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“Torture is not culture”
Exploring different aspects of Female
Genital Mutilations

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ABSTRACT

Il presente lavoro è stato svolto nell'attenzione verso i Diritti Umani e soprattutto nella considerazione dei Diritti delle Donne. Le pratiche tradizionali di Mutilazioni Genitali Femminili (MGF), presenti tuttora nel mondo internazionale, sono un argomento di difficile approccio e soprattutto un ambito in cui ogni considerazione personale deve essere misurata e ponderata, dal momento che sono imbevute della cultura di alcuni Stati.

La tesi presentata cerca di esaminare le MGF sotto differenti aspetti, in modo tale da descriverne le origini, le caratteristiche e spiegarne le conseguenze. Delicato deve essere l'approccio con l'argomento come motivate devono essere le considerazioni a riguardo.

Una documentazione sull'aspetto medico è presentata per mettere il lettore al corrente di quale sia esattamente l'essenza del rituale, non dimenticando di descriverne la procedura tradizionale utilizzata dalle comunità che la propongono tuttora.

Una indagine sulle considerazioni del mondo femminista è stata svolta in maniera da coinvolgere differenti punti di vista e da raccogliere le varie posizioni a riguardo, ma purtroppo ancora molto poco è stato scritto su una pratica che risale a migliaia di anni fa e che pervade le vite di molte giovani donne ancora oggi.

Infine, il lavoro si concentra sulle Comunità Internazionali che hanno vietato le MGF, stabilendo che si tratti di un atto di tortura e criminalizzandolo a livello internazionale. Si esaminano i traguardi raggiunti grazie alla cooperazione degli stati e i valori che cercano di portare all'interno dei governi di tutto il mondo.

Nella sezione finale infatti è possibile consultare tutte le legislazioni che vietano le MGF all'interno degli stati in cui è tuttora presente.

*Alla mia famiglia,
che amo e stimo più di ogni altra cosa al mondo.*

Elles sont venue, les femmes, avec un grand couteau.

Elle a bien crue qu'elle allai y laisser sa peau

Et puis ce matin, il a fallu qu'elles entrent,

Couper une fleur cachée sous son ventre.

Non a l'excision, Je dis non a l'excision.

Ne les touchez plus, elles ont assez souffert

Un homme essuie son ventre, son corps ne repond même pas

Elle voulais bien qu'il entre mais elle ne le sens même

Il est juste la, juste la pour semer sa graine

Mais ce champ qu'il labour est une bien triste plaine

Non a l'excision, Je dis non a l'excision.

Ne les touchez plus, elles ont assez souffert

Non a l'excision, Je dis non a l'excision.

Ne les touchez plus, elles ont assez souffert

*On lui a coupé la peau, peut être qu'ils la vendent
Comme un morceau de viande, un si petit morceau.
On lui a coupé la peau, juste un bout de son corps.
Ils ont pris dans son île, le plus beau des trésors*

Non à l'excision, Je dis non à l'excision.

Ne les touchez plus, elles ont assez souffert

Non à l'excision, Je dis non non non à l'excision.

Ne les touchez plus, elles ont assez souffert

Non à l'excision, non à l'excision.

Ne les touchez plus, elles ont assez souffert

Non à l'excision, Tiken Jah Fakoly, L'Africain, 2014.

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INTRODUCTION

“The expression “Torture is not culture” tells us quite clearly that we cannot accept ritualized violence as an intrinsic part of any culture, or for that matter any sort of violence against women”¹.

Culture goes far beyond torture. Culture is what makes of inhabitants a Nation. It has to preserve usage and customs that characterize a society. But above all is about the essence itself of a population.

The ambiguity of the matter resides in what is right or wrong in a barbaric custom which has been perpetrated for centuries; the affirmation of the practice of Female Genital Mutilation has been confirmed by ancestors along the past and the present and it is not a simple matter to solve in the next future.

FGM refers to a number of cultural practices that feature the partial or total removal of female genital parts. This practice is so rooted into the culture of the populations that perpetuate this ritual, that when it is carried out, the girls and their families acquire social status and respect. Failure to perform FGM brings shame and exclusion from the rest of the community. In fact, in the past, members of ancient civilizations believed that this practice was the only way to preserve woman’s virginity and her conjugal fidelity. Now the result of lengthy studies brings to light a deep question to solve: how to explain to tribe members that this is not the only way to achieve their goal.

Tribe members believe they have the right to carry out such a procedure, which is considered necessary in order to make a woman worth of the family. These individuals believe to be doing the right thing for those

¹ A. Walker, P. Parmar, *Warrior Marks: Female Genital Mutilation and the Sexual Blinding of Women*, Harcourt Brace, USA, 1996, pg. 95.

women and their daughters in order to see them married, but all these misconceptions must come to an end.

What it is difficult here is to explain what are the risks and the outcomes of being part of such tradition. We will analyze the issue to demonstrate that there are no benefits deriving from FGM.

In fact, as it has been demonstrated in this work, many are the consequences, both physical and psychological, deriving from the practice, but the tradition is so deeply rooted in the mentality of who protracts it, that women in those tribes are convinced that all their problems are attributable just to the fact of being women.

The conditions in which the FGM are performed are terrifying, and the little girls are mutilated in rooms, cowsheds or huts kept in unsanitary conditions, where water supply is absent. As an aggravator, the tools utilized for the procedure are old and rusty, and they include knives, scissors and sometimes pieces of glass. In this frightful perspective, an additional information is to be known: the above tools are not sterilised, so the same object is used multiple times on different girls, making this tradition a horrific mean for the spread of infectious diseases.

The analysis that has been accomplished tries to compare different aspects of the ritual in order to explain what are the beliefs and values of those people who are convinced that genital mutilations are necessary for the life of the women in their communities. Starting with the religion, which demands this sacrifice, and continuing with their theories about marriage and virginity, those women who live in this tribes are forced into believing that the cut is necessary in order to be accepted in the community.

In recent years, diverse feminist theories have been developed around this issue, but literature on the argument is still scarce. Recognising many of those feminists as also activists struggling against the ritual, their works aim to make people aware of this issue, as it is a non-well known matter. Due to the fact that the FGM is considered a taboo in those communities, it is also

difficult to hear about it because it is a delicate and difficult purpose of discussion.

Including all the studies about gender affirmation and gender discrimination, feminists have exposed their ideas on the traditional ritual and its origins, and the development of their works has been sometimes transformed in an active struggle against FGM.

Only lately, after a long period of struggle, people of the tribes, especially women, are starting to change their mind. Thanks to several organizations that have been created with the aim to inform and bring awareness on this issue, we are starting to see a small light at the end of the tunnel. In fact, some countries of Africa, fortunately, women's movements are starting to stand up and to denounce this violation of women's rights, condemning the practice in front of their Nation.

The purpose of this work is to present the achievements of the International Organisations and their work towards the global elimination of FGM. Moreover, some judgements of the European Court of Human Rights have been presented in order to demonstrate the procedure for subjects who request asylum in a host country to avoid FGM at home.

Furthermore, National Courts' judgements are recounted in order to demonstrate the application of the law for those states which issued a specific criminal provision regarding FGM.

In fact, the International Community is working hard in order to criminalize the practice worldwide, and their efforts have paid off, as nowadays FGM practises are banned in most of the EU countries. Insisting on the fact that people should be informed about it, and that data about the ritual should be communicated to other countries in order to cooperate, raising-awareness campaigns are on the way. In fact, given that the UN system is based on cooperation between governments and their approved decisions, "consequently (the) implementation of these decisions depends on

governments' commitment to realize them in practical terms at home"². So, a great deal of effort is demanded to countries in order to eliminate the illegal practice as soon as possible. And this could be achieved only if every nation is called to participate to fight this battle.

In 2012 at last the ritual of Female Genital Mutilation has been banned internationally, and it has been recognised as a violation of the fundamental rights of the person, and as an act of torture. This is the result of years of hard work in which the GOs and NGOs have been collaborating in order to ensure a better future for young girls and women.

Moreover, in the final section of this research it is possible to find the 29 countries where FGM is still performed and the legislations criminalizing it.

This is a journey inside the ancient tradition of Female Genital Mutilation and the way toward its elimination; the present realizations have been presented in order to achieve a better developing world aiming to eliminate the worthless violence against women and girls of the world.

² H. Pietila, *The Unfinished Story of Women and the United Nations*, NGLS Development Dossier, 2007, pg. 119.

CHAPTER 1

ORIGINS AND HISTORY

“This is one of the customs most zealously pursued by them [the Egyptians]: to raise every child that is born and to circumcise [*peritemnein*] the males and excise [*ektemnein*] the females...”³

1.1 Origins

The practice of female genital circumcision dates back to antiquity and, in spite of many studies have been done about it, its origins are still obscure.

During the 20th century, historians and archaeologists have examined hundreds of mummies, but no evidence of FGM has been found as a result of their research. A famous historian, Mary Knight, wrote about a similarity to Type 3 of circumcision (see Chapter 2.1) found in the genital area of some mummies, but it is difficult to establish whether they had been infibulated or not because of the conditions of the skin and the process of mummification itself.

Historians have focused in particular on the analysis of ancient texts, where practises that recall FGM are mentioned. In particular an inscription on an Egyptian sarcophagus dated 1991-1786 BCE, written in hieroglyphs, which may be referred to an uncircumcised girl; another example on a Greek papyrus held by the British Museum, where it is spoken about an Egyptian girl expected to be circumcised.

³ Strabo, *Geographica*, 25 BCE. Available at the website: https://en.wikipedia.org/wiki/Female_genital_mutilation - Antiquity.

In the 5th century B.C. Herodotus wrote about female circumcision in ancient Egypt, explaining its origins among Hittites, Phoenicians and Ethiopians. The Greek geographer Strabo reported that this custom "was first performed on women of high caste and seems to have been an essential premarital rite".⁴

Many other Greek philosophers and physicians between 25 BCE and 150 CE made reference to the Egyptian custom to "circumcise the marriageable youth and maid in the fourteenth (year) of their age" or to "raise every child that is born and circumcise the male and excise the females".⁵

Some evidence has been found also in early Romans and Arabs civilizations. The ancient infibulation had something to do with two opposite points of view: on the one hand a partial mutilation, clitoridectomy, was restricted to people belonging to high social rank, on the other, infibulation appears to "have been reserved for slave girls, who were transported from Sudan and Nubia, (...) to prevent their getting pregnant. An infibulated virgin fetched a far higher price on the slave market"⁶.

Years of researches about the later interpretation of the rite demonstrated that the ancient conception of the circumcision changed through the ages. In ancient Egypt it was a common belief that two "souls" were inborn in every person, the masculine and the feminine; the latter was located in the prepuce, while masculine soul was located in the clitoris. They claimed consequently that the girl, to be capable of sexual life and fully live as a woman, had to be circumcised to extirpate all the masculine essence that was present

⁴ H. Lightfoot-Klein, *Prisoners of Ritual, An Odyssey into Female Genital Circumcision in Africa*, cit., pg. 27.

⁵ *Female Genital Mutilation*, Wikipedia, the free encyclopedia, notes 143-144. Available at: https://en.wikipedia.org/wiki/Female_genital_mutilation

⁶ H. Lightfoot-Klein, *Prisoners of Ritual, An Odyssey into Female Genital Circumcision in Africa*, cit., pg. 28.

in her body. Afterwards, it has been theorized that excision was performed to reduce woman's sexual desire, and with the removal of the clitoris, their sexual freedom could be curbed, changing the essence of woman from common to private property, a property of their husbands.

1.2 Terminology

The term “Female Genital Mutilation (FGM)” first appeared in the Eighties, widely known as “female circumcision” until this moment. It was in 1929 that the Kenya Missionary Council started to refer to the practice as “sexual mutilation of women”.

In the different countries where it is practiced, FGM is known with specific local terms, all of them referring to "purification". For example, the Bambara language of Mali speaks about “bolokoli = washing your hands”, for the Igbo language of Nigeria is known as “isa aru or iwu aru = having your bath”.

We are talking about “sunna = path” in Arabic, when we are in front of clitoridectomy and it is thought to be strictly connected with Muhammad's tradition, even if it's not required by Islam.⁷

The term infibulation (Type 3 – see Chapter 2.1) derives from the latin word fibula, which means:

-fibula,-ae:

- a. A pin used to draw the edges of a wound together;
- b. A pin worn through the prepuce to prevent sexual intercourse;

⁷ *Female Genital Mutilation*, Wikipedia, the free encyclopedia, cit.

-fibulatio,-onis: fastening with a bolt or pin.⁸

These terms were used by Ancient Romans to refer to fastened clasps that slaves had through the labia or foreskins, in order to avoid sexual intercourse. Regarding to the term “pharaonic circumcision”, we came to know that it was born in Sudan, where it was used to speak about the surgical infibulation of women, even if in Egypt is known as Sudanese circumcision; In Somalia, the term “qobod” is the word to say “to sew up”.

Concerning the Greek terminology, we found the terms:

-περιτέμνω (Males): a.Taglio intorno; b.Taglio, amputo;	-έκτέμνω (Females): a.Tolgo via tagliando; b.Mutilo, castro. ⁹
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As we said before, the origins of this practice are very ancient and obscure. Researchers are still trying to find more testimonies to justify the origins of the practice we deal with nowadays.

1.3 Religion

Religion plays a fundamental role in the context of FGM. “In most African countries the practice of Female Circumcision is noticeable

⁸ *Fibula, -ae/ Fibulatio, -onis*, Oxford Latin Dictionary, Oxford University Press, 2nd Edition, April, 1, 2012.

⁹ *περιτέμνω/ έκτέμνω*, Vocabolario Greco-Italiano, Lorenzo Rocci, Società Editrice Dante Alighieri, 39th Edition, November, 19, 2009.

in Muslim communities. Does it have something to do with religion? The answer is no. However, there has been a tremendous influence of Arabic tradition on some practices so that at times Arabic culture is confused with Islamic principles"¹⁰. In fact, the practice of FGM has spread into indigenously populated areas which became progressively Arabized. For example, in Sudan "as unschooled people who erroneously believe female circumcision to be part of their religion spread into these indigenous areas, they bring with them their customs which are eventually adopted by the less socially and economically advantaged indigenous population in order to make their daughters more marriageable".¹¹

Furthermore, the conception of this practice is said to be demanded by the Prophet in the Koran and it is very worrisome, because the religion could be used by the communities to justify the rite.

Another alarming thing is that also religious scholars, who are supposed to be very educated about the Holy Text, are considering Female Genital Mutilations as obligatory for the life of a woman.

There are some of them who clearly say that FGM is not a religious precept, if you ask them, but the majority of the holy order of those communities is convinced that mutilations are necessary for several reasons, such as pureness, fidelity to the partner, and womanhood.

What it is to mention here is that "there can be no true religion that aims at disease, mutilation of the bodies of female children, and amputation of an essential part of their reproductive organs. If religion comes from God, how can it order man to cut off an organ created by Him as long as that organ is not diseased or deformed?"¹². From this passage, we can understand that as a

¹⁰ S. Salami-Boukari, *African Literature: Gender Discourse, Religious Values, and the African Worldview*, Lagos, NGA: African Heritage Press, 2013. ProQuest ebrary.

¹¹ H. Lightfoot-Klein, *Prisoners of Ritual, An Odyssey into Female Genital Circumcision in Africa*, cit., pg. 48.

¹² H. Lightfoot-Klein, *Prisoners of Ritual, An Odyssey into Female Genital Circumcision in Africa*, cit., pg.169.

religion, Islam does not support female mutilation or induce its believers to commit female genital mutilation; as a religion, it aims for the highest good for its believers. The problem with Islam is the wrong interpretation of the Text and the ancient conception of to be acting according to the religion, but it is an idea that has to be destroyed, in order to eliminate FGM and the strong beliefs in the practice.

Those who think that to be clean they must be circumcised are totally wrong, because to be spiritually clean the believers, from an Islamic point of view, have to keep 5 daily prayers, to keep their proper ablution, to keep a clean mind and to do a good work. "Cleanliness doesn't mean being operated on, as in female circumcision".¹³

For this purpose, it can be read in "The struggle to end the practice of Female Genital Mutilation: changing a social system into a Divine Law" of 2010 a interesting excerpt that comprehend what follows: "Female and male genital mutilation (FGM and MGM) are not characteristic of any society or any religion or any country, or race or colour, or ethnic group. Like the oppression of women and poor classes, they constitute an integral part of the political, economic social, cultural, and religious systems preponderant in most of the world – west and east, north and south, Jewish, Christian, Islamic, Hindu, and others. FGM and MGM were born of development in history that led one class to rule over another and men to dominate women in the state and in the family unit, which together constitute the core of the patriarchal class relations"¹⁴.

Having considered that religion, in some countries, plays a fundamental role in the perpetuation of the practice of Female

¹³ A. Walker, *Warrior Marks*, cit., pg. 325.

¹⁴ N. El Saadawi, *The struggle to end the practice of Female Genital Mutilation: changing a social system into a Divine Law*, in *African Women Writing Resistance: Contemporary Voices*, University of Wisconsin Press, Madison, Wisconsin, 2010, pg. 192.

Genital Mutilation, have been also demonstrated that it is not demanded by any sort of doctrine; in recent years have been issued some papers in which are indicated programs of action in order to explain that any religions have nothing to do with such harmful practices.

To underline this concept, the CoE issued the “White Paper on Intercultural Dialogue – “Living together as Equals in Dignity” in 2008, in which it is specified that religious faith must not compromise the integrity and the freedom of the individuals. The “Volga Declaration” of 2006 and the “San Marino Declaration” of 2007 introduced the necessity to enter “an open, transparent and regular dialogue with religious organizations while recognizing that this must be underpinned by universal values and principles.”¹⁵

Finally, the 8th of April, 2008, it has been called by the Council of Europe an intercultural dialogue, intended necessary to the obtainment of the goal: there must be a dialogue between public authorities and religious communities, underlining the fact that those institutions must insist also on an interreligious communication. They organized a dialogue with the theme: “Teaching religious and convictional facts. A tool for acquiring knowledge about religions and beliefs in education; a contribution to education for democratic citizenship, human rights and intercultural dialogue¹⁶.” It is evident that religious orders, which played a fundamental role throughout history, are invited to share common values and fight for the elimination of injustices and inequalities in a intercultural dimension.

¹⁵ CoE, *White Paper on Intercultural Dialogue – “Living together as Equals in Dignity”*, Strasbourg, 2008, pg. 23.

¹⁶ *Ibidem*.

CHAPTER 2

MEDICAL ASPECT

“Female Genital Mutilation (FGM), also termed Female Circumcision (FC) and Female Genital Cutting (FGC), is a traditional social practice of cutting parts of the external genitalia of girls or young women to uphold a cultural practice of a rite of passage to womanhood and to curb sexuality”.¹⁷

In other word it means that little and defenceless girls are exposed to a barbaric rite in such a tender age that will influence the rest of their life. What happens essentially is that the girl is forced to stay in a room with people halting her limbs, while the old midwife prays the Gods and blesses the tools, then she cuts the child’s genitalia without anaesthesia. The girl is not allowed to move, to scream, to talk about it. This is just the price to pay to be a woman.

2.1 Basic informations

The classification of Female genital mutilations has been elaborated by the WHO in 1996 and updated in 2007, which indicates a classification of four types of mutilations, including some modifications from the most common type.

¹⁷ N. F. Toubia, E. H. Sharief, *Female genital mutilation: have we made progress?*, International Journal of Gynecology and Obstetrics 82 (2003), pp. 251-261.

The classification is the following:

- ✚ Type 1: Partial or total removal of the clitoris and/or the prepuce (clitoridectomy).

When it is important to distinguish between the major variations of Type 1 mutilation, the following subdivisions are proposed:

Type 1a: removal of the clitoral hood or prepuce only;

Type 1b: removal of the clitoris with the prepuce.

- ✚ Type 2: Partial or total removal of the clitoris and the labia minora, with or without excision of the labia majora (excision).

When it is important to distinguish between the major variations that have been documented, the following subdivisions are proposed:

Type 2a: removal of the labia minora only;

Type 2b: partial or total removal of the clitoris and the labia minora;

Type 2c: partial or total removal of the clitoris, the labia minora and the labia majora.

