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FGM...
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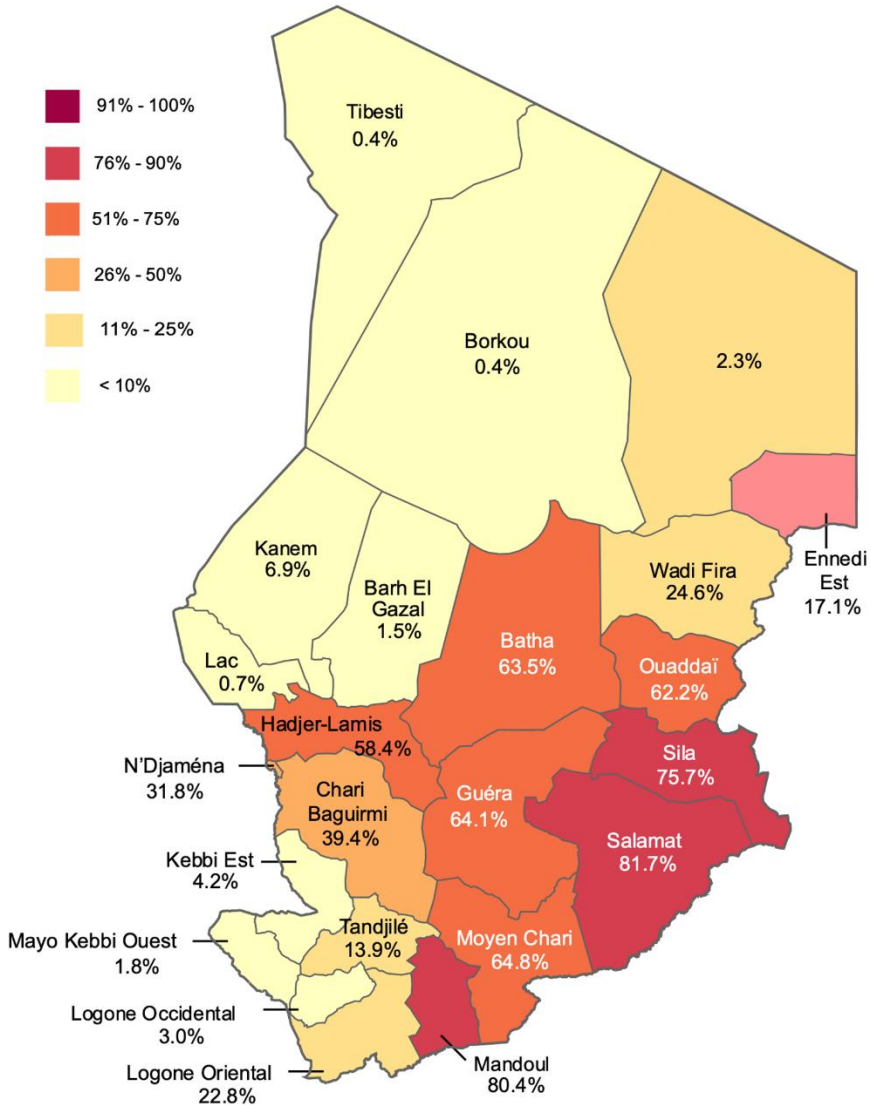
CHAD:

THE LAW AND FGM/C

July 2018

In Chad, the prevalence of FGM/C in women aged 15–49 is 38.4%.

The regions with the highest prevalence are in the south-east;
the regions with the lowest are in the north-west.



Prevalence of FGM/C in Chad by region

[Data source: MICS 2019] © 28 Too Many (part of Orchid Project)

- 46.7% of women aged 15–49 who have undergone FGM/C were cut between the ages of five and nine.
- The types 'cut, no flesh removed' and 'cut, flesh removed' are practised in almost equal measures.
- Almost all FGM/C is carried out by traditional cutters.
- 45.1% of women aged 15–49 believe that FGM/C should not continue.

Source of data: Institut National de la Statistique, des Études Économiques et Démographiques (INSEED), Ministère de la Santé Publique (MSP) et ICF International (2015) *Enquête Démographique et de Santé et à Indicateurs Multiples (EDS-MICS 2014–2015)*, p.336. Rockville, Maryland, USA : INSEED, MSP et ICF International. Available at **http://dhsprogram.com/pubs/pdf/FR317/FR317.pdf**.

