.
- World Health Organization. Female genital mutilation, fact sheet. Geneva: WHO; 2017, available at <http://www.who.int/mediacentre/factsheets/fs241/en/>

United Nations General Assembly

- United Nations General Assembly, Resolution 67/146 on Intensifying Global Efforts for the Elimination of Female Genital Mutilations, A/RES/67/146, 5 March 2013.
- United Nations General Assembly, Resolution 69/150 on Intensifying Global Efforts for the Elimination of Female Genital Mutilations, A/RES/69/150, 18 December 2014.
- United Nations General Assembly, Resolution 70/1 on Transforming our World: the 2030 Agenda for Sustainable Development, A/RES/70/1, 21 October 2015.
- United Nations General Assembly, Resolution 71/168 on Intensifying Global Efforts for the Elimination of Female Genital Mutilation, A/RES/71/168, 2 February 2017.

United Nations Human Rights Council

- United Nations Human Rights Council. Report of the Office of the United Nations High Commissioner for Human Rights, good practices and major challenges in preventing and eliminating female genital mutilation, A/HRC/29/20, 27 March 2015.
- United Nations Human Rights Council. Resolution 32/21 on the Elimination of Female Genital Mutilation, A/HRC/RES/32/21, 19 July 2016.

CEDAW Committee

- Committee on the Elimination of Discrimination against Women, General Recommendation No. 14: Female Circumcision, (A/45/38 and Corrigendum), 1990.
- Committee on the Elimination of Discrimination against Women, General Recommendation No. 19: Violence Against Women, adopted at the Eleventh Session, contained in document A/47/38, 1992.
- Committee on the Elimination of Discrimination Against Women. Sixth Periodic Report, Burkina Faso, CEDAW/C/BFA/6, 1 October 2009.

- Committee on the Elimination of Discrimination Against Women. Concluding observations Burkina Faso, CEDAW/C/BFA/CO/6, 5 November 2010.
- Committee on the Elimination of Discrimination Against Women, General Recommendation No. 28 on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination Against Women, CEDAW/C/GC/28, 16 December 2010.
- Committee on the Elimination of Discrimination Against Women. Concluding observations on the sixth periodic report of Sierra Leone, CEDAW/C/SLE/CO/6, 10 March 2014.
- Committee on the Elimination of Discrimination Against Women. Concluding observations on the combined second and third periodic reports of Mauritania, CEDAW/C/MRT/CO/2-3, 24 July 2014.
- Committee on the Elimination of Discrimination Against Women and the Committee on the Rights of the Child, Joint general Recommendation No. 31 of the Committee on the Elimination of Discrimination Against Women/General Comment No. 18 of the Committee on the Rights of the Child on Harmful Practices, CEDAW/C/GC/31-CRC/C/GC/18, 14 November 2014.
- Committee on the Elimination of Discrimination Against Women. Seventh Periodic Report, Burkina Faso, CEDAW/C/BFA/7, 27 May 2016.
- Committee on the Elimination of Discrimination Against Women. General Recommendation No. 35 on Gender-Based Violence Against Women, updating General Recommendation No. 19, CEDAW/C/GC/35, 26 July 2017.
- Committee on the Elimination of Discrimination Against Women. Concluding observations on the combined seventh and eighth periodic reports of Nigeria, CEDAW/C/NGA/CO/7-8, 24 July 2017.

Committee on the Rights of the Child

- Committee on the Rights of the Child. Concluding observations on the combined third and fourth periodic reports of Burkina Faso, CRC/C/BFA/CO/3-4, 9 February 2010.
- Committee on the Rights of the Child. Concluding observations on the combined third to fifth periodic reports of Sierra Leone, CRC/C/SLE/CO/3-5, 1 November 2016.

Human Rights Committee

- Human Rights Committee, Concluding Observations Mali, CCPR/CO/77/MLI, 16 April 2003.

- Human Rights Committee. Comments by the Government of Mali on the Concluding Observations, CCPR/CO/77/MLI/Add.1, 30 November 2007.
- Human Rights Committee. Concluding observations on the initial report of Sierra Leone, CCPR/C/SLE/CO/1, 17 April 2014.

Documents Burkina Faso

- Ministre de l'Action Sociale et de la Solidarité Nationale. Evaluation du plan d'actions national (2009–2013) de promotion de l'élimination des mutilations génitales féminines dans la perspective de la tolérance zéro. Ouagadougou: Ministre de l'Action Sociale et de la Solidarité Nationale; 2014.
- Ministre de l'Action Sociale et de la Solidarité Nationale. Plan stratégique national de promotion de l'élimination des mutilations génitales au Burkina Faso 2016–2020. Ouagadougou: Ministre de l'Action Sociale et de la Solidarité Nationale; 2015.

Other

- Chikhungu LC, Madise NJ. Trends and protective factors of female genital mutilation in Burkina Faso: 1999 to 2010, *International Journal for Equity in Health*. 2015;14(42).
- Chrisman B et al. The impact of legislation on the hazard of female genital mutilation/cutting: regression discontinuity evidence from Burkina Faso, abstract, Working Paper 432. Washington DC: Center for Global Development; 2016.
- Center for Reproductive Rights. Female genital mutilation, a matter of human rights: an advocate's guide to action. New York: Center for Reproductive Rights; 2006,
- Diop NJ et al. Analysis of the evolution of the practice of female genital mutilation/cutting in Burkina Faso. New York: Population Council; 2008.
- Middelburg MJ. Empty promises? Compliance with the Human Rights Framework in relation to female genital mutilation/cutting in Senegal, PhD dissertation. Tilburg University, the Netherlands; 2016.
- Shell-Duncan B. From Health to Human Rights: Female Genital Cutting and the Politics of Intervention, *American Anthropologist*. 2008;110(2).
- Shell-Duncan B et al. Legislating Change? Responses to Criminalizing Female Genital Cutting in Senegal, *Law and Society Review*. 2013; 47(4).
- UNESCO. Adult literacy rate, population 15+ years (both sexes, female, male). Paris: UIS Data Centre, UNESCO; 2015.
- Yoder PS, Khan S. Number of women circumcised in Africa: the production of a total, DHS Working Papers, No. 39. Calverton: USAID; 2008.

Websites

- 28 Too Many. Country Profiles, available at <http://28toomany.org/fgm-research/country-profiles/>
- Future Policy, Winner Silver Award. Burkina Faso's law prohibiting FGM, 2014, available at http://www.futurepolicy.org/wp-content/uploads/2015/06/fpa2014brochure_en_2nd_ed-1.pdf.
- United Nations News Centre. Ban welcomes UN General Assembly resolutions eliminating female genital mutilation, 21 December 2012, available at <http://www.un.org/apps/news/story.asp?NewsID=43839#.VfKMu2TtIHw>.
- United Nations Children's Fund, Female Genital Mutilation/Cutting Country Profiles, available at <http://data.unicef.org/resources/female-genital-mutilation-cutting-country-profiles/>.
- Website Sustainable Development Knowledge Platform, Sustainable Development Goal 5, Targets, available at <https://sustainabledevelopment.un.org/sdg5>.
- Website of the Constitute Project, available at <https://www.constituteproject.org/search?lang=en>.



United Nations Population Fund

**United Nations Population Fund
Regional Office for West and Central Africa**

Route du King Fahd Palace,
Almadies – PO Box 21090 Dakar

www.unfpa.org
wcaro.unfpa.org
@UNFPA_WCARO