Note also that, in French, the term “excision” is often used as a general term covering all types of female genital mutilation.

- ✚ Type 3: Narrowing of the vaginal orifice with creation of a covering seal by cutting and appositioning the labia minora and/or the labia majora, with or without excision of the clitoris (infibulation).

Type 3a: removal and apposition of the labia minora;

Type 3b: removal or apposition of the labia majora;

- ✚ Type 4: All other harmful procedures to the female genitalia for non-medical purposes, for example: pricking, piercing, incising, scraping and cauterization.¹⁸

¹⁸ OHCHR, UNAIDS, UNDP, UNECA, UNESCO, UNFPA, UNHCR, UNICEF, UNIFEM, WHO, *Eliminating Female Genital Mutilation, An interagency statement*, 2008.

2.2 Physical and psychological consequences

Female genital mutilation has no known health benefits. For this reason there are different complications depending on different factors.

First, hygienic and socio-economic conditions could impact on the sanitary consequences of the mutilation: performing the practice in rural and less developed countries could be more dangerous for the child than performing it in urban and more developed areas. Since the United Nations High Commission for Refugees promised protection and basic medical care, refugee camps represent the first choice to escape from the ritual. However, paradoxically, the situation can get worse in these camps:

Refugees may actually have higher mortality in camps than in their home country. Major causes of mortality in refugee camps include diarrheal diseases, measles, acute respiratory tract infections, tuberculosis and malaria. Mandated medical screening of refugees before arrival (...) identifies those with "inadmissible conditions", including active infections such as tuberculosis, leprosy and HIV infections.¹⁹

Second, the health of the girl depends also on her pre-existing conditions: if the baby was born with diseases or suffering malnutrition it could be more difficult for the body to heal and recover after the circumcision.

Third, the modalities of execution have a huge impact on how the girl will recover from the mutilation: the traditional practitioner may have the experience but definitely not the competence of a medical professional. The tools utilized are likely to be non-sterilized and

¹⁹ K. M. Adams, L. D. Gardiner, N. Assefi, *Healthcare challenges from the developing world: post-immigration refugee medicine*, Clinical Review, British Medical Journal, 26 June 2004, vol. 238.

contaminated with disease, while surgical single-use tool can help to prevent at least venereal diseases. Also, the hygienic conditions can vary the effects of the practice: the presence of antibiotics and medications is not taken for granted, nor is the availability of water. Forth, the type of mutilation deeply affects the sanitary consequences for the baby or the girl. Scars and wounds depend on the Type, and those factors influence the conditions of the child while she grows up.

Furthermore, there are several psychological and physical complications due to the practice. "Some mutilated women may suffer from medical and/or psychological complications without considering them to be related to FGM/C but rather as the normal condition of being a woman".²⁰

What a doctor is presented with a patient victim of genitalia mutilation, he/she should approach the patient carefully, not judging her cultural background and trying to explain what to do and how to manage a possible surgical intervention.

When considering the health implication on women as a consequence of mutilation practises, it becomes obvious that this brutality cannot be allowed just because it is tradition. People cannot be insensitive to the results of such a brutal practice: extreme pain, urinary burning and retention, hemorrhage, anemia; the immediate consequences of cutting are septic shock, bleeding, urinary tract infections and tetanus, as well as infectious diseases such as HIV or hepatitis due to the use of non-sterilized at every instruments.

These diseases are just the beginning: in the course of time there are several complications for the girls, but the majority of them think these are just the consequences of being a woman.

²⁰ J. Abdulcadir, C. Margairaz, M. Boulvain, O. Irion, *Care of women with female genital mutilation/cutting*, Swiss Medical Weekly, 2011; 140: w13137

In some Western countries there are women, who experienced one of the four Types explained before, who sometimes consult a specialist; they are forced to do it because, with time, consequences of FGM got worse. The level of sanitary complications depends on the Type of mutilation.

For example, if “the vaginal opening of a virgin infibulated (Type 4) woman is too narrow, the blood can stagnate in the vagina or in the uterus”²¹ causing different complications together with chronic pelvic infections and vaginitis.

The problem is that the consequences of infibulation are devastating. Is to be considered that the only opening of the vagina is a small and narrow orifice from which both blood and urine have to flow: this situation can generate the stagnation of the liquids, together with the formation of small stones behind the scar, and cysts or abscess when they reach considerable dimensions.

Besides, it is important to not forget that the woman will also be forced to have multiple sexual intercoursés with the new husband. Complications can affect also the fetus and its health, while the mother is more likely to face an experiment emergency caesarean section compared to women without mutilation.

Furthermore, it is known that Africa is a various and heterogeneous continent. In some places the ritual does not stop with the infibulation, but it is performed again after the pregnancy. In fact after the delivery she will be sewn up again.

“In some countries, such as Sudan and Somalia, re-infibulation (re-stitching of the scar of the infibulation previously opened to allow the delivery) may be performed after the delivery”.²²

And what about psychological complications? Some African women consider mutilation positively because in their tradition is seen as

²¹ J. Abdulcadir, C. Margairaz, M. Boulvain, O. Irion, *Care of women with female genital mutilation/cutting*, cit.

²² *Ibidem*.

normal and, as we said before, they think that every woman all around the world respects this practice.

In a socio-cultural context the circumcision reflects the woman's degree of awareness, carrying for her several values such as pride, beauty, cleanliness, faithfulness to the husband, respect for tradition. Furthermore, "young or adult women who underwent FGM/C and then moved to Western countries where they grew up or have lived, can experience psychological consequences after being confronted with cultural differences between their country of origin and their host country. Realizing that FGM/C is not a universal tradition, that it is sometimes viewed extremely negatively, and that they are considered to be mutilated can be a shock"²³.

Being circumcised is concerned with the identity of the woman in the community in which she lives and to refuse the practice would mean to show a deep lack of integrity. It is all about being loyal to the culture of their village. At the same time, discovering that this tradition is not usual in some other countries, women who went through an experience may have different feelings. Sense of betrayal and humiliation, shame and powerlessness are the most common, and for the majority of the woman there are further more psychological consequences. It is like a "mental mutilation" regarding their sexuality, because women feel fear and frustration when they are about to have an intercourse. They think they have been greatly robbed.

"I could not love him (her husband, NDR); I could not love any man; I hated marriage! The little pleasure is not worth all that pain".²⁴

²³ J. Abdulcadir, C. Margairaz, M. Boulvain, O. Irion, *Care of women with female genital mutilation/cutting*, cit.

²⁴ H. Lightfoot-Klein, *Prisoners of Ritual, An Odyssey into Female Genital Circumcision in Africa*, Harrington Park Press, New York/London, 1989, pg. 251

2.3 Defibulation

FGM practices can also cause sexual dysfunction, with different implications depending on the patient, and when these cases are presented, the patient must receive appropriate sexual therapy, in presence of the partner, if possible. Specialists when confronted with an infibulations case, defibulation may be recommended, which technically is a very simple procedure, but patients may be suspicious and distressed; special care has to be used, because the first feeling of the patient is the auto-exclusion from her own country. Techniques of defibulation can vary depending on the country and the medical personnel, but “the commonest and simplest way is surgery with scissors or scalpel, everything performed with local or general anaesthesia. If tissues and genitalia are not compromised with further complications, this way of act is the best; otherwise, in the presence of retention cysts or in “the absence of tissue to rebuild the labia” , doctors can choose laser surgery”.²⁵

A further complication can depend on the consensus of the husband, who could refuse to allow the defibulation in order to avoid the indignation or the disdain of their family and community. For this reason only a few women ask for it, and in the case of positive response by the husband, all the things are to be taken in absolute secret to avoid that the shame fell back against the man.

2.4 The challenge of refugee camps

As we said before, conditions in refugee camps may be worse than

²⁵ J. Abdulcadir, C. Margairaz, M. Boulvain, O. Irion, *Care of women with female genital mutilation/cutting*, cit.

the situation at home. Treatable diseases as diarrheal, respiratory infections and malaria could become the cause of mortality for that people who want to escape from FGM; sexual violence, disease epidemics and strife between different ethnic groups cause more problems than the ones that were present in their previous situation at home. Mandated medical personnel provide with routine laboratory screening in order to detect or to prevent parasites, infectious diseases and transmissible infections.

The first thing to do with people in refugee camps is try to understand their particular background, where they lived before and their generalities. Then, the interpreters has to grasp informations about the "patient's life story", in which they discover if women have been subjected to FGM or any other trauma such as rape or torture. It is very important to get those informations because they have great implications for gynecological health.

For this reason the Harvard University published the Harvard Trauma Questionnaire (HTQ) in 2004 , in multiple languagees and dialects in order to facilitate the identification of the trauma.

The topics are divided as follows.

The first part is about patient's medical history, starting with some questions about his life story: country of origin, reason of escape, separation from the family and time spent in refugee camps; the second part tries to understand the presence of infectious diseases: questions about any recent fever, cough and diarrhoea, or about exposure to diseases such as malaria, tuberculosis, hepatitis or parasites.

The third part of the questionnaire is about sexual history and genital surgery, in which the refugee should indicate her reproductive history, her pregnancy or sexual activity, contraception or ritual female genital surgery. She can declare all these informations and she can express her "desire for testing for sexually

transmitted infections” and her eventual will “for revision of circumcision (defibulation)”.

The end of the questionnaire is about refugees trauma’s history in which they should indicate if they experienced situations such as deprivation of food and water, kidnap, rape, molests, feeling of being close to death, combat or armed fighting.²⁶

Nowadays, doctors in refugee camps are trying to tackle the mental health needs of these people to prevent or to treat particular diseases or psychiatric disorders. Statistical studies report that refugees are at higher risk of depression and suicide, in addition to post-traumatic stress disorder. In this sense, primary care for refugees and an increasing knowledge about their particular needs actually can help a lot to care more for this community.

2.5 Social change

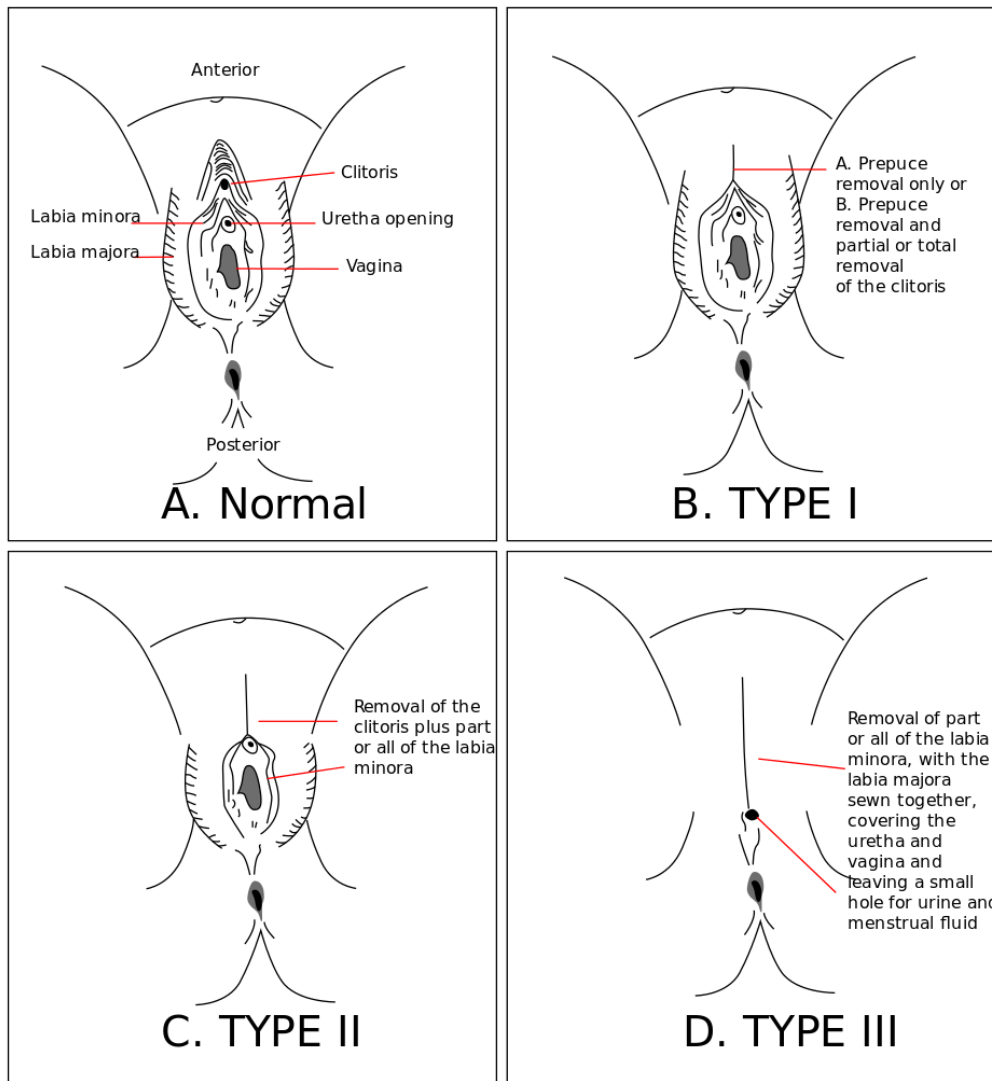
The field of FGM is gradually obtaining its first achievements. This sort of optimism is due to the work of many NGOs operating in different communities to demonstrate the harmful physical effects of this eradicated practice. Interventions have focused their attentions on a problem which is much more intrinsic in the life of this people than what is thinkable: ages of handed down customs have led the women to think that this procedure is absolutely necessary to become a good and beloved wife, while, during their whole life, they are submitted by the man: first the father, then the husband, will be those people who'll tell them how to act and what to do during their existence. Deprived of their liberty, they are forced to face such a terrible thing of being deprived also of their femininity and of the

²⁶ Harvard Program in Refugee Trauma (HPRT), *Harvard Trauma Questionnaire (HTQ)*; Available at: <http://hprt-cambridge.org/screening/harvard-trauma-questionnaire/>

essence of woman itself. Understanding that the matter is better to focus its emphasis on an anthropological issue, the raising problem to solve is the following: the wrong use of culture "to protect social dominance over women's bodies by the patriarchal hierarchy. Understanding the operative mechanisms of patriarchal dominance must also include understanding how women, particularly older married women, are important keepers of that social hegemony".²⁷ It will be explained this concept in the section "The struggle for identity".

²⁷ N. F. Toubia, E. H. Sharief, *Female genital mutilation: have we made progress?*, cit.

Image 1²⁸



²⁸ This image is available at:
https://en.wikipedia.org/wiki/Female_genital_mutilation#WHO_Types_I.E2.80.93II

CHAPTER 3

THE PRACTITIONERS AND THE RITE

“Do we have a responsibility to stop the torture of children we say we love, or not? I mean, do we love African children? Or are we like the midwife who said that when she’s cutting the child and the child screams she doesn’t hear it? Are we expected to be deaf to those cries?”²⁹.

Africa is a wide and very heterogeneous Continent, in which are present hundreds of ethnic groups; in 27 countries Female Genital Mutilations are still performed nowadays and the techniques are very different among them, such as are very diverse the practitioners who perform them. Between those “professionals” it is possible to find roving gypsies or fortune tellers who operate without the appropriate medical preparation and knowledge needed to perform the procedure; in Senegal, for example, practitioners are old women of the blacksmith caste, in Nigeria are barbers, in Zaire are the male priests, in Egypt both midwives and barbers are allowed to do it³⁰.

The instruments used to operate the girls can vary depending on the circumstances, on the area in which they live or the economical possibilities. Razor blades are the most common, together with scissors and kitchen knives, and in extreme cases girls are operated using pieces of glass. The whole procedure is carried out

²⁹ A. Walker, P. Parmar, *Warrior Marks: Female Genital Mutilation and the Sexual Blinding of Women*, cit., pg. 350.

³⁰ H. Lightfoot-Klein, *Prisoners of Ritual, An Odyssey into Female Genital Circumcision in Africa*, cit., pg. 36

in locations with poor hygienic conditions and with no running water supply. In rural areas, anaesthesia is generally not employed, whereas if FGM is carried out in urban setting the procedure is "performed by doctors or trained nurses or midwives in a clinic-like setting, under sterile conditions"³¹. The accessibility to these privileged facilities depends on the economic and social status of the patient. With the exception of the urban cities, the people who operate on the young girls are usually without any valid medical qualification, as previously explained. Their experience and ability derives from the knowledge passed over from generation to generation, where mothers and/or midwives reveal their technique to the other women of the family, in order to carry on the tradition. Also these "practitioners" are paid to perform FGM, therefore it is an important income resource for them and their own family.

3.1 The essence of the rite

The rite of female genital mutilation, as we said before, is very ancient and so are the practices to perform it. Everything starts with a woman who gives birth to a female. In that moment the mother already knows which will be the destiny of her daughter: she will be cut such as every girl of her community.

There are different ages in which this would happen but the important thing is that the procedure is carried out before the girl has reached puberty. It could be practiced from the age of three until the pre-menstrual period.

From a tender age girls know that it would come the day in which they will become real women and that they will enter adulthood, but they are not allowed to know when they will have to face the

³¹ H. Lightfoot-Klein, *Prisoners of Ritual, An Odyssey into Female Genital Circumcision in Africa*, cit., pg. 36

circumcision, and they are not allowed to either talk or ask questions on the matter. The argument of female circumcision is considered a taboo, so women do not say anything about what happens before, during or after the rite. The day comes when a small group of girls of the same community have reached the “right” age to become a woman. They are taken while playing with their young friends or while being somewhere with their family. Suddenly they find themselves between the arms of an old woman or somebody they have never seen before. It could also happen without the permission of the parents because midwives are often grandmothers or respected people between the members of the community, so they have the permission to act “for the good” of the child and the society.

The ceremony is held in the house of the practitioner, in a tumbledown house, in a hidden room, in a hut or in a cowshed somewhere. In few cases the baby girls are taken to hospital or a clinic-like place, but regardless of the location the procedure does not differ except for the tools used (and for the anaesthesia, that in some cases is supplied by the midwives of the clinics).

One by one all the girls are taken inside the room. Three or four people are hanging their legs and arms. The practitioner starts spitting on the work tools such as razor blades, knives or scissors while whispering prayers and blessings in order to make the things go well for the children. Initially, a vegetal mixture is spread on the vagina, then the flesh on the external genitalia of the girl is removed, including the clitoris and, in some cases, the labia minora and/or majora. Even if haemorrhage occurs, the girl will not be taken to any medical facility, as bleeding is part of the purification process, and will eventually stop.

The girl is not supposed neither to scream nor to cry, because this will be a sign of weakness, and she should demonstrate to be a real

woman by not complaining. But the shouts of the little girl can perforate the walls considering that everything happens without anaesthesia. In some cases the child faints for the pain, in others because of the bleeding, she dies. But the suffering is not finished yet: her vagina will be stitched up with thorns in a while.

In fact, after the cut, the midwife will sprinkle her wounded parts with a natural oil, extracted by plants and flowers, to clean up her genitalia. Immediately later her legs will be tied together with a rope so the cut won't open again. The baby girl will stay there with the others for a period which can vary, depending on the traditions and the recovery.

When they finally go home, a big ceremony is organized, with a lot of food, music and gifts: those are the prizes for the loss of their femininity. While the girls walk towards home, with terrified faces but colourful dresses, people gather all around them, singing, dancing and screaming; everything in these celebrations is strictly connected with the rite: women are speaking about it, singing songs about the circumcision, dancers explicitly refer to the event, all together make it a solemn moment.

The following brief passage, taken from the book *Warrior Marks* written by Alice Walker, explains the moment of the infibulation in Djibouti. The procedure for the event is very similar, with some differences according to the country or tribe examined. The description is the following:

“The little girl, entirely nude, is immobilized in the sitting position on a low stool by at least three women: one of them with her arms tightly around the little girl's chest; two others hold the child thighs apart by force, in order to open wide the vulva. The child's arms are tied behind her back or immobilized by two other women guests.

The traditional operator says a short prayer: “Allah is great and Muhammad is his Prophet. May Allah keep away all evils”. Then

she spreads on the floor some offerings to Allah: split maize or, in urban areas, eggs.

