



AkiDwa Briefing Note for Legislation for the Prohibition of Female Genital Mutilation (FGM) in Ireland

Specific legislation is needed to end genital mutilation of girls and young women¹ living in Ireland. Comprehensive legislation should include as an offence the transport of children and young women outside of Ireland to have genital mutilation performed and tough prosecution to aid in deterrence.

What is female genital mutilation? The World Health Organization (WHO) defines female genital mutilation as all procedures involving partial or total removal of the external female genitalia or other injury to the female genital organs for non-medical reasons.² Reasons cited for FGM include tradition, rite of passage, religion³, marriageability, social acceptance, culture or aesthetic concerns. The procedure is usually performed with rudimentary tools and without anaesthetic and can cause serious blood loss or death. In Type III a girl's legs can be bound 40 days post-procedure for scar tissue to heal (WHO classifies FGM into four types)⁴. FGM can result in life-threatening complications and long term health issues including an increased risk of bloodborne infections such as hepatitis and HIV/AIDs, chronic infections, reproductive damage including infertility, painful menstruation and sexual intercourse and critical health conditions during childbirth for mother and child, including death. The age at which FGM is performed varies and ranges from babies aged seven or eight days to young women. It is generally carried out on girls between the ages of four and ten. WHO estimates that in Africa approximately three million girls are at risk for FGM annually.

Is there legislation in Ireland prohibiting FGM? According to the Department of Justice, Equality and Law Reform, the Non-Fatal Offences Against the Person Act of 1997 criminalises the practice of FGM in Ireland. There is no specific legislation in Ireland criminalising FGM at present. The Law Society's Law Reform Committee has recommended FGM be prohibited in legislation.

Why do we need a new offence? The Non-Fatal Offences Against the Person Act of 1997 does not go far enough to stop genital mutilation of girls living in Ireland as it does not include the principle of extraterritoriality. The Act contains a defence of 'culture' which might be used to justify FGM. The everyday occurrence defence is another flaw in the Act, in terms of its application to FGM; the offences of assault, assault causing harm and causing serious harm do not appear to be specifically focused enough to cover all cases of

¹ 'woman or girl' means a female person of any age including a female child or adult.

² Please see <http://www.who.int/mediacentre/factsheets/fs241/en/index.html>

³ No religion includes FGM as a requirement.

⁴ For WHO FGM classifications I – IV please see <http://www.who.int/reproductivehealth/topics/fgm/overview/en/index.html>

FGM. For girls and women living in Ireland, in particular those with family from FGM prevalent regions abroad, the greatest risk exists in the possibility of being taken out of the country for purposes of FGM. Mothers have reported to AkiDwA serious pressure from overseas family members to bring daughters back home on holiday to have FGM performed. In some regions of African countries, extended family has traditionally had a powerful influence in family matters. AkiDwA is also aware of children who have been subjected to genital mutilation against one parent's wishes. Challenging FGM can cause familial divisions; in some cases the challenge itself has increased the threat of FGM.

How many women living in Ireland are estimated to have undergone FGM in their country of origin? A 2008 AkiDwA study⁵ collated relevant population data from the 2006 Irish Census, made calculations by country of origin and age group and approximated that there are over 2,585 women who are resident in Ireland and living with FGM (a probable underestimate).

Have other countries enacted specific legislation to prohibit female genital mutilation? Twelve industrialised countries receiving immigrants from FGM practicing countries have passed laws specifically criminalising the practice: Australia, Belgium, Canada, Cyprus, Denmark, Italy, New Zealand, Norway, Spain, Sweden, United Kingdom, and United States. In Australia, six out of eight states passed laws against FGM; in the US there is federal legislation and seventeen out of fifty states have criminalised the practice. Nine of the fifteen original European Union member states prohibit FGM under general criminal law provisions: Finland, France, Germany, Greece, Republic of Ireland, Italy, Luxemburg, Portugal and the Netherlands. In France, Germany, Italy and the Netherlands the principle of extraterritoriality is included in a general criminal law provision. Eighteen African countries have enacted laws against FGM but compliance requires political and judicial will and effective enforcement to be effective. There is a specific commitment to eradicate FGM in the Cotonou Agreement with seventy nine African, Caribbean and Pacific countries and partnership countries to ensure FGM is eliminated.

Calls for legislation to prohibit female genital mutilation in Ireland: On 27 January 2009 AkiDwA and the Irish Family Planning Association gave a presentation on FGM to the Joint Oireachtas Committee on Health and Children, on behalf of the Steering Committee for Ireland's National Plan of Action to Address Female Genital Mutilation⁶. The Committee called on the Department of Justice, Equality and Law Reform to consider introducing anti-FGM legislation with extraterritorial elements. Minister for Health and Children Mary Harney TD announced in March 2009 that she was examining the possibility of introducing specific legislation to ban female genital mutilation. Current Taoiseach Brian Cowen, as Minister of Foreign Affairs, stated in 2001 the Irish Government fully subscribes to the Beijing approach for FGM United Nation's Further Actions and Initiatives to Implement the Beijing Declaration and Platform for Action (2000)⁷. The 1995 declaration calls on member state Governments to develop, adopt and fully implement laws and other measures to eradicate FGM. ©AkiDwA 2009

⁵ *Female Genital Mutilation - Information for Health-Care Professionals Working in Ireland* (AkiDwA January 2009)

⁶ launched November 2008

⁷ Dáil Debate, 9 May 2001