Then the old woman takes her razor and excises the clitoris. The infibulation follows: the operator cuts with her razor from top to bottom of the small lip and then scrapes the flesh from the inside of the large lip. This nymphectomy and scraping are repeated on the other side of the vulva.

The little girl howls and writhes in pain, although strongly held down. The operator wipes the blood from the wound and the mother, as well as the guests, verify her work, sometimes putting their fingers in. The opening left for urine and menstrual blood is minuscule.

Then the operator applies a paste and ensures the adhesion of the large lips by means of an acacia thorn, which pierces one lip and passes through into the other. She sticks in three or four in this manner down the vulva. These thorns are then held in place either by means of sewing thread, or with horsehair. Paste is again put on the wound.

But all this is not sufficient to ensure the coalescence of the large lips; so the little girl is then tied up from her pelvis to her feet: strips of material rolled up into a rope immobilizes her legs entirely.

Exhausted, the little girl is then dressed and put on a bed. The operation lasts from fifteen or twenty minutes, according to the ability of the old woman and the resistance put up by the child."³²

3.2 Testimonies

In order to explain better what happens during the ceremony, the best way is through some testimonies of who experienced it.

In 2010 was published "Donne cucite" by Sabrina Avakian, a writer

³² A. David, *Description of an Infibulation – Infibulation en République de Djibouti*, cited in : A. Walker, P. Parmar, *Warrior Marks*, cit., pg. 309.

who dedicated her life in fighting for the rights of women and children. In her book, she recounts her meetings in the journey she made around Sudan and Somalia.

The first encounter is with Hamda, the president of a women association that fights against the FGM in Somalia, who had been circumcised at the age of six. According to her testimony, her community insists that the act of mutilation is a tradition mandated by their religion. This is a perfect example of how people often confuse traditions rooted in local culture with religious requirements. In fact, although there is no reference to circumcision at all in the Koran, male circumcision is a well-established tradition in Islam. But this does not make FGM a tradition mandated by religion.

In Somalia, she narrates, the genitals are considered dirty parts of the body and their removal is considered necessary because only in this way a woman can be "pure, clean, beautiful and chaste"³³.

This necessity is claimed by men and old women, so the younger ones try to escape from their village in order to avoid suffering for their babies. Some mothers find a shelter in other villages, where there are other women who are hidden from the practitioners. The sad thing is that more than the half of them are going back to their community because of lack of food, some of them are exhausted, and other resigned. Hamda also gives an insight of how female circumcision is so deeply rooted and accepted as a tradition. Sadly in some occasions, young girls are the ones requesting the procedure, in order for them to conform with the rest of their school mates and friends.

The writer spoke also with the husband of a Sudanese woman who have been cut in tender age: "The practice is very common in this area, and all the people who didn't undergo it are stigmatized by the

³³ (Translation from) Sabrina Avakian, *Donne cucite. Inchiesta sulla mutilazione genitale femminile*, Edizioni Libreria Croce, Roma, 2010, pg. 36-37.

community. I married a circumcised woman and we had a lot of problems at the moment of the intercourse: we went several times to the hospital because of urinary infections, pain and bleeding. In my opinion the practice changes also the facial expression of a woman: she becomes sad and distant, without that particular light that is always shining in those girls who have untouched genitals. I received a lot of warnings from those elders, saying that I should respect the norms of the village"³⁴.

Jamila, a doctor from a hospital in the Somali Region, narrated that there are different techniques of cutting, but that the most common in Somalia is infibulation. Their genitals are then stitched with non-sterilized needles, agaves or acacia's thorns. "My neighbor last week found her daughter lying on the floor in the middle of an epileptic crisis, and she said it happened after the cut. Some infibulated women don't even bring their daughters to the hospital in case of health problems: they prefer to let them die than bring them here, because they are afraid about the law which considers the practice a crime"³⁵.

"I found Nura lying on a fabric pallet on the floor, crying" Jamila continued, "When I asked what was happened, she said she hadn't been beaten up, but that she had lost a baby because of her vaginal openings were not large enough to let the baby come out"³⁶.

When Sabina met Yasmin, a young girl from Somalia, she described her experience of infibulation. "I decided to undergo the infibulation because all my school mates had had it. Even if my mother was telling me to do it when I would have been 11, I wanted to do it at the age of 8. I won't never forget the squeaking of the

³⁴ Sabrina Avakian, *Donne cucite. Inchiesta sulla mutilazione genitale femminile*, cit., pg. 37-40.

³⁵ *Ivi*, pg. 41-42.

³⁶ Sabrina Avakian, *Donne cucite. Inchiesta sulla mutilazione genitale femminile*, cit., pg. 44.

door and the arrival of the practitioner, an old and wrinkled woman holding bleeding tools in her hands. She throw them on the kitchen floor and asked me to lie down. I remember she had a razor blade, a rope, plastic and cotton strings, and some acacia's thorns. She was very old and she couldn't see well so other six women were helping her. Even though I was screaming out loud, her lined hands didn't let me; I can remember her smell and her fingers touching me. I couldn't urinate for three days while a deep pain was killing me. I would never do it to my daughters, it is a horrific thing".³⁷

When Yasmin was narrating her experience, she explained that one of the reasons why they do it it's because they are afraid that the clitoris will grow up until becoming a penis³⁸. Furthermore, women are controlled also in their life in the community. If someone sees a girl with a boy, he will immediately call her family and inform them. The next step is to check if her genitals are still sewn together, otherwise she will be stoned.

In her recount, Yasmin added: "I'm going to get married in a few days and this is my fear. Everything will be more difficult, because we are tied women and to be subjugated is our destiny. They killed me both inside and outside"³⁹.

In her long journey, Sabina met a lot of women with more or less the same unlucky stories. When she spoke with Kadjia, she narrated her terrible experience, starting with her father who first raped her and then he disappeared. With this background, she begun telling her story: "When I was 11 they cut my clitoris with a razor blade. My aunt fought to avoid it, but my grandmother, who was the

³⁷ *Ivi*, pg. 45-48.

³⁸ This way of thinking is particularly common in countries of Africa; this is one of the reason why they continue to practice the rite. Other reasons may be chastity, pureness, beauty and sense of belonging to the community.

³⁹ Sabrina Avakian, *Donne cucite. Inchiesta sulla mutilazione genitale femminile*, cit., pg. 48.

practitioner of my community, called the authorities to obtain the permission to bring me to circumcision, even if my family was dissenting. One day, while I was coming back from school, they called me to go for lunch. They cheated on me because when I got there I found on the table some tools: a rusty cutter, some thorns and a rope. They forced me to lie down and they were holding me tight, screaming in the name of Somali culture and for the worth of my dignity. I could hear my blood dripping. After the cut, they fastened me with a dirty rope because the thorns could weaken if I moved. When my aunt succeeded in coming in the room, she wanted to bring me to the hospital but all the women that were in the kitchen started screaming against her, spitting on her and beating her"⁴⁰.

After a while, Kadja continued: "I cannot feel my body, my breast is insensitive. A man could touch me everywhere but I cannot feel anything, and I don't care. I suffer for terrible menstrual pain, I have difficulties in urinating and I can't have a normal relationship with my body. And do you know what? When I came back to school, walking with a stick, my mates came to me and said "Wow! Now you're one of us!" ".⁴¹

Some Italian reporters, who recorded some videos during their journey to Egypt, give other testimonies. As later mentioned in the chapter "Current Situation", Egypt banned FGM in 2008, nevertheless traditional practitioners disregard such ban and the majority of them continue to perform it secretly.

The dialogue of a reporter with an Egyptian midwife is the following:

Q: Why do you cut the girls?

⁴⁰ Ivi, pg. 49.

⁴¹ *Sabrina Avakian, Donne cucite. Inchiesta sulla mutilazione genitale femminile, cit., pg. 50.*

A: Because in this way girls don't run after boys. It is there (clitoris, ndr) that reside the spirit of the woman.

Q: But in Italy girls are not cut...

A: No! This is bad! Bad! One husband is not enough for the girl who is not cut! She would run after four or five boys! She would go around doing bad things and then she would leave, as if nothing happened.

Q: Today in Egypt is illegal to cut the girls...

A: I do the right thing. It is what I've seen doing from my parents. After the law have been approved, I cut also my daughter, so she won't bring shame to our house. If my daughter makes mistakes, I could not speak with anyone. Everybody will insult me.

Q: If you are discovered you would risk to be imprisoned from 3 to 5 years. Are you not scared about it?

A: They always recommend us not to do it but people continue to do it. It is made secretly and nobody reports it. It is made secretly during the night, under the light of a lamp. Even if they cut my head, i won't stop doing it! ⁴²

The same reporter interviewed also a girl who have been circumcised when a child.

Q: Did they do it (mutilation, ndr) to you when you were a child?

A: Yes, it has been a very bad thing. I was sad and angry. (...) It was my grandmother who did it. She was the older of the family and she cut me together with my cousins. She took us, put us in a line and she had us cut one after the other. (...) It happened in the cowshed of her house. (...) It is a wrong tradition and I went through this experience. We have to convince everybody to stop it. What has been done to us is not what must be done to our daughters.

⁴² Dialogue translated from: *Mutilazione genitale femminile*, Le Iene, Mediaset, reportage of March, 3, 2010. Available at: http://www.iene.mediaset.it/puntate/2010/03/03/trincia-mutilazione-genitale-femminile_5706.shtml

Q: What happens to a woman who has been cut?

A: The sexual desire is weakened. Uncut girls are always excited and looking for boys. ⁴³

Then it is the turn of a man. His answers have been the following:

A: We cut our girls. It is right to do so. I don't know the reason, but it is a tradition which has been preserved until today. A good woman must serve her husband and do what he want. ⁴⁴

The answers of another man have been very different:

A: A good woman must always obey to the husband. She must take care of him and be lovely and sweet. A good husband must love his wife, help her and buy her everything she wants. But only if she loves him. In my opinion it's wrong to cut the girls. It is an old practice. Nowadays, considering all the things we know about it, we should ban it. Also for the Islamic Law mutilation is forbidden"⁴⁵.

⁴³ *Mutilazione genitale femminile*, Le Iene, Mediaset, cit.

⁴⁴ *Ibidem*.

⁴⁵ *Ibidem*.

CHAPTER 4

THE STRUGGLE FOR IDENTITY

"I hope the fathers and mothers of little girls will look at them and say, 'Yes, women can' " ⁴⁶.

4.1 Different perspectives

It is controversial whether or not countries should introduce laws to ban and prosecute the practice of Female Genital Mutilation. The first issue is connected to the way the procedure is defined. Several questions on this issue have been raised as the problem is naming the practice "Female Genital Mutilation" or "Female Circumcision". That is because the essence of the rite gains a different meaning when defined "mutilation" or "circumcision": the use of the word "mutilation" reinforces the idea that the procedure violates girls' and women's rights, as an act of disfiguration of the body, therefore giving a negative connotation to the practice; the term "circumcision" is usually the term used in local languages, giving a less judgmental connotation to the procedure as it recalls the purifying sense of the rite. A third name has been introduced in 1996 by the UNFPA, "Female Genital Cutting"; with the use of the term "cutting", UNFPA wanted to maintain the sense of the term "mutilation" while avoiding the judgemental connotation of the word. The latest seems the most appropriate, that said it is to remember that in the cases of Type 3 or 4 mutilations (see Chapter 2.1), it is

⁴⁶ Dilma Rousseff, *Nation's First Woman President Discourse*, November 1, 2010.

not a mere matter of “cutting” the genitalia, but also sewing up the labia is involved.

This displays how complicated and tricky is to defy and describe the essence of this practice. (For the purpose of this work, we will continue to refer to this practice as FGM).

Against or not?

Understanding how and why FGM is still carried out is essential for developing strategies that aim for the abandonment of this violent practice. This tradition has been carried out for centuries, and FGM has become a “normal “ practice, needed for the young girls and women to maintain their status in the community.

The point is: are people against or in favour of it? As often, in the middle resides the truth. This claim will be explained in the following paragraphs.

In Kenya in 1930, a woman was found murdered with her genitals mutilated after she has been struggling for the abolition of the ritual. In the mid Fifties came the response of the society, and meeting of the local council was called (composed by males only) and a ban for the practice was put into place. This provoked the reaction of a group of teenagers who decided to circumcise themselves with razor blades without any sort of ceremony. Those young girls, who decided to name their group "Ngaitana" ("I will circumcised myself" is the meaning), were struggling for their autonomy and for their identity: they affirmed they didn't want to be controlled in their bodies by African men first, and by colonial power secondly. This behaviour was to show the loyalty to their tradition, the Kikuyu's, and to express resistance toward colonial rules.

Banning FGM was seen as a threat to their customs and to African solidarity, and interpreted as an interference into their culture.

For this reason, the struggle in favour of FGM became the reason for popular mobilisation against the British, while, on the contrary,

this behaviour became, under colonial eyes, the confirmation of the backwardness of African people, with respect to "civilised" countries.

These events lead us to make some considerations: Western cultures consider actions, such as FGM, expressions of violence and a symbols of Africa's barbaric and patriarchal culture. When considering the point of view of the cultures where FGM is practiced, the actions and intrusion of the Western countries, can only be seen as suppression, as the passage demonstrates: "only imperialistic arrogance can imagine what Africans want, determine what they need, and devise ways to deliver the goods"⁴⁷.

What it is important to say is that Western conception of the practice is very far from the idea that North-Eastern Africa has. Despite of many attempts of governments to make Female Genital Mutilations banned by the country, "much of the popular resistance to official efforts to eradicate infibulations has actually come from women"⁴⁸.

The reason why it is still performed nowadays is that for most of African countries the perfect woman has been cut, and that their genitals have been purified through the ritual of circumcision. With the clitoris removed, a woman loses the brilliance typical of a young girl growing up in her beautiful adolescence, losing also all the sexual desire. In those countries, the common thought is that, for some reason, the clitoris will grow up and become as big as a penis, so it is important to remove it before it could damage the girl. Being cut is an unbelievable suffering that will bring beauty, pureness, cleanliness, social identity and engagement to women. That is the reason why some women are in favour of it: they dream about marriage and family, and they know that the only way to obtain this is through the rite.

⁴⁷ Maria Caterina La Barbera, *Multicentered Feminism, Revisiting the "Female Genital Mutilation" Discourse*, Compostampa, Palermo, 2009, pg. 109.

⁴⁸ Esther K. Hicks, *Infibulation: Female Genital Mutilation in Islamic Northeastern Africa*, 1993, (Worldcat).

In a context in which basic medical information about mutilations does not exist, and where consequences of the cut - as described in the Chapter 2.1 - are known as typical symptoms of a woman's life, it is easy to understand why FGM is perpetuated.

Communities in most of those 27 African countries where the mutilations persist, live far from civilized and/or urban areas and where traditions are extremely important and deeply connected with the sense of belonging with the community. Ignoring that all complications are consequences of the cut, a big percentage of women are still in favour of it: none of them wants to turn down of being beautiful, clean and ready to get married.

Considering this, it becomes clear that, before making any judgment on why this practice still persists, one must understand how deeply the ritual is rooted into the community, and the social/economical implications for a woman who refuses such practice.

What Caterina La Barbera explains in her book is to be aware when dealing with other communities, because their own identities have been reconfirmed along ages and people cannot intervene in these realities just thinking they're acting with fairness.

Considering that everyone should behave in the way he likes, a question come to the mind: do they really want to be cut, even if they are just children with less than 10 years who are not able to decide for themselves, or do they say so because they don't know anything about the health consequences and the harmful effects that the rite will have on them?

It is clear that traditions is what people need to feel part of a community. Above all women emigrated abroad feel closer to their homeland if they succeed in continuing their traditional practices also far from home.

It is also a way to face any sort of difficulty that they could meet living in other reality than in their own.

Traditional culture is also the main shelter for those people who want to avoid the contamination of different models which can influence their identities.

Anyway, from an opposite point of view, it happens that those people appreciate a different way of life of the new country in which they started to live, and they could think to revalue their habits.

These claims are just to consider also the other side of the coin because one cannot only deal with the conception of the FGM without thinking that, if they continue to perform it, there should be also somebody who believe in that. It sounds as absurd, but Western ideas of identity are far from the ones we can find in other realities and we cannot rule them out just because somebody is not agree with it.

That's why can almost be affirmed that FGM has transformed the body of a woman into an ethnic boundary: criminalising the practice when in a host country, could be seen as a rejection of a different tradition that is not understood by the stranger. But what is wanted here is that every woman from every country and religion, race, ethnicity, culture and so on, could finally decide about herself and choose what it is thought to be the best for her and for her daughters. What we want is equality.

"Feminist should be concerned of women's lives as a whole, made up by gender but also by culture, race, ethnicity, age and class: women as real living agents - not women as an abstract concept- are embedded in socio-cultural situation that should be taken into account in order to ameliorate women's conditions all over the world. Setting race/ethnicity, culture and religion against gender suggest that, in order to achieve gender equality, women should renounce to their differences"⁴⁹.

⁴⁹ Maria Caterina La Barbera, *Multicentered Feminism, Revisiting the "Female Genital Mutilation" Discourse – Feminism and other perspectives*, cit., pg. 193.

Regarding the purpose of this passage, the goal could be achieved taking into account all the characteristics that a woman has, but also reminding that every case must be analyzed in the context and in the country in which it was born. Generalising or trying to find a standard way of acting is difficult, and wrong.

An interesting role is played by Feminism in this sense, because it recalls for equality and justice, trying to fix models to empower women all over the world. "Any form of feminism can be identified by its assumption that gender oppression exists and that it is a problem. Feminism, thus, can be defined as a worldview that values women and confronts systematic injustices based on gender. (...) Feminist ethics has focused on how some traditional moral beliefs and values about women continue to contribute to unjust treatment of women in society. Feminist ethics begins from the conviction that the subordination of women is not only real but that is morally wrong".⁵⁰

So, the main focus is about gender. What Maria Caterina La Barbera claims is that gender should be connected with "ethnicity, culture, class and sexual orientation".

Susan Okin, a liberal feminist political philosopher who died in 2004, examined the problem of gender and noticed that multiculturalists failed to focus on the differences of power within groups. Considering women's point of view it is to be taken into account what is the best for them, but this conception of things brings to life the same problem previously mentioned: it is impossible to create a model of behaviour which can encompass all variables.

Some communities in which the practice is still performed are dealing with a school of thought that is old and obsolete. That's

⁵⁰ M. Gathoni Muchiri, *A critical review of traditional cultural practices in Africa with regard to oppression of women: focus on FGM/C*, (Order n. EP33753), ProQuest Dissertations and Thesis Global.

because the rite is perpetuated by old women who probably worked as traditional practitioners and who lived all their life with the belief of FGM as the main distinguishing mark of their identity.

The practice is also a matter of social oppression, because it is a instrument of control over women, imposed by ancestors and perpetrated for centuries by a patriarchal system that demanded to have the absolute decisional power on female members of the family.

As we said, “oppression is often hidden in the norms of a culture that accepts male dominance as a natural ordering. Subordination of women is a well entrenched cultural arrangement, which continues to be supported by many of the principal institutions and values of modern society”.⁵¹

What we should consider now, Okin said, is the young women's point of view that may be different from ancient times and that is demanding for equality and modernity.

Shifting the matter to migrations and minorities' situation, it is necessary to deal with women all around the world who are isolated from the majority groups and who are formulating demands that are very different between each other. Trying to achieve their goals, they fail to homogenize with the context; the result is a big amount of institutional demands and the impossibility of satisfy all of them, due to a lack of a "definite external image"⁵².

All the different cultural and religious beliefs, nationalities and geographic origins, should be protected by a project for every person or minority group, demanding for a plan of action. This heterogeneity is complicated to safeguard in all its aspects.

⁵¹ M. Gathoni Muchiri, *A critical review of traditional cultural practices in Africa with regard to oppression of women: focus on FGM/C*, cit.

⁵² Maria Caterina La Barbera, *Multicentered Feminism, Revisiting the “Female Genital Mutilation” Discourse*, cit., pg. 23-24.

Furthermore, "it seems that attributing political power to the ethnic or religious communities favours exclusively the strongest ones"⁵³.

In this situation, what should the government do? Consider every reality which comes to the surface or should it be neutral? The risk is even to misunderstand the needs those people have when presenting their requests.

Susan Okin, in contrast with liberals, claims that this problem is impossible to solve just adapting it to democratic principles, because avoiding to look at the gender problem, women will suffer injustices as they are not protected. Injustice will reside inside the domestic and private sphere, within families, where women spend most of their lives. She argues that the problem resides in the intra-group differences, and multiculturalism see only the inter-group situation, failing to solve the problem which is present inside ethnic groups.

Dimensions such as religion or traditional practices are the main demonstration of the subordination of women inside their own family, and also the proof of the patriarchal world in which they are forced to live.

The only way to achieve equality would be give up respecting all recent and ancient sides of tradition in order to create a new idea of standards, based on equality. But this is not possible, because factors as ethnicity or culture are inseparable from identity itself. "If we conceive of cultural conflicts as "multiculturalism versus gender equality", the only remedy appears to be either siding with multiculturalism at the expense of gender equality or siding with gender equality at the expense of multiculturalism"⁵⁴.

In this sense, "multicentered feminism" refers to those theories that offer a different approach to subjects as gender, culture, religion

⁵³ Maria Caterina La Barbera, *Multicentered Feminism, Revisiting the "Female Genital Mutilation" Discourse*, cit., pg. 25.

⁵⁴ Maria Caterina La Barbera, *Multicentered Feminism, Revisiting the "Female Genital Mutilation" Discourse – Multicentered Feminism as response*, cit., pg. 30.

and ethnicity. It demonstrates that inequality is the result of a constructed lifestyle that has been perpetuated along ages. For this purpose we examined three theories of feminism, emerged recently, to explain the point of view of marginalised social groups that are very different from each other.

4.2 The Black Feminism and Alice Walker

Black Feminism is a school of thought emerged in the second half of the XXth century that complained about the injustices about sex, class, gender and race. It is promoting the idea of inter-sectionality, i. e. that these concepts are related together and they work as something indivisible. It struggled against discrimination and racism studying the social identities connected to them. "The theory believes that we should think of each element or trait of a person as inextricably linked with all of the other elements in order to fully understand one's identity"⁵⁵.

Also the Western idea of gender essentialism is failing to understand the necessities of minority groups because is trying to attribute some characteristics of the majority groups as universal: the wrong purpose of being neutral actually presuppose only a single standard, which is not possible if we want to consider all sides of inequality.

Alice Walker, a novelist and political activist of our times, coined the term "womanism" to refer to black feminism; she is a very active woman in the defence of women's rights. Her masterpieces, "Possessing the secret of Joy", "The colour purple", and "Warrior marks", the latter written with the collaboration of Pratibha Parmar, a British filmmaker and feminist activist, describe the facets of being a

⁵⁵ *Black Feminism*, Wikipedia the free encyclopedia. Available at: https://en.wikipedia.org/wiki/Black_feminism

women in a context of subordination, injustice and, sometimes, violence.

In the book "Warrior Marks", the writer recounts the experience made in her long journey in The Gambia, Senegal and Guinea-Bissau in order to describe those parts of Africa in which Female Genital Mutilation is still performed. The book was to be the script of their following movie-documentary about this ancient rite and seeking to denounce its presence nowadays. The two women went to The Gambia mainly to speak with practitioners and women who experienced clitoridectomy in order to produce a movie that should evoke the conscience of people and convince them to be against FGM. She tried to denounce the useless suffering of girls because of this tradition.

What Alice Walker did was comparing her own experience of blindness with the sexual blinding of women who have been forced to be submitted to the ritual. In her book she illustrates her life, and describes the episode when, as a child, her brother was playing with his new toy gun. As he was very young he used it without knowing the dangerous effects it could have and, one day, erroneously, he shot toward his sister and deprived the writer of one eye. With this unlucky episode, Alice Walker found herself in a new dimension, forced to see the world with a different perspective. And this became the message she wanted to give to the world. In her book "Possessing the Secret of Joy", the author describes the fictional existence of a girl named Tashi, born in an African community but transplanted in a Western dimension by her beloved American guy, Adam. When she decided to go back to her community to undergo clitoridectomy to feel part of her culture, she experienced a horrific result: she went crazy and went to many psychiatrists to recover from the operation and the trauma that it brought.

Alice Walker with this book, in which we find the character of Tashi who was secondary in "The colour purple", is trying to describe the reality of African communities at home, and the suffering that women experience emigrating abroad, still being connected with a totally different culture from the new one in which they start to live. "Possessing the secret of Joy" is a wonderful novel in which it is described the difficulties of an African girl who chooses to live in a different country but never feeling part of both worlds.

So, Alice Walker give us a wonderful example of what is actually the main concern of black feminists: "Conceiving the consciousness as multiple and in itself contradictory, the first goal of Black Feminist is putting at the stage marginalized and silenced 'others' in order to recognise and articulate their different identity within the always in becoming processes of social construction"⁵⁶.

4.3 Post colonial Feminism

Post-colonial feminism was born in late XIXth century and the main concern was to obtain consideration for those people that are not included in the western ideas of freedom. It denounced the inequality between developed and underdeveloped countries and claimed that feminism was defending only a part of women of the world, the western women. For this purpose, post colonial feminism emerged in a period in which people started to complain about being represented by a real school of thought in which their needs and inequalities could be shown and solved. They complained about the conception that, for example, with the words 'African women' were intended all women coming from Africa, but without going deeper in the issue and representing them for all the different

⁵⁶ Maria Caterina La Barbera, *Multicentered Feminism, Revisiting the "Female Genital Mutilation" Discourse – The different voices of Multicentered Feminism*, cit., pg. 70.

cultures and ethnicities which make them very heterogeneous. What they wanted the world to do was "looking women not outside of social relations but through these"⁵⁷.

This is exactly what the struggle against FGM needs; relying on an essential and authentic Self, "the elimination of all that is other" is required. Post colonial feminism focuses on the core self to arrive to as "self-determining subject"⁵⁸ and this conception should be applied also to the private and sexual spheres.

However, almost nothing have been written about FGM by post colonial feminists, even if this school of thought could be very interesting: it would help to get the conception of a free and empowered woman, regarding both public and private dimensions, and giving voices to all those women who could never stand up and speak.

4.4 Islamic feminism

The concept of Islamic Feminism "is of recent origins, used for the first time in the 1990s in the growing Western literature on "women and Islam". (...) From the very beginning, the debate was centred on the compatibility of the idea of women's emancipation with the principles of Islam".⁵⁹

Islamic feminism is another aspect of feminism in which women struggle for social justice, gender equality and women's rights. The purpose is the same of the other facets of the doctrine, but it aims to find a new interpretation of the Koran, quitting the old and traditional

⁵⁷ Maria Caterina La Barbera, *Multicentered Feminism, Revisiting the "Female Genital Mutilation" Discourse – The different voices of Multicentered Feminism*, cit., pg. 74.

⁵⁸ L. Johnson-Riordan, *"World-Travelling": identity, culture, knowledge in post-colonial times*, City University of New York, ProQuest Dissertation Publishing, 1993.

⁵⁹ S. Mojab, *Theorizing the politics of "Islamic Feminism"*, *Feminist Review* 69 (2001), 124-146, Jstor.

patriarchal translation towards an equal conception of society. Islamic feminists think that giving the right meaning to the "ayaat" (verses), women could empower until being considered equal to men, but this is possible only if we revisit the male-centred interpretation of the Koran in order to make women feel individuals with the same decisional power of men. They claim that the ritual is just the confirm that they live in a patriarchal society in which also the body of the woman is considered to be male-property.

Very little has been written about FGM by Islamic feminists; the cornerstone remains the fact that Female Genital Mutilations are not dictated by the Koran, even if a high rate of people still think the contrary. Islamic feminists speak deeply about the veil discourse, or they insist in concepts such as the empowerment of women; FGM is still rarely mentioned in their works. What it is controversial is that the question about the strengthening of the condition of women should come together with the struggle against harmful practices such as FGM. "Silence on the issue is less reflective on the absence of the problem than insufficient freedom for feminist and independent civil society to raise the issue".⁶⁰ Even if Islamic scholars disagree on protracting FGM, some accept it, and "still others believe it to be obligatory".⁶¹

What Islamic Feminists are trying to do is to bring more power to women and increment the value of them through the elimination of gender discrimination. "Gender is a site of the exercise of power, which is unequally distributed and hierarchically organized. The main struggle is over the control of women in both private and public spheres of life. The institution of religion, in this case Islam, plays a significant role in the struggle over gender power"⁶². It is clear that the religion is determining in the matter but it is important to say that

⁶⁰ T. Von Der Osten-Sacken, T. Uwer, *Is Female Genital Mutilation an Islamic problem?*, Middle East Quarterly, 2007, vol. 14, 1, pg. 29-36 (Worldcat).

⁶¹ *Ibidem*.

⁶² S. Mojab, *Theorizing the politics of "Islamic Feminism"*, cit.

the majority of the religious order confirm that the practice is not dictated by the Koran. However, in countries where the tradition is still very eradicated in society, people continue to act according to their ancient beliefs, perpetrating a school of thought which is totally wrong. "The majority, 93 percent, of people in Gambia are Muslims. And some scholars say you cannot be a proper Muslim woman if you are not circumcised. This is not true, but it is something which is psychologically imposed on women by some scholars".⁶³

Islamic Feminists are trying to dismantle the conception of Islam as the justification for Female Genital Mutilations.

They reason why I chose multicultured feminism to explain the issue of FGM is because "multicultured feminism offers a way to approach not just differences but also the way in which difference and subordination intersect and are historically and socially constructed"⁶⁴.

I chose these three facets of feminist trend because I think that they represent best women's ideologies and, above all, needs. Black Feminism because it considers the experience of non-white women, but focusing also on variations of the "otherness", considering the "multiple consciousness" of oppressed and discriminated people; Post-colonial Feminism because it reflects the demands of the Post-colonial countries, without suppressing the heterogeneity of cultures embedded in it; finally, Islamic feminism because it shows the desire to maintain a tradition without putting aside gender equality. To explain it with Maria Caterina La Barbera's words:

"Listening from all these different voices we should think about migrant women practicing the female genital cuttings in Western

⁶³ A. Walker, *Warrior Marks*, cit.

⁶⁴ Maria Caterina La Barbera, *Multicultured Feminism, Revisiting the "Female Genital Mutilation" Discourse – The different voices of Multicultured Feminism*, cit., pg. 102.

countries as subjects that from their multiple and oppositional consciousness perceive their situation as not only linked to gender rather to an inextricable web, made up of race, ethnicity, nationality, post coloniality, culture, religion, social class, economic and political situation"⁶⁵.

It is evident that the only way to analyze inequalities is to consider them within minorities and to identify the differences of power among women. The solution could be to contemplate all streams of feminism and be active step by step in countries where information what is needed. For example, in Senegal emerged an education group named Tostan that is working to explain people that the practice of FGM is dangerous and barbaric. They are organizing information conferences all around Senegalese communities to communicate with people subjected to FGM and trying to make them understand the risks and the consequences of the ritual. Working in six different countries (Guinea, Guinea-Bissau, Mali, Mauritania, Senegal and The Gambia) they are teaching people to reflect about the consequences of the ritual, exhibiting to the communities also explicit images and videos.

What is needed here is to start from the theory - comparing feminist school of thought - and to arrive to practice - working as a non-profit organization which should be able to inform people about what they're going to face (and for this reason, trying to convince them to stop the rite for the new generations).

Collecting all the energies and address them toward this program to stop FGM it can be created a domino effect with which people can participate to this struggle. The point is that women along ages have always been bearing inequalities with respect to men, and the practice is a further way of determining the patriarchal dominion on them. Having endured this psychological and social disparity during

⁶⁵ *Ivi*, pg. 104.

centuries, it is unbelievable that those people have also to bear a physic painful oppression summarized into the practice of FGM.

Feminist theories were born with the purpose to help and defend women from inequalities, and to speak up in favour of a more equal world. What is important is that there should be no differences between genders, but the conceptions built until nowadays confirm that inequalities are real. This situation is changing slowly but still other conquests have to come. Feminist struggle is the wind that will blow through the time in order to bring women a better and equal life.

CHAPTER 5

INTERNATIONAL RELATIONS AND FGM

“It is not a matter of values but of respect for human dignity”.⁶⁶

5.1 Towards the empowerment of women

Throughout history, women and men have always been considered different from one another. The difference was underlined also between men belonging to specific social groups and classes and often women were compared to the lowest of them. The point was that women were considered inferior to men because they were not "rational beings" and this label denied them to participate to public and political life. The difference of nature between these two "beings" led to a deep discrimination against women; also great philosophers such as Engels or Locke condemned women to be seen as possession of men or to be subject to male authority. Patriarchy has generally always been ruling the “male world”, a man’s world consisting of a political and a social life in which women were never considered as part of it.

It is at the end of the XVIIIth century that the first little improvements began: women started being considered necessary for humanity was underlined, affirming that women deserved to have the same rights of men. Women was not considered a property of males anymore.

In the XIXth century the given relations male/power/superiority and female/weakness/inferiority started to be revisited, and even if it will

⁶⁶ S. De Vido, *Culturally motivated crimes against women in a multicultural Europe*, Citizens of Europe, Culture e Diritti, pp. 93-114.

take more than a century to put the two genders at the same level, this was the way to the achievement of women's rights.

In a time period in which profound gender inequality was still ruling the world, the general mindset was considering the woman as a domestic holder, because it was a characteristic intrinsic to her nature.

Many have been the injustices committed against woman, although never recognized as injustices, and this led to a prejudicial vision of the world, in which a gender-based discrimination influenced also the social and private life.

It is with the *Universal Declaration of Human Rights* in 1948 that countries started to consider a different perspective: with this Declaration, insisting on the values of peace, justice and freedom, it was underlined the necessity of a standard landmark that could regulate the right of every person.

The recent achievements on the condition of woman in the world signify that the battle to the equality between genders is producing its results, although a particular issue is now worrying the International community. "Amongst the worst human rights violations against women and girls"⁶⁷ it is the practice of Female Genital Mutilation, a cruel tradition that is still representing a necessary prerequisite to marriage and currently performed in 29 countries. Being respected since thousands of years, the communities where it is performed are strongly convinced that it is necessary for a woman's life. Inherited by cultural, religious and social factors, it is still motivated by perpetrators as the "proper sexual behaviour" for a "premarital virginity and marital fidelity"⁶⁸.

⁶⁷ Parliamentary Assembly *Children's Right to Physical Integrity – Provisional Version*, June 2013.

⁶⁸ *Ibidem*.

To combat this astonishing situation which sees the attachment to the practice much more rooted than what it could be thought, the work of International Organizations is trying to put and end to the perpetration of it. Indeed, years of struggles for the empowerment of women led to achieve an important goal: the international ban of FGM in 2012, which gave to women the confirmation that gender-based violence was on its way to the end.

In an atmosphere imbued with struggle for women's rights and campaigns for the empowerment of their condition, more and more achievements against FGM were obtained. And even more satisfactions.

5. 1. 1 The CEDAW and the World Conferences on Women

The 7 of November, 1967 the struggle for the rights of women achieved its first realization: the General Assembly of the United Nations issued the *Convention on Elimination of All Forms of Racial Discrimination*. It was the precursor to the legally binding *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)* of 1979.

The above convention defined what was the meaning of discrimination against women and filled the international agenda of purposes and measures with the goal of ending such discrimination. As specified in the text, "discrimination against women shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social,

cultural, civil or any other field”⁶⁹. This Convention insisted on the necessity “to underline the very goal that was equality between man and woman”.⁷⁰

To ensure that basic principles of equality were respected by all members of the convention, in October 1999 The UN General Assembly adopted the *“Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women”*; basically it reaffirmed “the determination of States parties which adopt the Protocol to ensure the full and equal enjoyment by women of all human rights and fundamental freedoms”⁷¹ and to take measures to prevent the violations of such rights.

A great turning point was also the institution of the *World Conferences on Women*, the first held in Mexico City in 1975. Following with the World Conferences on Women held in Copenhagen in 1980, in Nairobi in 1985 and in Beijing in 1995, the UN fixed a series of five-years reviews after the last conference in China.⁷²

The Beijing World Conference on Women counted with 189 participating countries, and revealed the need for further work towards the main goal of gender equality. It set “strategic objectives and actions for the advancement of women and the achievement of gender equality in 12 critical areas of concern: Women and poverty, Education and training of women, Women and health, Violence

⁶⁹ The UN, *Convention on the Elimination of All Forms of Discrimination Against Women – Article 1*, 1979.

See the full text at the website:

<http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>

⁷⁰ *Ibidem*.

⁷¹ The UN. *Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women*, New York, 1999.

⁷² The UN, *World Conferences on Women*, available at:

<http://www.unwomen.org/en/how-we-work/intergovernmental-support/world-conferences-on-women>

against women, Women and armed conflict, Women and the economy, Women in power and decision-making, Institutional mechanism for the advancement of women, Human rights of women, Women and the media, Women and the environment, The girl-child"⁷³.

However, after the Conference in Beijing, the commission found many obstacles to the achieving of the goal and proposed other initiatives to implement some dispositions. Many were the gaps between theory and practice and many reasons were detected as being the cause of the lack of the achievements with this purpose. According to the work of Jill Steans, a British researcher on International Relations, the reasons why the Platform of Action failed to achieve some progress are "a persistent lack of political will" to protect women's rights, "the continuing under-presentation of women in power and decision-making structures", and the "male-dominated legislators and policy-making bodies" that are still placing gender equality in a marginal goal with respect to their priorities⁷⁴.

While these problems were going to be solved, other efforts have been made for women's protection and development.

5. 2 Starting to prohibit FGM

In 1993 the *Declaration on the Elimination of Violence Against Women* represented a step forward against the discrimination of women and it is often saw as complementary to the CEDAW.

⁷³ The UN, *Beijing Declaration and Platform For Action, Beijing +5 Political Declaration and Outcome*, 1995. See full text at the website: http://www.unwomen.org/~media/headquarters/attachments/sections/csw/pfa_e_final_web.pdf

⁷⁴ Jill Steans, *Gender and International Relations – Gender, Sexuality and Human Rights*, cit., pg. 88.

The first two articles established that the following conditions were considered an attack to women's integrity: "Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation".⁷⁵

In the text it has been finally specified that FGM "and other traditional practices harmful to women" constituted a violation of women's rights and were considered as acts of violence against women. In fact, "the term "violence against women" means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women"⁷⁶.

The way toward the establishment of FGM as banned internationally was started, but it was still a long way to achieve the goal. Step by step women's rights became part of the international life and Female Genital Mutilation started to be considered more and more seriously by most of countries.

Following in this direction, African countries issued in 2003 the *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa*. Despite being only a regional treaty, this Protocol insisted on the necessity to eliminate FGM; African governments, where the practice is mainly performed, were struggling against it. As it is specified in the Art. 5, "States Parties shall prohibit and condemn all forms of harmful practices"⁷⁷ and recognize FGM as a violation of Human Rights; the Protocol

⁷⁵ The UN, *Declaration on the Elimination of Violence Against Women*, , December 1993, Art. 2 (a). Available at:

<http://www.un.org/documents/ga/res/48/a48r104.htm>

⁷⁶ The UN, *Declaration on the Elimination of Violence Against Women*, , December 1993, cit. Art 1.

⁷⁷ African Commission on Human and People's Rights, *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa*, 2003, Art. 5.

insisted on the “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”⁷⁸.

5. 3 Recent achievements

In the last decades FGM has become an important matter of international concern. It has been determined that the practice of Female Genital Mutilation is indeed violating the fundamental Human Rights. For this purpose, the international agenda has been filled with a series of reports, publications and resolutions each time more effective, that aimed to the elimination of the practice.

As it has been shown, the international efforts comprehend the most important Organizations and Institutions, and year by year FGM became a very important matter on their agendas.

5.3.1 The United Nations against FGM

In 1990 for the first time in history the UN urged the necessity to fight against the practice of FGM and released the *General Recommendation No.14 of the UN Committee on the elimination of Discrimination Against Women (CEDAW) on Female Genital Mutilation*⁷⁹. The Recommendation insisted on the fact that “States parties (shall) take appropriate and effective measures with a view

⁷⁸ *Ibidem.*

⁷⁹ EIGE, *Female Genital Mutilation in the European Union and Croatia*, 2013, pg. 40.

to eradicating the practice of female circumcision⁸⁰. It explicitly invited all countries to pay specific attention to the issue.

The following *Recommendation*, the *No. 19* continued to address the problem, indicating that “States parties should take measures to overcome such practices and should take account of the Committee's recommendation on female circumcision (recommendation No. 14) in reporting on health issues”⁸¹.

Having reported in the Recommendation the necessity to find a solution to eliminate FGM, several UN agencies started to cooperate in the next years to find a measure which could provide to criminalize the practice. In this regard, in 2008 the World Health Organization (WHO) issued the *Joint Statement, Eliminating female genital mutilation*, the result of an interagency statement accomplished by many of the agencies working in the UN: OHCHR, UNAIDS, UNDP, UNECA, UNESCO, UNFPA, UNHCR, UNICEF, UNIFEM.

The following year the efforts were even more intense and dealt with the discussion on the basis that FGM “violates a series of well-established human rights principles”: the practice “has been recognized as discrimination based on sex because it is rooted in gender inequalities”⁸² and differences of power distributed between women and men.

In 2008 the General Assembly of the UN issued the *Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development – Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. In this report it was specified that FGM was considered a torture or cruel, inhuman and degrading

⁸⁰ UN Committee on the Elimination of Discrimination Against Women (CEDAW), *General Recommendation No. 14: Female Circumcision*, 1990,(a), A/45/38.

⁸¹ CEDAW, *General Recommendation No. 19 (11th Session, 1992): Violence Against Women*, (1).

⁸² WHO, *Joint Statement “Eliminating female genital mutilation”*, Pg. 9-10. Available at: <http://www.who.int/reproductivehealth/publications/fgm/9789241596442/en/>

treatment, and was included between the typologies of “Torture and ill-treatment in the private sphere: violence within the family and the community”.⁸³ As a matter of fact, as specified in the text, “Like torture, female genital mutilation (FGM) involves the deliberate infliction of severe pain and suffering”.⁸⁴ Moreover, a State is held accountable even if it permits the execution of the practice, both in public hospitals and private clinics. According the Special Rapporteur on Torture, a State has the responsibility to take the measures necessary to eradicate the practice, and “has welcomed the adoption of legislation prohibiting female genital mutilation”; the Report also establishes that the toleration of these acts by the authorities is considered official acquiescence.

The 20th of December 2012 the General Assembly of the United Nations issued the *Resolution 67/146 - Intensifying global efforts for the elimination of female genital mutilations*. The Resolution emphasized some essential points to be respected by countries and explained the plan of action to the elimination of this harmful practice. “Recognizing that female genital mutilations are an irreparable, irreversible abuse that impacts negatively on the human rights of women and girls”⁸⁵ the Resolution unanimously banned the practice of FGM, specifying that “female genital mutilations are a harmful practice that constitutes a serious threat to the health of women and girls, including their psychological, sexual and reproductive health”. This Resolution indicated that the practice

⁸³UN *Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development – Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 2.(b) 50-55, 1 February 2013. Available at : http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A.HRC.22.53_English.pdf

⁸⁴ *Ibidem*.

⁸⁵ The UN, *Resolution 67/146 - Intensifying global efforts for the elimination of female genital mutilations*, December, 20, 2012.

See full text at the website:

<http://www.un.org/en/events/femalegenitalmutilationday/resources.shtml>

constituted a threat to the conquest of gender equality and by implementing the normative to “prohibit discrimination on the basis of sex”⁸⁶, the Resolution recognized the perpetration of FGM as a discriminatory and negative attitude toward women. Affirming that the first step toward change is organizing series of programs and trainings in order to inform people about what are the risks and consequences of the practice, it called for international cooperation to ban definitively the rite and to individuate the people who were perpetuating it.

Moreover, the Resolution aimed at the cooperation between States to condemn not only those people who continued working to protract this tradition but also those institutions that permitted the existence of it. “This is a very important step to bringing about cultural and attitudinal change”⁸⁷ said the UN Women Assistant-Secretary General and Deputy Executive Director John Hendra, in front of the above achievement.

5. 3. 2 The European Union and FGM

“The most fundamental EU legislation with regard to FGM is the *Charter of Fundamental Rights of the European Union*”⁸⁸ proclaimed in 2000 by the European Parliament, the Council of Ministers and the European Commission. Entered into force in 2009 with the *Treaty of Lisbon*, it aimed at the respect of rights such as dignity, freedom, equality and justice. However, the first significant step toward the elimination of FGM was made by the European Parliament that adopted the *Resolution on Female Genital*

⁸⁶ *Ibidem*.

⁸⁷ John Hendra speech on the UN *Resolution banning the practice of FGM*. See more at: <http://www.unwomen.org/en/news/stories/2012/12/united-nations-bans-female-genital-mutilation#sthash.kVqOSarX.dpuf>

⁸⁸ EIGE, *Female genital mutilation in the European Union and Croatia*, 2013, pg. 37.

Mutilation in 2001: it was “highlighted the need for an awareness-raising campaign” since it has been “strongly condemned FGM as a violation of fundamental human rights”⁸⁹. It was recognized the necessity to inform and form people on the issue to combat the practice eradicating it.

After that, a series of Resolutions followed, increasing more and more the efforts of international community for the elimination of such practice; the most significant is the *European Parliament Resolution on Combating FGM in the EU*, because “this was the second Resolution at the EU level that specifically dealt with FGM”⁹⁰. In the text is specified that, “to draw up an overall strategy and action plans aimed at banishing FGM from the EU”⁹¹ the cooperation between States Members was strictly necessary, in order to prevent or prosecute illegal acts such as the female genital mutilations.

The most recent European Parliament Resolution on FGM is the *Resolution on Ending Female Genital Mutilation* drafted in 2014 and affirming that “female genital mutilation is an expression of unequal power relations and a form of violence against women, alongside other serious forms of gender-based violence”⁹². The Resolution also emphasized the nonexistence of connection with any sort of religion, rather insisting on religious leaders to combat it toward its elimination.

The Council of European Union with *Conclusions on the Eradication of Violence Against Women in the European Union (2010)* insisted as well on the need for international cooperation, encouraging countries to create a network for the supply of data and informations

⁸⁹ EIGE, cit., pg. 38.

⁹⁰ *Ibidem*.

⁹¹ European Parliament *Resolution of 24 March 2009 on combating female genital mutilation in the EU*, 2009 (2).

⁹² UN *Resolution on ending female genital mutilation* (2012/2684(RSP)). Available at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=//EP//TEXT+TA+P7-TA-2012-0261+0+DOC+XML+V0//EN>

about the spread of FGM. As it is specified several times in the reports released, receiving a bigger amount of communications about the existence and the essence of this harmful practice could bring more conscience into people. It would signify a tangible change into the mentality.

Being involved in such a international matter, the European Commission in the same year, the 2010, issued the *Action Plan Implementing the Stockholm Programme*, which intensified the motivation of countries to cooperate in order to protect asylum-seekers at risk of being subjected to FGM. The Plan insisted “to provide a robust European response to violence against women and children”⁹³, including the practice of FGM. The Un efforts were this time also on what regarded people seeking asylum in Europe, suffering of the risk to be subjected to FGM at home and for this concern proposed to adopt a common European standard of asylum system and procedure.

The European Commission also reiterated that was needed “Respect for women’s dignity and integrity, but also an end to gender-based violence, including harmful customary or traditional practices”⁹⁴ with the Communication *Strengthening the commitment to equality between women and men: a women’s charter*.

The following *Strategy for equality between women and men* of 2010 restated the above highlighting, promising that the Commission will “adopt an EU-wide strategy on combating violence against women”⁹⁵, aiming at the eradication of Female Genital Mutilations.

The work of the European Commission continued without interruptions until nowadays (2016), when published the *Joint*

⁹³ *Ivi*, cit. (7).

⁹⁴ European Commission, *Strengthening the commitment to equality between women and men: a women’s charter*, 2010. Consult: <http://eur-lex.europa.eu/legal-content/PL/TXT/?uri=uriserv:em0033>

⁹⁵ EIGE, *Female Genital Mutilation in the European Union and Croatia*, 2013, pg.40.

Statement on the International Day Against Female Genital Mutilation, issued in February 2016. It put effort in the elimination of the illegal practice, signaling that "the European Union wants to eliminate this practice and protect young girls". Underlining the importance of cooperation, the Commission added: "Change has to come from the hearts of local communities. We need to continue to raise awareness on Female Genital Mutilation and to educate people, regardless of background, culture or gender on women's rights"⁹⁶.

5. 3. 3 The Council of Europe and The Istanbul Convention

In 2011 the Council of Europe adopted *The Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention)*, in force as of August 2014. It aimed to provide legal protection for those women at risk and invited States Parties to criminalize FGM.

The goal of the Convention is "to protect women against all forms of violence; to contribute to ending discrimination against women; to promote substantive gender equality; to design a comprehensive framework for the protection of and assistance to all victims of violence against women and domestic violence; and to end impunity for acts of such violence"⁹⁷.

As the Convention have shown, many challenges have still to be addressed in order to bring an adequate development on the issue. First of all, the lack of data and informations about the presence of FGM in some countries does not help the achievement of the goal.

⁹⁶ European Commission, *Joint Statement on the International Day Against Female Genital Mutilation, 2016*. See more: http://europa.eu/rapid/press-release_STATEMENT-16-247_it.htm

⁹⁷ CoE, *Convention on Preventing and Combating Violence Against Women and Domestic Violence*, cit., pg.9.

Furthermore, many cultural and traditional reasons are slowing down the way toward the elimination of such a harmful practice.

Insisting on the necessity for Parties to “promote changes in the social and cultural patterns of behavior of women and men with a view to eradicating prejudices, customs, traditions and all other practices which are based on the idea of inferiority of women or on stereotyped roles for women and men” ⁹⁸(art.12), the Convention thus insist also to promote a change of mentality, with regard to customs and traditions that are not respecting the principles of Human Rights.

Moreover, the CoE Istanbul Convention insist on the necessity to provide protection and support for those people either at risk and who experienced already FGM. Parties also are demanding for education and information in order to give countries the right direction to approach the matter.

5. 3. 4. The ECtHR and its jurisprudence on FGM

The jurisprudence of the European Court of Human Rights (hereinafter HCtHR) dealt with the practice of FGM in a few cases of applicants requesting asylum in the EU. The following paragraphs present some of those cases and the sentences of the Court.

5. 3. 4. 1. Abraham Lunguli v. Sweden, (33692/02).

The applicant Miriam Abraham Lunguli claimed in 1997 that her father wanted her to undergo FGM: he wanted her to be married because he could not afford to support her. In 1999 the applicant entered in Sweden with a false passport applying for asylum in

⁹⁸ *Ivi*, art. 12

2000. In 2001 the Migration Board rejected her request because established that she “was not at risk of being subjected to female genital mutilation as she was nearly 17 years old. Thus, she was not in the need of protection”.⁹⁹ The 21 of May 2001 the applicant appealed to the Aliens Appeals Board but it rejected her appeal¹⁰⁰. In June 2001 the applicant submitted twice the application as she maintained the risk of being subjected to the practice, but both were rejected the 18th of July 2001. M. A. Lunguli then went into hiding in order to avoid expulsion to Tanzania. She was discovered and taken by the police the 10th September 2002, and the same day she presented a new application for a residence permit specifying that her two sister have been submitted to the practice of FGM in 1991. On 11 September 2002 the Appeals Board decided not to expel her, but to issue a permanent residence permit¹⁰¹. The 13 September 2002 the Court decided not to expel the applicant to Tanzania but to grant her a permanent residence permit. The decision of expulsion was quashed, so the Court decided to strike the application out of its list of cases.

⁹⁹ ECtHR, *Abraham Lunguli - Sweden*, appl. No. 33692/02, decision on admissibility, 1 July 2003, Section IV.

¹⁰⁰ ECtHR, *Lunguli*, 2003. The Court specified that: “Adding that she had not stated that her father had taken any action to have her subjected to this practice during her years at home, in spite of her living with her father”.

¹⁰¹ ECtHR, *Lunguli*, 2003 . The Court acknowledged: “On 11 September 2002, the Appeals Board decided not to stay execution of her expulsion order. However, on 12 December 2002 the Appeals Board granted the applicant a permanent residence permit and, at the same time, quashed the decision on expulsion. In light of a new report from the Swedish Embassy in Tanzania concerning the extent and prevalence of female genital mutilation in that country, it found that there where legitimate reasons for believing that the applicant could be subjected to a female genital mutilation if returned to Tanzania. As the practice had to be regarded as cruel and inhuman treatment, the Appeals Board considered that the applicant was in need of protection in accordance with the Aliens Act”.

5. 3. 4. 2. Omeredo v. Austria, (8969/10).

The applicant named Mary Magdalene Omeredo applied for asylum in Austria the 23 May 2003, as she claimed that she should have undergone FGM in April 2003 and that her sister died of consequences of the ritual. The applicant went to a neighbouring village but she had to leave a few days after because of fights in the village. She arrived to Austria on an unknown route.

“The Federal Asylum Office rejected the applicant’s request for asylum on 10 July 2003 and stated that her expulsion to Nigeria was permissible. It held that the applicant, whose statements were credible, disposed of an internal flight alternative”¹⁰². The applicant presented a complaint against the decision of the Court, but the 10 September 2009 the complaint was rejected.

However, the applicant applied for legal aid insisting that the Court must have to “take into consideration that she was a single woman without any family relations except for her mother, who lives in the village she had to flee to avoid FGM”.¹⁰³

The Court refused legal aid to the applicant the 9 December 2009 and did not accept to deal with the complaint. The Court affirmed that the applicant should have been looking for shelter and job in other regions of Nigeria, as her conditions permitted to do so.

The 20 September 2011 the Court declared the application inadmissible.¹⁰⁴

¹⁰² ECtHR, *Omeredo v. Austria*, appl. No. 8969/10, Decision on admissibility, 20 September 2011, (A), Section I.

¹⁰³ ECtHR, *Omeredo v. Austria*, 2011.

¹⁰⁴ ECtHR, *Omeredo v. Austria*, 2011. As indicated in par.1: “The applicant complained that if she were returned to Nigeria, she would be in danger of having to undergo female genital mutilation (FGM), a practise contrary to Article 3 of the Convention. The Government argued that the Austrian authorities found the applicant’s submission that she had left her village to escape female genital mutilation credible. However, the authorities came to the conclusion that she did dispose of an internal flight alternative within Nigeria, and consequently the authorities rejected her claim to asylum. (...) the applicant was considered able to

5. 3. 4. 3. *Collins and Akaziebie v. Sweden*, (23944/05).

The case in question deals with Emily Collins (the first applicant) and her daughter Ashley Akaziebie (the second applicant).

The 21 July 2002 the first applicant entered into Sweden requesting asylum, pregnant of the second applicant, who was born on 20 September 2002. The applicant went to Sweden in order to escape FGM in her homeland, Nigeria. The woman claimed that in Nigeria neither her husband nor her family would have been able to protect her from the practice, so she paid 1000 dollars a smuggler who made her arrive in Europe, and then she took a train to Sweden.

The 13 June 2003 the Migration Board rejected her request¹⁰⁵.

The applicant presented three requests of permanent permit, specifying that refusing to undergo FGM, women in her community would have been stigmatised and no one would have helped her, but the Appeals Board rejected her appeals respectively the 14 April 2004, the 1 July 2004 and the 21 June 2005. The decision of the Court stated that her requests had been rejected because: "The first applicant had gone to school for twelve years and had to be regarded as a well-educated woman in Nigeria. It also had to be taken into account that she had managed to leave Nigeria and apply for asylum in Sweden, which indicated a considerable amount of strength and independence on her part. Under such circumstances, the first applicant could be expected to protect the second applicant, and her youngest child, from being subjected to FGM"¹⁰⁶.

find shelter and an adequate job in another part of the country in order to live there".

¹⁰⁵ HCtHR, *E. Collins and A. Akaziebie v. Sweden*, appl. no. 23944/05, Decision on admissibility, 8 March 2007, Section III. As underlined in the par. 1: "On 13 June 2003 the Migration Board rejected the applications for asylum, refugee status or a residence permit. Firstly, it noted that FGM was not included as a ground for asylum under the Aliens Act. Secondly, it stated that FGM was prohibited by law in Nigeria and that this prohibition was observed in at least six Nigerian states. Thus, if the applicants returned to one of those states it would be unlikely that they would be forced to undergo FGM".

¹⁰⁶ HCtHR, *E. Collins and A. Akaziebie v. Sweden*, 2007.

Considering the affirmations of the first applicant, the Court claimed that her story was too vague and lacking of details, even if it confirmed that the practice of FGM is contrary to the Art. 3 of the Convention and that in Nigeria women are traditionally subjected to FGM.¹⁰⁷ Finally, the Court established that “owing to the special situation in which asylum-seekers often find themselves, it is frequently necessary to give them the benefit of the doubt in assessing the credibility of their statements and the supporting documents. However, when information is presented which gives strong reason to question the veracity of an asylum-seeker’s submissions, the individual must provide a satisfactory explanation for the alleged discrepancies (...)”.¹⁰⁸ Affirming that the applicants failed to demonstrate they would have been at real risk of being subjected to FGM in Nigeria, the Court decision was to declare the application inadmissible.

5. 3. 4. 4. Izevbekhai v. Ireland, (43408/08).

The case in question regards three applicants from Nigeria: the first applicant, Enitan Pamela Izevbekhai, and her two daughters Naomi Alero Izevbekhai and Jemima Temisanre Izevbekhai, (respectively the second and the third applicants) arrived in Ireland the 20 January 2005, applying for asylum because of the risk for the second and the third applicant of being subjected to the practice of FGM. The first applicant affirmed to be in good conditions when living in Nigeria, but that her first daughter, who was born on 11 February 2003, died on 16 July 1994 as a consequence of the ritual.

¹⁰⁷ HCtHR, E. *Collins and A. Akaziebie v. Sweden*, 2007. The Court affirmed: “It is not in dispute that subjecting a woman to female genital mutilation amounts to ill-treatment contrary to Article 3 of the Convention. Nor is it in dispute that women in Nigeria have traditionally been subjected to FGM and to some extent still are”.

¹⁰⁸ HCtHR, E. *Collins and A. Akaziebie v. Sweden*, 2007.

“The first applicant did not report this death to the police because, allegedly, the Nigerian police would not interfere with a family tradition”.¹⁰⁹

Despite of the husband of the first applicant declared to be against the practice, the circumstances described by the woman revealed that the only manner to escape FGM would have been to leave Nigeria.

“By Report dated 21 February 2005 an officer of the RAC opined that the applicants had submitted neither credible evidence of a well-founded fear of persecution in Nigeria nor sufficient evidence that they would encounter persecution should they return or that state protection would be withheld”.¹¹⁰

In fact, the response of the Court affirmed that, even if Nigeria dealt with FGM practices that are still performed in some regions of the country, the crucial issue was about the possibility of a real risk for the second and the third applicants of being subjected to FGM if returned to Nigeria.¹¹¹ Furthermore, the Court established that “the first applicant and her husband could protect the second and third applicants from FGM if returned to Nigeria”¹¹² having considered the financial and social conditions of the husband of the first applicant. For these reasons, the Court declared the application inadmissible.

¹⁰⁹ ECtHR, *Izevbekhai v. Ireland*, appl. no. 43408/08, Decision on admissibility, 17 March 2011, Section I.

¹¹⁰ ECtHR, *Izevbekhai v. Ireland*, 2011, par. 7.

¹¹¹ ECtHR, *Izevbekhai v. Ireland*, 2011, par. 73. Literally: “It is not in dispute that subjecting a child or adult to FGM would amount to ill-treatment contrary to Article 3 of the Convention. Nor is it contested that girls and women in Nigeria have traditionally been subjected to FGM and, to varying degrees depending on their ages and the region of Nigeria, continue to be. The crucial issue for present purposes is whether the second and third applicants would face a real risk of being subjected to FGM upon their return to Nigeria”.

¹¹² ECtHR, *Izevbekhai v. Ireland*, 2011, par. 81.

5. 3. 5. Cases of FGM performed in host countries within Europe.

The European Countries dealt with FGM in a few cases since it was criminalized by the CoE Istanbul Convention. The practice is usually performed by immigrants residing in immigrant communities.

Considering the countries within the European Union, only ten of them issued specific dispositions criminalizing the practice of FGM after the Convention: Austria (Art. 90 of Penal Code, 2001), Belgium (Art. 409 Penal Code, 2001), Cyprus (Art. 233A of Penal Code, 2003), Denmark (Art. 245A of Penal Code, 2003), Ireland (Criminal Justice Female Genital Mutilation Act 2012), Italy (Art. 583bis and 583 ter of Penal Code, 2006), Spain (Art. 149 of Penal Code, 2003), Croatia (Art. 116 of Code of Criminal Law, 2013), Sweden (Act Prohibiting Genital Mutilation of Women, 1982) and United Kingdom (Prohibition of Female Genital Mutilation Act, 2005).

All of them had ratified International and European Conventions:

- ✚ Universal Declaration of Human Rights, 1948;
- ✚ The Convention on the Elimination of All of Forms of Discrimination against Women (CEDAW), 1979;
- ✚ the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT);
- ✚ the Convention on the Rights of the Child (CRC)
- ✚ the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)
- ✚ the Charter of Fundamental Rights of the European Union (2010/C 83/02).

However, only four of the States indicated above ratified the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (CETS No. 210) and they are Austria, Ireland, Spain and Sweden. In this Convention, the Art. 38 affirms that:

Parties shall take the necessary legislative or other measures to ensure that the following intentional conducts are criminalised:

a. excising, infibulating or performing any other mutilation to the whole or any part of a woman's labia majora, labia minora or clitoris;

b. coercing or procuring a woman to undergo any of the acts listed in point a;

*c. inciting, coercing or procuring a girl to undergo any of the acts listed in point a.*¹¹³

Since the CoE Istanbul Convention criminalized FGM, States must include a specific criminal law against the practice in their legislative system. In the following paragraphs there are three examples of cases of FGM practiced in three different States that included that provision (Spain, Italy and United Kingdom).

5. 3. 5. 1. Spain

In 2003 Spain introduced a specific criminal law provision against the practice of FGM. As specified in the Organic Act 11/2003 on Concrete Measures in the Field of Citizens' Security, Domestic Violence and Social Integration of Aliens, the amendment of the art. 149 of the Penal Code affirms that: "Anyone who causes another person to suffer any form of genital mutilation shall be punishable by imprisonment for a term of between six and twelve years. Where the

¹¹³Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (CETS No. 210), Art. 38. Available at: <http://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168008482e>

victim is a minor or a person of limited capacity, parental custody or foster care will be withdrawn for a period of four to ten years”.¹¹⁴

Basing on this premise, a particular case is analyzed according to the application of the Law of above.

Sentencia 835/2012

The case analyzed is about a Gambian family transferred into Spain. On 4 September 2009, the first defendant, N. S., and her daughter, I. D., moved to Spain with an authorized permission of entering, where M. D., N. S.'s husband and I. D.'s father, was living since 1999. None of them left Spain, but, in the period between the 20 November 2009 and the 25 May 2010, they succeeded in making the girl (I. D.) mutilated in her genitals. The victim, I. D., resulted seriously offended. Her parents, both accused of being responsible for a practice of genital mutilation, were condemned to six years of prison (M. D.) and two (N. S.).¹¹⁵

The defendants filed an appeal affirming that the removal of the clitoris of their daughter had not been performed while they were in Spain, but it has been rejected for the following reasons: on 20 November 2009, the girl had been examined by a doctor who affirmed that she had her genital intact, while on 25 May 2010,

¹¹⁴ Amendment of the art. 149 of the Spanish Penal Code, after the Organic Act 11/2003. “El que causara a otro una mutilación genital en cualquiera de sus manifestaciones será castigado con la pena de prisión de seis a 12 años. Si la víctima fuera menor o persona con discapacidad necesitada de especial protección, será aplicable la pena de inhabilitación especial para el ejercicio de la patria potestad, tutela, curatela, guarda o acogimiento por tiempo de cuatro a 10 años, si el juez lo estima adecuado al interés del menor o persona con discapacidad necesitada de especial protección”.

¹¹⁵ *Sentencia 835/2012*, Audiencia Provincial de Teruel, 31 March 2012. “Al acusado M. D. como responsable en concepto de autor de un delito de lesiones, mutilación genital, ya definido, sin la concurrencia de circunstancias modificativas de su responsabilidad penal, a la pena de SEIS AÑOS DE PRISIÓN, (...) A la acusada N. S. como responsable en concepto de autora de un delito de lesiones, mutilación genital, ya definido, concurriendo un error de prohibición vencible, a la pena de DOS AÑOS DE PRISIÓN”.

when examined again, the girl had her clitoris removed; it had also been confirmed that, from the birth of I. D. and her operation, none of the condemned travelled outside of the country. So, it has been assured that the operation has been performed in Spain, and that the procedure has been performed according to the traditional practice of FGM.

Establishing that cultural reasons do not justify a violation of the principles of human rights, the Spanish Law condemns acts such as the one treated by the Court¹¹⁶.

5. 5. 2. Italy

In 2006, Italy introduced the Law No. 7/2006 specifically addressed to the prohibition of the practice of FGM: the Law prohibited the performance of female genital mutilations through the articles 583 bis and 583 ter.¹¹⁷

¹¹⁶ L. O. 3/2005, 6 July 2005. "La mutilación genital femenina constituye un grave atentado contra los derechos humanos, es un ejercicio de violencia contra las mujeres que afecta directamente a su integridad como personas. La mutilación de los órganos genitales de las niñas y las jóvenes debe considerarse un trato "inhumano y degradante" incluido, junto a la tortura, en las prohibiciones del art. 3 del Convenio Europeo de Derechos Humanos".

¹¹⁷ Italian Penal Code, art. 583 bis, L. 7/2006. (Pratiche di mutilazione degli organi genitali femminili). – Chiunque, in assenza di esigenze terapeutiche, cagiona una mutilazione degli organi genitali femminili è punito con la reclusione da quattro a dodici anni.

Ai fini del presente articolo, si intendono come pratiche di mutilazione degli organi genitali femminili la clitoridectomia, l'escissione e l'infibulazione e qualsiasi altra pratica che cagioni effetti dello stesso tipo. Chiunque, in assenza di esigenze terapeutiche, provoca, al fine di menomare le funzioni sessuali, lesioni agli organi genitali femminili diverse da quelle indicate al primo comma, da cui derivi una malattia nel corpo o nella mente, è punito con la reclusione da tre a sette anni. La pena è diminuita fino a due terzi se la lesione è di lieve entità. La pena è aumentata di un terzo quando le pratiche di cui al primo e al secondo comma sono commesse a danno di un minore ovvero se il fatto è commesso per fini di lucro. Le disposizioni del presente articolo si applicano altresì quando il fatto è commesso all'estero da cittadino italiano o da straniero residente in Italia, ovvero in danno di cittadino italiano o di straniero residente in Italia. In tal caso, il colpevole è punito a richiesta del Ministro della giustizia".

According to the principle of extraterritoriality, the law applies also in the cases of practices performed abroad “by an Italian citizen or by a foreigner residing in Italy, or against an Italian citizen or a foreign citizen residing in Italy”.¹¹⁸

Sentenza Corte d'Appello di Venezia 23 novembre 2012, II sez. pen. (dep. 21 febbraio 2013), n. 1485

This judgement deals with two different cases about the practice of FGM in Italy. The facts regard three defendants, being involved in three different cases related between them: a Nigerian woman, G. O., who was a midwife in her home country, but her qualifications were not considered valid in Italy; the young Nigerian mother of the minor X, aged two months; the Nigerian father of the minor Y.

The Nigerian woman, G. O., practiced a cut in the genitals of X, the daughter of a Nigerian woman, in March 2006. She received 300 euros as payment for this work.

Arriving at the house of the father of Y, another minor, she was caught by the police. The police was able to figure out her criminal activity thanks to the interception of her phone conversations. She was arrested while carrying with her a bag containing tools for the performance of the second mutilation (that would have been paid 300 euros).

After the examination of the facts, G. O. was accused of causing the injury on the genital organs of the minor X, according the Art. 583 bis of the Penal Code. The mother of X was accused of being the accomplice of N. O. In both the situations, Tribunal of Verona applied some mitigating circumstances.

Regarding the second case about Y and her father, the Nigerian woman, G. O., was accused of having attempted to cause an injury

¹¹⁸ Italian Penal Code, art. 583 bis, L. 7/2006.

on the genital organs of the minor Y according to the Art. 583 bis of the Penal Code. Y's father was accused of the same crimes such as the mother of X.

Moreover, G. O. was accused of practicing the profession of doctor illegally.

Tribunal of Verona decided the detention of G. O. for 1 year and 8 months, while the mother of X was condemned to 6 months of detention, and the father of Y was condemned to the deprivation of liberty for 4 months¹¹⁹.

The two parents appealed to the Court of Appeal of Venice, in 2012. The topic of female genital mutilation regards cultural motivation, so the Court of Appeal of Venice examined it. For the concern of the typology, it is to be considered the WHO Statement¹²⁰, and it has been recognized as the milder of the four types. Regarding the cultural group, it has been recognized that the defendants are part of a particular community practicing this cut, and that the cut is not performed with the intent of impairing sexual functions¹²¹.

The judge considered the Art. 583 bis co. 2 in which is specified that the practice should have been conducted with the specific intent of affect the sexual functions of the girl and control her sexuality.

The Court acquitted the two parents in December 2012.

5. 5. 3. United Kingdom

In the United Kingdom, FGM has been prohibited in 1985 with the Female Circumcision Act, replaced in 2003 by the Female Genital

¹¹⁹ Tribunale di Verona 14 April 2010, no. 279.

¹²⁰ WHO Eliminating Female Genital Mutilation, 2008. In the judgement has been recognized as Type IV.

¹²¹ Corte di Appello di Venezia, 2012, no. 1485, cit. pg. 52. "Nessun riferimento all'aver agito allo scopo di menomare le funzioni sessuali è desumibile poi dal contenuto delle intercettazioni telefoniche, né dalla natura dell'intervento richiesto e concordato, assolutamente inidoneo, per la sua consistenza a palesare un'intenzione in tal senso da parte della donna".

Mutilation Act. Furthermore, it is applicable the principle of extraterritoriality, and for this reason FGM is punishable also if committed in a host country.

Judgement (2015) EWFC 3, case no. LJ13C00295

The case examined deals with an African family living in United Kingdom, composed by the mother (M), the father (F), the daughter (G) born in 2011 and the son (B) born in 2010. The proceedings started when M abandoned G on the street. The issue in this judgement regarded G and will of the judge to establish if G has been subjected to Female Genital Mutilation, for the parameters specified in the WHO Statement in 2008 and the WHO's Fact Sheet N241 of 2014.

Subsequently, the judge considered the Female Genital Mutilation Act, entered into force in 2003.

The suspicion came in 2012 when the nurse found some blood on the nappy of G. After being examined, the doctor stated that no damages had been found to her genital organs. In November 2013, the foster carer reported that G had irregular genitalia.

Three experts examined the case: Dr. Share, Dr. Momah, and Professor Creighton.

Dr. Share examined the genitals of G on 13 February 2014, and stated that G. had been subjected to FGM, type 1 or 2.

Dr. Momoh examined G, with the participation of Dr. Share, and initially confirmed Dr. Share analysis; after further analysis, Dr. Momoh stated that "the vulva does not appear normal" but she cannot specify the type of FGM.

Pr. Creighton examined the detailed reports of Dr. Share and Dr. Momoh on the genital organs of G, and stated that it was not about type 1 or 2, but more likely type 4.¹²²

In October 2014 the three of them gave oral evidence: Dr. Share said she cannot confirm her precedent affirmation; Pr. Creighton stated there were no scars on G's genitals, Dr. Momoh claimed that the evidence was unsatisfactory.

The parents of G affirmed that their daughter had not been subjected to FGM.

The judge stated he cannot rely on the reports of Dr. Share and Dr. Momoh because they were not accurate and clear. The judge was not able to establish whether G had been subjected to FGM or not.

¹²³

The local authority, then, had to specify if FGM WHO type 4 amounted to "significant harm" according to the 31 (2) and 100(4)(b) of the Children Act of 1989.¹²⁴ The judge established that FGM is considered to be a "significant harm", but with male circumcision, it was not linkened. Furthermore, as specified in the Female Genital Mutilation Act, FGM Type IV is considered under the provisions of the criminal law only if it involves "mutilation".¹²⁵

At the end, considering all the investigations that have been made, the decision of the judge was: "The issue of what the outcome should be had I found that G had indeed been subjected to FGM

¹²² Royal Courts of Justice, [2015] EWFC 3, 14 January 2015, no. LJ13C00295, par. 28.

¹²³ *Ivi*, par. 53. Accordingly I have concluded that the local authority is unable on the evidence to establish that G either has been or is at risk of being subjected to any form of FGM.

¹²⁴ The Children Act of 1989, 31 (2) affirms that: "A court may only make a care order or supervision order if it is satisfied – (a) that the child concerned is suffering, or is likely to suffer, significant harm; and (b) that the harm, or likelihood of harm, is attributable to (i) the care given to the child, or likely to be given to him if the order were not made, not being what it would be reasonable to expect a parent to give to him; or (ii) the child's being beyond parental control".

¹²⁵ Royal Courts of Justice, [2015] EWFC 3, 14 January 2015, no. LJ13C00295, par.70.

largely fell away once the local authority modified its position. Given my finding, it has fallen away entirely”.

The practice of Female Genital Mutilation is a matter more and more discussed in International Organizations’ Agendas. It has been confirmed that the practice had been banned internationally in “the vast majority of EU members states”, being prosecutable under criminal legislations¹²⁶; this is a great conquest for the present struggle towards its elimination. Exhortations about raising awareness about the effects of such practice are proceeding but more efforts should be addressed towards the practicing communities, where FGM “is a subject that is not generally talked about”¹²⁷. This is a prerogative of the domestic sphere of communities in which it is performed because it represents a sort of taboo. A traditional taboo. Traditional practices cannot comprehend in their custom injuring effects both physical and psychological, above all when confirmed as violating the fundamental rights of the person. Gender-based discrimination it is not tolerated by the International community. It is affirmed that: “Violence toward women and girls is not cultural. It is criminal”¹²⁸.

¹²⁶ UN *Overview Legislation in the European Union to address Female Genital Mutilation: Challenges and recommendations for the Implementation of Laws*, 2009, (2).

¹²⁷ EIGE, *Estimation of girls at risk of female genital mutilation in the European Union*, 2015, pg. 89.

¹²⁸ European Commission *Joint Statement on the International Day Against Female Genital Mutilation*, 6 Feb 2013.

CHAPTER 6

CURRENT SITUATION

“Be the change that you wish to see in the world”¹²⁹.

The World Health Organization (WHO) stated that there are between 100 and 140 millions of girls and women who are subjected to female genital mutilation.

In 2015 the practice of FGM is still present mainly in Africa, in which 27 countries continue this barbaric tradition. The continent have 91,5 millions of mutilated girls over 9 years, and other 3 millions in addition every year. Statistic surveys have been made by health researches on women between 15 and 49 years. The prevalence of the practice depends on the country and the ethnic community.

The practice is present also in some areas of Asia and South America but there is not a real eradicated tradition to respect, such as in Yemen, Iraq and in 27 countries of Africa. The countries with documented cases are India, Indonesia, Iraq, Malaysia, United Arab Emirates, Israel, Colombia, Peru, Oman, Sri Lanka and Democratic Republic of Congo.

Some West countries also reported cases of genital mutilation but episodes are restricted between migrants' communities. Since some NGOs and GOs signalled the existence of this barbaric practice, the governments of the majority of them condemned it and stated that, whoever would protract it, will be prosecuted.

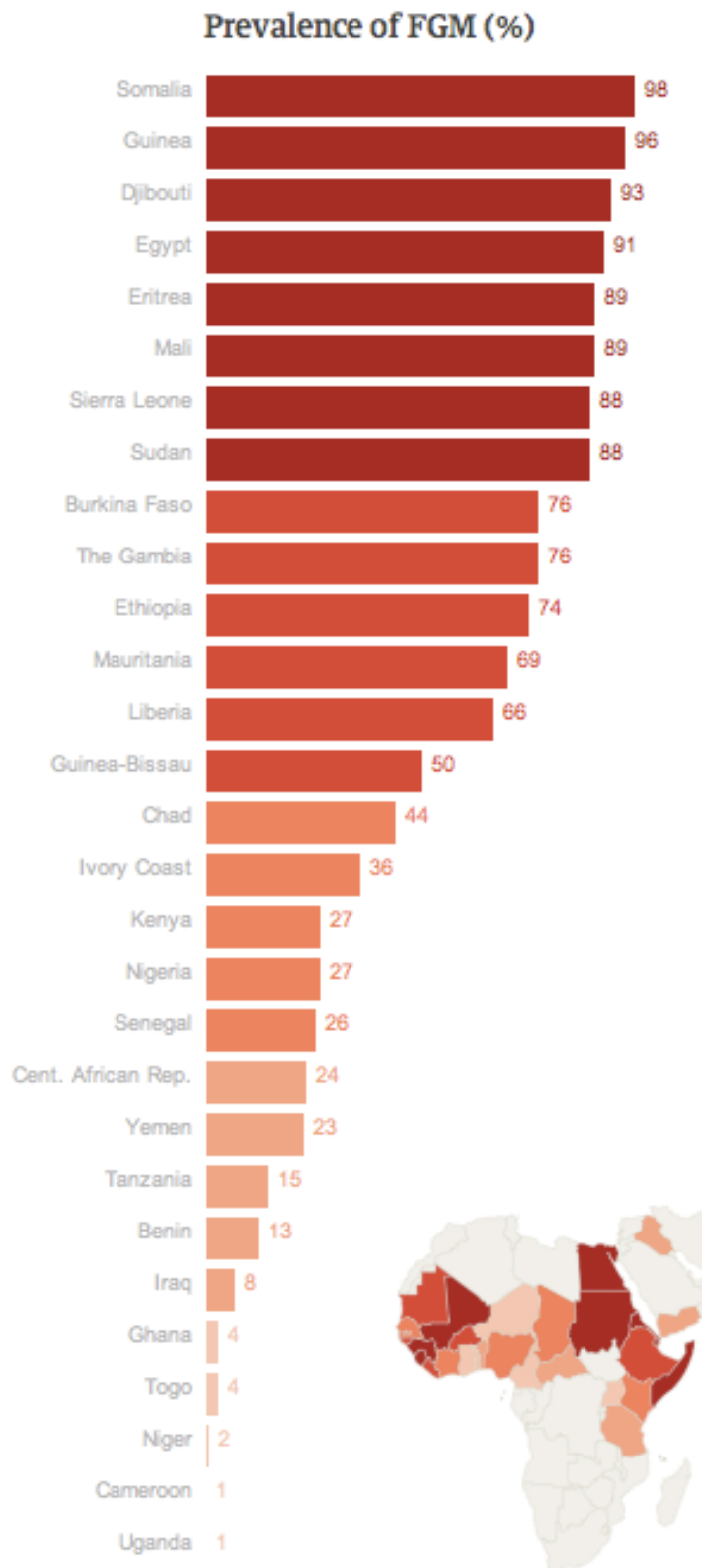
The Image 2 is an image taken from The Guardian's website, and it summarizes the current situation (2016). It is about the countries

¹²⁹ M. Gandhi, cit. in Rita Verma, *Be the change: teacher, activist, global citizen*, Peter Lang Publishing, New York, 2010, p. 119

with the persistence of FGM and their percentage of activity in them.

All the following data are taken by the same website , enriched with other specific informations found in current law systems' papers.

Image 2



6. 1 Countries practicing FGM and legislations banning it

6. 1. 1 Somalia

Somalia has the highest prevalence of mutilated women and girls in the world. The rate is about 98% of female population between 5 and 50 years, both in rural and urban areas. The 7th of September 2012 the Government of Somalia condemned the practice with the issue of Article 15 of Federal Constitution:

Article 15. Liberty and Security of the Person

*(4) Female circumcision is a cruel and degrading customary practice, and is tantamount to torture. The circumcision of girls is prohibited.*¹³⁰

6. 1. 2 Guinea

Guinean population have a high percentage of people in favour of FGM: 69% of females and 53% of males agree to continue this practice. Guinea is the second country of the world with the higher percentage of mutilated women: on average, the 96% of girls and women have undergone the practice.

Guinean Penal Code punishes every person who is culpable of mutilation with the article No. 305:

¹³⁰ *Article 15*, Provisional Constitution of the Federal Republic of Somalia, August 1, 2012.

See the full text at the website:

<http://unpos.unmissions.org/LinkClick.aspx?fileticket=RkJTOSpoMME=>

Article 305

La castration est l'ablation ou la mutilation des organes génitaux, soit chez l'homme, soit chez la femme.

*Toute personne coupable de ce crime subira la peine de la réclusion criminelle à perpétuité. Si la mort en est résultée dans les quarante jours ayant suivi ce crime, le coupable subira la peine de mort.*¹³¹

6. 1. 3 Djibouti

Djibouti is the third country in the world with the highest rate of mutilated women: 93% of girls and women experienced it. As a result of several researches has estimated that the 37% of female population is in favour of FGM.

The article n° 333 of the Penal Code condemns FGM with both a fine and prison.

Article 333

*Les violences ayant entraîné une mutilation génitale sont punies de cinq ans d'emprisonnement et de 1 000 000 F d'amende.*¹³²

6. 1. 4 Egypt

Nonetheless Egyptian authorities banned FGM and also Islamic representatives explained that this practice is not required by Islam, Egypt is one of the countries in which FGM is most eradicated. The 91% of the female population had undergone genital mutilations but

¹³¹ Code Pénal de Guinée – Article 305, December 31, 1988. See full text at the website: <http://www.refworld.org/docid/44a3eb9a4.html>

¹³² Code Pénal de Djibouti – Article 333, 1995. See the full text at the website: https://www.unodc.org/tldb/pdf/Djibouti_Penal_Code_Fr.pdf

researches estimated that the 59% of Egyptian people is in favour of it.

In 2008 the Article 242-bis was added to the Penal Code, as demonstration that FGM has become illegal and could be punished by Law.

Article 242-bis

*Taking into consideration the provisions of Article 61 of the Penal Code, and without prejudice to any stronger penalty prescribed by another law, shall be penalized by imprisonment for not less than three (3) months and not exceeding two (2) years, or with a fine of not less than one thousand (1000) Egyptian pounds, and not exceeding five thousand (5000) Egyptian pounds, anyone who caused the injury which is punishable by Articles 241, 242 of the Penal Code, through performing female genital mutilation.*¹³³

6. 1. 5 Eritrea

The majority of Eritrean population think that FGM is required by religion, so the 53% of the people support the practice. As a result, 89% of females had been mutilated in their genitals, above all baby girls, in some cases younger than 2 years.

For this reason, in 2007 the Government issued the proclamation 158/2007 to ban FGM.

Proclamation 158 /2007 - A Proclamation to Abolish Female Circumcision:

¹³³ Penal Code of Egypt – Article 242-bis, 2008. For further informations please consult the website:
http://srsg.violenceagainstchildren.org/sites/default/files/consultations/law_reform/presentations/moushira_khattab_fgm_vac_legal-reform6-7_july_2011.pdf

Whereas, female circumcision is a procedure that seriously endangers the health of women, causes them considerable pain and suffering and threatens their lives;

Whereas, this procedure violates women's basic human rights by depriving them of their physical and mental integrity, their right to freedom from violence and discrimination, and in the most extreme case, their life;(…)

Whereas, it has been traditionally practiced and is prevalent in Eritrea; and Whereas, the Eritrean Government has decided to abolish this harmful procedure which violates women's rights; Now, therefore, it is proclaimed as follows: (…)

Article 3. Prohibition of Female Circumcision.

Female circumcision is hereby abolished.

Article 4. Punishment.

(1) Whosoever performs female circumcision shall be punishable with imprisonment of two to three years and a fine of five to ten thousand (5,000.00 to 10,000.00) Nakfa. If female circumcision causes death, imprisonment shall be from five to ten years.

(2) Whosoever requests, incites or promotes female circumcision by providing tools or by any other means shall be punishable with imprisonment of six months to one year and a fine of three thousand (3,000.00) Nakfa.

(3) Where the person who performs female circumcision is a member of the medical profession, the penalty shall be aggravated and the court may suspend such an offender from practicing his/her profession for a maximum period of two years.

(4) Whosoever, knowing that female circumcision is to take place or has taken place, fails, without good cause, to warn or inform, as the

*case may be, the proper authorities promptly about it, shall be punishable with a fine of up to one thousand (1,000.00) Nakfa.*¹³⁴

6. 1. 6. Mali

The population of Mali is one of the most active in support of FGM: in the 89% of mutilated women, the 81% are in favour of it. Even if there are no laws banning FGM, the 2nd of June of 2002 the Government issued a program to discourage it.

Ordonnance 02-053 P RM sur création du programme national de lutte contre la pratique de l'excision - Ordonnance n° 02 - 053 / P-RM du 04 juin 2002.

Article 1:

Il est créé un service rattaché dénommé Programme national de lutte contre la pratique de l'excision, en abrégé Pnle.

Article 2

Le Programme national de lutte contre la pratique de l'excision a pour mission la coordination, le suivi et l'évaluation de la politique et des stratégies de lutte contre l'excision.

A cet effet, il est chargé de :

- coordonner toutes les activités de lutte contre la pratique de l'excision ;*
- mener toutes études et recherches sur le phénomène de l'excision ;*

¹³⁴ *Proclamation 158 /2007 - A Proclamation to Abolish Female Circumcision in Eritrea. Website: <http://www.refworld.org/docid/48578c812.html>*

- *développer une stratégie d'information, d'éducation et de communication à l'endroit des individus, des groupes sociaux et des collectivités territoriales en vue de leur adhésion à la politique nationale de lutte pour l'abandon de l'excision ;*
- concevoir des programmes de couverture nationale avec l'ensemble des partenaires ;*
- *évaluer et suivre les activités menées sur le terrain en matière d'excision ;*
- *créer une banque de données sur l'excision ;*
- *appuyer l'élaboration des curricula et les introduire dans les écoles de formation des professionnels de la santé et de l'éducation.*

Article 3

*Un décret pris en Conseil des Ministres fixe l'organisation et les modalités et fonctionnement du Programme national de lutte contre la pratique de l'excision.*¹³⁵

6. 1. 7 Sierra Leone

In a country in which the 89% of mutilations is held by traditional practitioners, the large majority is in favour of FGM: the 69% of mutilated women support the practice, in a total of 88% of the wider population.

At the moment there are no law banning or discouraging it. The deep roots of Sierra Leone's culture and politics are so strong that traditional practitioners are creating a kind of culture of fear among the women, and for opponents of the custom more obstacles are now on the road.

¹³⁵ *Ordonnance n° 02 - 053 / P-RM du 04 juin 2002. See the website: http://41.73.116.156/index.php?option=com_content&task=view&id=127&Itemid=87*

6. 1. 8 . Sudan

Sudan has the 88% of percentage of mutilated women, but of them only the 44% is in favour of FGM. More than the half of the population has been mutilated by nurses and doctors, leaving the remaining 44% to traditional practitioners.

In 2008 the government issued the “Penal Code Act – Arrangement of Sections” in which FGM is banned officially in the country by the Article 259.

259. Female Genital Mutilation.

*Whoever, makes or causes a female Genital Mutilation to be performed, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding ten years or with a fine or with both.*¹³⁶

6. 1. 9 Burkina Faso

Burkina Faso has a very scarce acceptance of FGM practice: only the 9% of the population is in favour of it but there are about the 76% of mutilated woman in this country. The practitioners are almost the only ones who can perform the practice; data collected in 2010 were showing the very low percentage of 0,2 of trained nurses and doctors performing it. It is the 98% of traditional practitioners ruling this custom in the country.

In 1996 the law 043/96/ADP introduced in the Penal Code the prohibition of FGM and the ban to continue the practice.

¹³⁶ *Penal Code Act – Arrangement of Sections*, 2008. Available at: <http://www.wipo.int/edocs/lexdocs/laws/en/ss/ss014en.pdf>

Article 380

Est puni d'un emprisonnement de six mois à trois ans et d'une amende de 150.000 à 900.000 francs ou de l'une de ces deux peines seulement, quiconque porte ou tente de porter atteinte à l'intégrité de l'organe génital de la femme par ablation totale, par excision, par infibulation, par insensibilisation ou par tout autre moyen. Si la mort en est résultée la peine est un emprisonnement de cinq à dix ans.

Article 381

Les peines sont portées au maximum si le coupable est du corps médical ou paramédical. La juridiction saisie peut en outre prononcer contre lui l'interdiction d'exercer sa profession pour une durée qui ne peut excéder cinq ans.

Article 382

Est puni d'une amende de 50.000 à 100.000 francs, toute personne qui ayant connaissance des faits prévus à l'Article 377 n'en avertit pas les autorités compétentes.¹³⁷

6. 1. 10 The Gambia

The Gambia is a country in which the 100% of procedures are done by traditional practitioners. Of the 76% of mutilations, a very high percentage (86%) of women are in favour of FGM. This is due to the strong conviction that this practice is demanded by religion, first of all Islam, which is the belief of the 90% of the population.

¹³⁷ Law 043/96/ADP of the Penal Code of Burkina Faso – Articles 380-382, 1996.
https://www.unodc.org/tldb/pdf/Burkina_Faso_Penal_Code_Fr.pdf

With the “Women’s Amendment Act”, in 2010 the Gambian government banned FGM in the country. The bill has the intention to prohibit the practice inside The Gambia and matters connected to it.

Section 32A - Prohibition of Female Circumcision

*A person shall not engage in female circumcision, and a person who engages in female circumcision commits an offence and liable for a conviction to an imprisonment for a term of three years or a fine of fifty thousand dalasis (approximately \$1250) or both.*¹³⁸

6. 1. 11. Ethiopia

The 74% of Ethiopian women has undergone FGM. Only the 2% has been exposed to doctors and nurses' work. The traditional practitioner is still performing the high majority of procedures.

In 2004 FGM has become illegal by the Criminal Code with the Proclamation No.414/2004:

Article 565

Female Circumcision. Whoever circumcises a woman of any age, is punishable with simple imprisonment for not less than three months, or fine not less than five hundred Birr.

Article 566

Infibulation of the Female Genitalia.

(1) Whoever infibulates the genitalia of a woman, is punishable with rigorous imprisonment from three years to five years.

(2) Where injury to body or health has resulted due to the act prescribed in sub-article (1) above, subject to the provision of the Criminal Code which provides for a more severe penalty, the

¹³⁸ Women’s Amendment Act, 2010. Available at:

*punishment shall be rigorous imprisonment from five years to ten years.*¹³⁹

6. 1. 12. Mauritania

In Mauritania, the 99% of the population is Muslim and more than the half believe that FGM is a religious requirement. In fact, the 69% of women had undergone FGM and the 93% of procedures have been executed by traditional practitioners.

The "Ordonnance n°2005-015 portant protection pénale de l'enfant" established restrictions for FGM in favour of child protection.

Article 12.

Le fait de porter atteinte ou de tenter de porter atteinte à l'organe génital d'un enfant de sexe féminin, par infibulation, insensibilisation ou par tout autre moyen est puni d'un à trois ans d'emprisonnement et d'une amende de 120.000 à 300.000 ouguiyas lorsqu'il en a résulté un préjudice pour celui-ci.

*La peine est portée à quatre ans d'emprisonnement et à une amende de 160.000 à 300.000 ouguiyas lorsque l'auteur de l'infraction relève du corps médical ou paramédical.*¹⁴⁰

¹³⁹ *Proclamation 414/2004 – Articles 565-566, Criminal Code of Ethiopia.*

Find full text here: <http://www.wipo.int/edocs/lexdocs/laws/en/et/et011en.pdf>

¹⁴⁰ *Ordonnance n°2005-015 portant protection pénale de l'enfant – Article 12.*

Consult the website for further informations:

https://legislationmauritanienne.files.wordpress.com/2011/06/ordonnance-nc2b02005-015-portant-protection-pc3a9nale-de-l_enfant.pdf

6. 1. 13. Liberia

Liberia has no specific laws banning FGM. The country is still maintaining the tradition of performing female genital mutilation and the 66% of women is still undergoing it.

6. 1. 14. Guinea-Bissau

In Guinea-Bissau the half of women in the wide population has undergone FGM. In this 50%, only the 0,1% of the procedures had been taken at hospitals or done by doctors and nurses.

As indicated in the UNICEF report "Driving Forces in Outlawing the Practice of Female Genital Mutilation/Cutting in Kenya, Uganda and Guinea-Bissau", a new law banning FGM had been made in 2011.

The article in question, written by Iain Murray, starts as follow:

This past June, the National Popular Assembly (ANP) of Guinea-Bissau approved a law prohibiting female genital mutilation and cutting (FGM/C) nationwide. The controversial law had been on the table for discussion for 16 years, before it was ultimately approved by 64 votes in favour to 1 vote against.

It says also that the percentage of mutilations decreased to 45%.¹⁴¹

6. 1. 15. Chad

From this country on, the percentage of FGM is above the 50% of the female population. Chad has the 44% of girls and women who

¹⁴¹ *New law prohibits practice of female genital mutilation in Guinea-Bissau*, Iain Murray, September 13, 2011. Read the full article here: http://www.unicef.org/health/guineabissau_59787.html

had been exposed to this barbaric practice, and of them the 8% of the procedures had been done by nurses and doctors.

The 21st of May 2009 the UN published the "Legislation to address the issue of Female Genital Mutilation (FGM)". In this paper we can read about Chad:

Law no 6/PR/2002 on the promotion of reproductive health has provisions prohibiting FGM.

In this law, FGM is regarded as a form of violence against women and is prohibited. It has however, no provisions for sanctions, thus the national legislation is not complete yet. Also, FGM is not defined in this law and thus makes it subject to opinions of the perpetrators as well as law enforcement agents. Sanctions for performing FGM can be found in the Penal Code, where articles 252 - 254 can be applicable to FGM.

Article 252 states that any person who "intentionally strikes or wounds or commits any other act of violence or assault upon the person of another, shall be punished by imprisonment from 6 days to 1 year and a fine ranging from 500 – 500'000 CFA".

Article 253 is more specific and therefore better applicable in the case of FGM, stating: "The perpetrator shall be punished by imprisonment from 5 to 10 years and with a fine of 10'000 – 500'000 CFA when there is mutilation, amputation or privation of the use of a members, blindness, loss of an eye, or other infirmities or if the strikes or wounds, intentionally inflicted, result in unintended death (...)"

Article 254 provides that "when the strikes or wounds are carried out against a child under the age of 13, the penalty shall be doubled",

*with the prison sentence not exceeding 20 years and the fine not exceeding 1'000'000 CFA. (Approx. \$2000).*¹⁴²

6. 1. 16. Ivory Coast

According the data by The Guardian, the Ivory Coast has a prevalence of 36% of women who had undergone FGM. The art 2 of the Act 98/757 of the 28th of December 1998 says:

Article 2

*Quiconque commet une mutilation génitale féminine est puni d'un emprisonnement de 1 à 5 ans et d'une amende allant de 360 000 à 2 000 000 F CFA. La peine est portée au double si l'auteur est du corps médical ou paramédical. Le juge peut en outre lui interdire l'exercice de sa profession. La peine est d'un emprisonnement de 5 à 20 ans en cas de décès de la victime.*¹⁴³

In 2010 a Resolution about family confirmed the prohibition to protract the practice:

L'Assemblée Nationale de Côte d'Ivoire réunie en sa séance du mercredi 28 juillet 2010,

CONSIDERANT que la Constitution ivoirienne, en son article 3, interdit l'esclavage, le travail forcé, les traitements inhumains et cruels, dégradants et humiliants, la torture physique ou morale, les violences physiques et les mutilations et toutes les formes d'avilissement de l'être humain;

¹⁴² *Legislation to address the issue of Female Genital Mutilation (FGM)*, The Un, May 21, 2009. Consult the website:
http://www.un.org/womenwatch/daw/egm/vaw_legislation_2009/Expert%20Paper%20EGMGPLHP%20_Berhane%20Ras-Work%20revised_.pdf

¹⁴³ *Act 98/757 – Article 2*, 1998. More informations here:
<http://www.genderindex.org/sites/default/files/datasheets/CI.pdf>

REAFFIRMANT que les mutilations génitales féminines sont une violation flagrante des droits fondamentaux des femmes et des filles;

*RAPPELANT que la loi n° 98-757 du 23 décembre 1998, portant interdiction des mutilations génitales féminines, a été adoptée par le Parlement de la Côte d'Ivoire et promulguée par le Président de la République;*¹⁴⁴

6. 1. 17. Kenya

Kenya is a country with the 27% of female population who undergone FGM. An unexpected 47% of women and girls had this procedure held by doctors and nurses, while the remaining 59% is still performed by traditional practitioners.

In 2011 the Act 32 has been made in order to prohibit the practice in the whole country. All the articles that follow are detecting which behave comports an offence for the country and are punishable by law.

19. Offence of female genital mutilation.

(1) A person, including a person undergoing a course of training while under supervision by a medical practitioner or midwife with a view to becoming a medical practitioner or midwife, who performs female genital mutilation on another person commits an offence.

(2) If in the process of committing an offence under subsection (1) a person causes the death of another, that person shall, on conviction, be liable to imprisonment for life.

¹⁴⁴ *Resolution sur l'interdiction des mutilations genitales feminines presentee par l'Assemblée Nationale de Côte D'Ivoire, July 28, 2010.*

Full text at the website:

http://www.banfgm.org/BanFGM!/Further_Info_files/RESOLUTION%20Cote%20d'Ivoire%20MGF_1.pdf

(3) No offence under subsection (1) is committed by an approved person who performs

(a) a surgical operation on another person which is necessary for that other person's physical or mental health; or

(b) a surgical operation on another person who is in any stage of labour or has just given birth, for purposes connected with the labour or birth. (...)

20. Aiding and abetting female genital mutilation. A person who aids, abets, counsels or procures—

(a) a person to commit an offence under section 19; or

(b) another person to perform female genital mutilation on that other person, commits an offence.

21. Procuring a person to perform female genital mutilation in another country. A person commits an offence if the person takes another person from Kenya to another country, or arranges for another person to be brought into Kenya from another country, with the intention of having that other person subjected to female genital mutilation.

22. Use of premises to perform female genital mutilation. A person who knowingly allows any premises, for which that person is in control of, or responsible for, to be used for purposes of performing female genital mutilation commits an offence.

23. Possession of tools or equipment. A person who is found in possession of a tool or equipment for a purpose connected with the performance of female genital mutilation, commits an offence.

24. Failure to report commission of offence. A person commits an offence if the person, being aware that an offence of female genital

*mutilation has been, is in the process of being, or intends to be, committed, fails to report accordingly to a law enforcement officer.*¹⁴⁵

6. 1. 18. Nigeria

The 27% of female population in Nigeria experienced FGM. Between the many religions that are present in the country, the prevalence of the rite is of 31% for Catholics.

In 2015 FGM was definitively banned with the “Violence against persons (prohibition) Act”. Points 6.(1) and (2) affirm:

6. (1) the circumcision or genital mutilation of the girl child or woman is hereby prohibited.

*(2) a person who performs female circumcision or genital mutilation or engages another to carry out such circumcision or mutilation commits an offence and is liable on conviction to a term of imprisonment not exceeding 4 years or to a fine not exceeding November 200,000.00 or both.*¹⁴⁶

6. 1. 19. Senegal

According to the data collected by DHS/MICS IN 2010-2011 Senegal count the 26% of its female population who undergone

¹⁴⁵ *Prohibition of Female Genital Mutilation Act*, No 32 of 2011.

Full text here:

http://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/ProhibitionofFemaleGenitalMutilationAct_No32of2011.pdf

¹⁴⁶ *Violence Against Persons (Prohibition) Act*, May 25, 2015. Read here: <http://www.refworld.org/docid/556d5eb14.html>

FGM. The perturbing fact is that in this country the 100% of procedures are held by traditional practitioners.

In 1999 the Article 299 of the Penal Code banned FGM.

Article 299

Si les violences ou privations prévues à l'article précédent ont été suivies de mutilation, d'amputation ou de privation de l'usage d'un membre, de cécité, perte d'un oeil ou autres infirmités permanentes, ou s'ils ont occasionné la mort sans intention de la donner, la peine sera celle des travaux forcés à temps de dix à vingt ans. Si les coupables sont les père et mère ou autre ascendants, ou toutes autres personnes ayant autorité sur l'enfant ou ayant sa garde, la peine sera celle des travaux forcés à perpétuité.

Si les violences ou privations ont été pratiquées avec l'intention de provoquer la mort, les auteurs seront punis comme coupables d'assassinat ou de tentative de ce crime. Si les violences ou privations habituellement pratiquées ont entraîné la mort même sans intention de la donner, la peine des travaux forcés à perpétuité sera toujours prononcée.

Article 299 bis (loi n° 99 - 05 du 29 janvier 1999)

Sera puni d'un emprisonnement de six mois à cinq ans quiconque aura porté ou tenté de porter atteinte à l'intégrité de l'organe génital d'une personne de sexe féminin par ablation totale ou partielle d'un ou plusieurs de ses éléments, par infibulation, par insensibilisation ou par un autre moyen. La peine maximale sera appliquée lorsque ces mutilations sexuelles auront été réalisées ou favorisées par une personne relevant du corps médical ou paramédical. Lorsqu'elles auront entraîné la mort, la peine des travaux forcés à perpétuité sera toujours prononcée. Sera punie des mêmes peines toute personne qui aura, par des dons, promesses, influences, menaces,

*intimidation, abus d'autorité ou de pouvoir, provoqué ces mutilations sexuelles ou donné les instructions pour les commettre.*¹⁴⁷

6. 1. 20. Central African Republic

In this country the 24% of female population experienced FGM. A tiny 1% of the procedures are held in hospitals by nurses and doctors. In 2010 the government of Central African Republic banned the practice of FGM throughout the country with the Section 144 of the Penal Code.

Section 114

*Anyone using modern or traditional methods has practiced or attempted to practice or promoted excision or all methods of female genital mutilation, shall be punished by imprisonment of two to five years and a fine of 100,002 to 1,000,000 francs. The penalty shall be doubled in case of recidivism.*¹⁴⁸

6. 1. 21. Yemen

In Yemen the 41% of the population supports FGM and the percentage of females who experienced it is 23%. Even if some temptations of banning the practice have been made by the government, none of them resulted effective. In 2009 the Conservatives of Yemeni Parliament deny the possibility to issue a

¹⁴⁷ *Code Penal de Sénégal – Articles 299-299bis*. Full text here:
<http://www.wipo.int/edocs/lexdocs/laws/fr/sn/sn010fr.pdf>

¹⁴⁸ Penal Code of Central African Republic, Section 144. Available at :
http://www.africanchildforum.org/clar/Harmonisation%20of%20Laws%20in%20Africa/other-documents-harmonisation_11_en.pdf

law against FGM and the next year the ministry of Human Rights of Yemen tried again to eliminate the practice without good results.

The 10th of February 2010 the IRIN - humanitarian news and analysis- journal, wrote the article YEMEN: New FGM/C law possible "within four years" - minister where affirming:

*“Ending FGM/C in Yemen will require changing society’s attitude towards women in a country which in 2009 was rated by the World Economic Forum as having the world’s largest gender disparity for a third consecutive year”.*¹⁴⁹

No laws have been issued to stop the practice of FGM in Yemen.

6. 1. 22. Tanzania

A 2005 report stated that in Tanzania still the 15% of women undergone FGM in their tender age and that the 99% of the practices are accomplished by the hands of traditional practitioners. In 1998 the Sexual Offences Special Provisions Act inserted the section 169A which banned FGM in the country:

169A. Cruelty to children.

(1)Any person who, having the custody, charge or care of any person under eighteen years of age, ill treats, neglects or abandons that person or causes female genital mutilation or procures that person to be assaulted, ill-treated, neglected or abandoned in a manner likely to cause him suffering or injury to health, including injury to, or loss of, sight or hearing, or limb or organ of the body or

¹⁴⁹ *New FGM/C Law possible “within four years” – minister*, February 10, 2010. Full article here: <http://www.irinnews.org/fr/node/247869>

any mental derangement, commits the offence of cruelty to children.

*(2)Any person who commits the offence of cruelty to children is liable on conviction to imprisonment for a term of not less than five years and not exceeding fifteen years or to a fine not exceeding three hundred thousand shillings or to both the fine and imprisonment, and shall be ordered to pay compensation of an amount determined by the court to the person in respect of whom the offence was committed for the injuries caused to that person.*¹⁵⁰

6. 1. 23. Benin

The 13% of women and girls experienced FGM in Benin but only the 4% of population are in favour of it.

In March 2003 the "Law No. 2003-3 on Repression of the Practice of Female Genital Mutilation (FGM) in the Republic of Benin" was issued. It says the following:

Article 1

The purpose of this law is to outlaw female genital mutilation in the Republic of Benin.

Article 2

All types of female genital mutilation performed by anyone, in whatever capacity, are prohibited.

Article 3

Under the present law, female genital mutilation is defined as partial or total ablation of the external genital organs of persons of the female gender and/or all other surgery performed on these organs.

¹⁵⁰ *Sexual Offences Special Provisions Act (SOSPA) – Article 169 A, 1998 (SOSPA).. For further informations:*
<http://www.refworld.org/docid/48d2237c28.html>

Surgery on these organs that has been medically prescribed is excluded from this category.

Article 4

Any person who has performed a genital mutilation of any kind on a person of the female gender is liable to imprisonment for a term of six months to three years and to a fine of one hundred thousand to two million francs.

Article 5

When genital mutilation is performed on a minor under the age of 18, the perpetrator is liable to imprisonment for a term of three to five years and a fine not exceeding three million francs.

Article 6

If a victim dies, the offender is liable to five to twenty years of forced labour and to a fine of three million to six million francs.

Article 7

Any person who has helped, assisted, or requested the services of an FGM practitioner, or given him/her instructions or the means to perform a genital mutilation, will be considered an accomplice and is liable to the same sentence as the main perpetrator of the act. (...)

Article 9

Any person who, having been informed of that a female genital mutilation was being planned, did nothing to prevent the act will be prosecuted for failure to render assistance and will be sentenced in accordance with the relevant provisions of the criminal code. Any person who is aware of an act of female genital mutilation is required to report the fact immediately to the nearest State

prosecutor or police criminal investigation department for legal purposes.

*Failure to report is punishable by a fine of fifty thousand to one hundred thousand francs.*¹⁵¹

6. 1. 24. Iraq

In Iraq the 8% of female population had undergone FGM, prevalently in Iraqi Kurdistan. The practice is not banned, even if some attempts to discourage it have been made.

The 29th of August 2012 the "Human Right Watch" wrote about it:

*“On July 6, 2010, shortly after the release of the June 2010 Human Rights Watch's report on FGM, the High Committee for Issuing Fatwas at the Kurdistan Islamic Scholars Union, the highest Muslim religious authority on religious pronouncements and rulings, issued a fatwa, or religious edict, stating that FGM predates Islam and is not required by it. The fatwa did not explicitly ban the practice but encouraged parents not to subject their daughters to the procedure because of the negative health consequences. However, because villagers only heard about the fatwa from the campaigns by nongovernmental organizations, some said they doubted its veracity and so were not dissuaded from having FGM performed on their daughters. (...) The practice of female genital mutilation continues in the Kurdistan region of Iraq a year after a landmark law banning it went into effect because the Kurdistan Regional Government has not taken steps to implement the law”.*¹⁵²

¹⁵¹ Law No. 2003-3 on repression of the practice of Female Genital Mutilation (FGM) in the Republic of Benin – Articles 1-10.

¹⁵² Iraqi Kurdistan : Law banning FGM not being enforced – One Year after Landmark Bill, Harmful Practices Persist, Human Rights Watch, 29 August 2012.

FGM is still present in Iraq and there are no laws that prohibit the practice.

6. 1. 25. Ghana

In Ghana the 4% of the female population had been cut according to the traditional practice of FGM. Only the 2% of women and girls are in favour of it.

In 2007 was issued the "Criminal Code (Amendment) Act (ACT 741)", an "Act to amend the Criminal Code, 1960 (Act 29) to change the reference "female circumcision" o "female genital mutilation" to reflect the actual nature of the offence, widen the scope of responsibility in relation to the offence and to provide for related matters."

In this Act we can find the following dispositions:

69A Female Genital Mutilation

(1) Whoever carries out female genital mutilation and excises, infibulates or otherwise mutilates the whole or any part of the labia minora, labia majora and the clitoris of another person commits an offence, and is liable on summary conviction to imprisonment for a term of not less than five years and not more than ten years.

(2) Whoever participates in or is concerned with a ritual or customary activity that subjects a person to female genital mutilation commits an offence and is liable on summary conviction to imprisonment for a term of not less than five years and not more than ten years.

<https://www.hrw.org/news/2012/08/29/iraqi-kurdistan-law-banning-fgm-not-being-enforced>

*(3) For the purposes of this section "excise" means to remove the prepuce, the clitoris and all or part of the labia minora; "infibulate" includes excision and the additional removal of external genitalia and stitching or narrowing of the vaginal opening; "mutilate" includes any other injury caused to the female genital organ for cultural or other non-therapeutic reasons; "concerned with" means (a) to send to, take to, consent to the taking to or receive at any place, any person for the performance of female genital mutilation; or (b) to enter into an agreement whether written or oral to subject any of the parties to the agreement or any other person to the performance of female genital mutilation.*¹⁵³

6. 1. 26. Togo

The 4% of Togolese women have undergone FGM. The Law No. 98-016 of 17th of November 1998 banned FGM in the country.

Article 4

Every person found guilty of intentional violence as defined in Article 3 shall be liable to a term of imprisonment of not less than two months and not more than five years, a fine of not less than 100,000 francs and not more than 1,000,000 francs, or both. Every person convicted of a second offence shall be liable to twice the term of imprisonment and/or fine that he or she received for the first offence.

¹⁵³ *The Criminal Code (Amendment) Act – Section 69 A, 2003 (Act 646).* Full text at the website:
<https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/88530/101255/F575989920/GH A88530.pdf>

Article 5

If a genital mutilation results in the death of a woman, those found guilty shall be liable to a term of imprisonment of not less than five years and not more than ten years.

Article 6

If a person has knowledge of a planned, attempted or completed excision for which it is reasonable to believe that one or more of those guilty, if not exposed, will continue to practise female genital mutilation, and that person fails to report the case of genital mutilation, he or she shall be liable to a term of imprisonment of not less than one month and not more than one year, or a fine of not less than 20,000 francs and not more than 500,000 francs.¹⁵⁴

6. 1. 27. Niger

In a country where the 3% are in favour of the practice, the 2% of women and girls have undergone FGM. The 100% of the procedures of mutilation is held by traditional practitioners. The 24th of May 2006 the Government issued a Law on Reproductive Health in which all kind of genital mutilations were banned in the country.

Article 19

Une loi fixe les conditions d'incrimination et de répression des actes attentatoires aux droits en matière de santé sexuelle et de la

¹⁵⁴ *Loi N 98-015 du 9 septembre 1998 autorisant la notification de l'accord pour l'établissement de la Banque Islamique de Développement – Articles 4-6, November 21, 1998.*

Full text here: <http://www.evaw-global-database.unwomen.org/en/countries/africa/togo/1998/law-no-98-016-of-17-november-1998-prohibiting-female-genital-mutilation-in-togo>

reproduction ainsi que des violations des dispositions pertinentes de la présente loi. Sont notamment incriminées et pénalement réprimées:

*- toutes les formes de violences dont les femmes et les enfants sont victimes en général, et les mutilations génitales féminines et la pédophilie en particulier (...).*¹⁵⁵

6. 1. 28. Cameroon

Even if the percentage of FGM present in the country is 1%, the 67% of the population is in favour of the practice. The prevalence depends on the region and the religion: in the Muslim world this rite is most present with the 6% of rate, while through the Christians the percentage is about 1%.

The Criminal Code of the country doesn't have a specific law banning FGM but the art. 277 prohibit all forms of assaults, also to organs.

Article 277

*Blessures graves. Est puni d'un emprisonnement de dix à vingt ans celui qui cause à autrui la privation permanente de l'usage de tout ou partie d'un membre, d'un organe ou d'un sens.*¹⁵⁶

¹⁵⁵ *Assemblée Nationale sur la Santé de la Reproduction au Niger – Article 16,* August 9, 1999. Full text here:

<http://www.hsph.harvard.edu/population/trafficking/niger.reproduction.06.pdf>

¹⁵⁶ *Journal Officiel de la République du Cameroun – Article 277, Code Penal* 67/LF/ 1, June 12, 19676. See full text:

http://www.vertic.org/media/National%20Legislation/Cameroon/CM_Code_Penal_Cameroun.pdf

6. 1. 29. Uganda

In Uganda the 1% of female population have undergone FGM and the 9% of them are in favour of the practice. In 2009 President Yoweri Museveni claimed that he will prohibit FGM in the country, promising to find other founds for the traditional practitioners. The first provision against FGM was taken in 1996 when the Government tried to prevent it, including the ban of harmful practices for children in the Section 8 of the Children Statute. The 9th of April 2010 the Ugandan Government issued the "Prohibition of Female Genital Mutilation Act" prohibiting definitively the rite, with expensive fines and no less than 10 years in prison.

Article 2

Offence of female genital mutilation. A person who carries out female genital mutilation commits an offence and is liable on conviction to imprisonment not exceeding ten years.

Article 3

Aggravated female genital mutilation.

(1) A person commits the offence of aggravated female genital mutilation where— (a) death occurs as a result of female genital mutilation; (b) the offender is a parent, guardian or person having authority or control over the victim; (c) the victim suffers disability; (d) the victim is infected with HIV as a result of the act of female genital mutilation; or (e) female genital mutilation is done by a health worker.

(2) A person who commits the offence of aggravated female genital mutilation is liable on conviction to life imprisonment.¹⁵⁷

¹⁵⁷ *Prohibition of Female Genital Mutilation Act, 2010.* Full text available at : <http://www.ulii.org/ug/legislation/act/2010/5/Prohibition%20of%20female%20Genital%20Mutilation%20Act.pdf>

CONCLUSIONS

“Women do not need to eradicate difference to feel solidarity. We do not need to share common oppression to fight equally to end oppression... We can be sisters united by shared interests and beliefs, united in our appreciation for diversity, united in our struggle to end sexist oppression, united in political solidarity”¹⁵⁸.

Today’s world is significantly different from that of our predecessors. The numerous battles done in the name of fundamental human rights have shaped both the standards of living as well as the different approaches towards regulating such standards .

Women’s rights have been strived for during centuries, increasingly affirmed and implemented through time, and today’s internationally recognized standards in this field are the direct product of such efforts.

Notwithstanding these great efforts against gender-based discrimination, one specific aspect is still strongly undermining the full realization of women’s rights in many parts of the world. Female Genital Mutilation (FGM) is still practiced in 27 states, above all within the African continent. It is estimated that FGM is practiced on a woman every eleven seconds, thus causing both physical and psychological traumas which cannot find valid explanations, in that FGM represents an absolute violation of international human rights.

Analyzing the many different aspects inherent to the subject matter, one may better understand the reasons behind these communities’

¹⁵⁸ T. M. Abu Sarhan, *Voicing the voiceless: Feminism and contemporary Arab Muslim women’s autobiographies*, (Order n. 3493158), proQuest Dissertations and Thesis Global.

continued use of FGM practices. A close examination of the reasons portrayed cannot however showcase a solid base within both religious and generally more tradition-based argumentations.

The consequences that stem from this ancient practice are many, with horrible effects being suffered by young girls and women of the concerned countries. Abolition of FGM practices are not, however, of relevance for these countries' citizens only. To the contrary, it is a matter for all humankind's conscience to ponder and act upon, as a grave violation of internationally recognized human rights standards.

Many promotional and protective initiatives against FGM have been established the world over and many states have increased their determination towards its abolishment. However, this is still not enough.

Of absolute relevance and importance in the fight against FGM, the techniques used to perform this practice are abhorrent as they are far from any level of human decency: second-hand razors, scissors and sometimes even broken glass are used to cut genitalia of girls between the age of two to fifteen, effectively increasing the likelihood of sexually transmittable infections and diseases such as HIV.

FGM has recently seen a surge in prohibition initiatives by the hands of those states concerned with its practice. However FGM is still an ongoing trend within more traditional settings, often done in secrecy or negligently overlooked by those national actors supposed to protect its citizenry. One further element of great concern is related to the actual locations in which FGM is practiced: hygienically deplorable and often times without even access to water, these huts, stables or hidden rooms are turned into improvised surgery environments where practitioners believe the rituals indiscriminately regulate the life of their communities' women.

In the last decades, the issue has deeply alerted the international community and many efforts have been set up in order to clarify the illegality of these rituals . The international community's efforts have culminated in the United Nations veto on FGM practices worldwide, affirming that it amounts to “an irreparable, irreversible abuse that impacts negatively on the human rights of women and girls – and – a harmful practice that constitutes a serious threat to the health of women and girls”. Of fundamental importance, the UN has in fact invited all Member States to condemn and persecute FGM in all its forms.

The patriarchal conception of society in this small communities denied the possibility to protest of those women who suffer the consequences of criminal acts such as FGM, and lets a little space for the empowerment of women.

What is a key factor for the (survival) the existence for this practice is the belief that it is a tradition demanded by the religion, even though it t has been repeatedly stated and verified that there are absolutely no connections between the sacred texts and the FGM.

Islam is the principal religion in the relevant African communities, that is seen as the responsible cause for the mutilations, although many of those communities consider the existence of said customs (ritual) also as necessary for a social identity. As a matter of fact, said customs, rooted in history together with ancient beliefs are essential in women's' life, since “being cut” could save the girl from a sad destiny: as of today, some of the members of African communities still stand for the necessity of being infibulated or excised to proof their virginity before the marriage.

Moreover, in remote villages, the lack of connections and support with other social situations makes the women believe that said practice is an essential condition of their life, and then to believe

that their genitals, once mutilated, are consistent with the standards of beauty and perfection of their life.

By ignoring that in the other countries of the world this tradition is not practiced, the physical consequences of cutting are considered to be normal conditions of life of a woman, not in the least due to the tradition.

Different feminists theories attempted to deal with the issue, but still there are very little reference available for a thorough investigation and careful analysis.

Nevertheless, the relevant studies were carried out by most important feminist activists, and the main achievements are to be attributed to their works. In fact, many exhortations were made for the emancipation and empowerment of women, aimed to destroy those patriarchal conceptions still present in social systems as of today , and rooted in least developed countries among which the perpetrators of the practice are listed in.

Despite the strong efforts made by EU Countries, there is still a great concern on the widespread of similar rituals among some African and non-African countries. Resolutions, Recommendations and Conventions issued by the GOs aspire to root out this tradition, by urging the people to pursue the raising-awareness necessity in their countries and by exhorting to prosecute the perpetrators with the necessary means.

This paper focuses on the analysis of different perspectives on the FGM, and to provide information on an matter of concern which is rarely treated by people. The percentage of currently practiced genital mutilation is slowly declining, thanks to the joint activity of organizations concerned with the protection of women's rights and their respect.

More attention is paid to issues like this, and the level of increased cooperation in recent years is aimed at the total elimination of FGM by countries that still believe in cruel and barbaric traditions like this. Aiming at the elimination of every kind of gender-discrimination, it is reaffirmed the fundamental concept that “torture is not culture”.¹⁵⁹

¹⁵⁹ A. Walker, *Warrior Marks*, cit. 95.

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