For further information on FGM/C in Chad, see ***https://www.fgmcri.org/country/chad****.*

Domestic Legal Framework

Overview of Domestic Legal Framework in Chad	
The Constitution explicitly prohibits:	
✓	Violence against women and girls
X	Harmful practices
X	Female genital mutilation/cutting (FGM/C)
National legislation:	
X	Provides a clear definition of FGM/C
X	Criminalises the performance of FGM/C
X	Criminalises the procurement, arrangement and/or assistance of acts of FGM/C
X	Criminalises the failure to report incidents of FGM/C
X	Criminalises the participation of medical professionals in acts of FGM/C
X	Criminalises the practice of cross-border FGM/C
X	***Government has a strategy in place to end FGM/***C

What is The Law Against FGM/C?

An overview of the international and regional treaties signed and ratified by Chad can be found in Appendix I of this report.

The legal system in Chad is a mix of civil and customary law.

The Constitution of Chad (1996)[1] does not expressly refer to harmful practices or FGM/C, but **Article 14** assures equality 'without distinction of origin, of race, of sex, of religion, of political opinion or of social position.' It also places a duty on the State to eliminate all forms of discrimination against women and to assure the protection of their rights in all domains of private and public life. **Article 17** addresses an individual's right to life and personal integrity, and **Article 18** prohibits cruelty, degrading and humiliating treatment, and torture.

The main law relating to FGM/C in Chad is Law 006/PR/2002, The Reproductive Health Law, dated 15 April 2002 (*The Reproductive Health Law*).[2] However, at the time of writing, this law still requires an implementation decree to be passed before it becomes effective and enforceable. According to advice received in 2017 from the Ministry of Social Action and the Family and the Ministry of Health in Chad, no deadline had yet been set for the application of this Reproductive Health Law.

Chad's **Penal Code of 1967** (*Penal Code*)[3] makes it a criminal offence to commit an act of violence or assault, including mutilation, upon another person. A new Penal Code was passed by the parliament in Chad at the end of 2016, but this has not yet come into force, and details of its relevance to FGM/C are not available.

What The Law Covers

The Reproductive Health Law aims to promote reproductive health in Chad, defined in **Article 1** as a 'state of complete physical, mental and social well-being of the human person in all aspects concerning the reproductive system, its functions and functioning, not only in the absence of disease or infirmity.' **Article 3** also states that 'all individuals are equal in rights and dignity in matters of reproductive health without discrimination', including in regard to age or sex.

Article 9 expressly prohibits all forms of violence, including FGM/C, early marriage, domestic violence and sexual abuse. It stipulates that every person has the right not to be subjected to torture and cruel, inhuman or degrading treatment of his/her body in general and of reproductive organs in particular. However, **Article 9** does not provide a definition of FGM/C.

Article 18 makes it a criminal offence to violate the provisions of The Reproductive Health Law, whether by practice or in writing, speech, advertising or propaganda. Given the wide nature of Article 18, it is likely that aiding and abetting FGM/C would fall within the scope of the law, although this is not explicitly stated. The Reproductive Health Law does not impose an obligation on any person to report awareness of FGM/C and does not criminalise the failure to report the practice, whether it has taken place or is planned.

In addition, the **Penal Code** contains provisions relating to the prohibition of violence in general, which may apply to FGM/C. **Article 252** makes it a criminal offence to 'intentionally hurt, wound or commit any other act of violence or assault upon another person.' **Article 254** also criminalises inflicting wounds on a child (under 13 years of age).

The Chad 2012 Human Rights Report notes, 'FGM/C could be prosecuted as a form of assault under the penal code, and charges could be brought against the parents of victims, medical practitioners, or others involved in the action.' However, it also noted that prosecution is hindered by the lack of specific penalty provisions in the Penal Code.[4]

Medicalised FGM/C

To date, the medicalisation of FGM/C has not appeared to be significant in Chad, according to available data: 0.9% of women were reported to be cut by a health professional in 2015.[5] There are unconfirmed reports, however, that medicalised FGM/C could be on the rise in Chad.

The Reproductive Health Law does not explicitly refer to the practice of FGM/C carried out by a health professional or in a medical setting. However, given the broad nature of **Article 18**, The Reproductive Health Law appears to apply universally, which would likely include health professionals. As mentioned above, the Chad Human Rights Report 2012 also notes that medical practitioners who perform FGM/C could potentially be prosecuted under the **Penal Code**.

It is also possible that a Chadian code of medical ethics exists, which may cover the practice of FGM/C, but it has not been possible to obtain a copy or verify the existence of such a document for the purposes of this research.

Cross-Border FGM/C

In some countries where FGM/C has become illegal, the practice has been pushed underground and across borders to avoid prosecution. Chad shares borders with other countries where the existence and enforcement of laws varies widely, including Cameroon, Sudan, Niger and the Central African Republic.

It is not known to what extent movement across national borders for the purpose of FGM/C is an issue for Chad. The law does not explicitly criminalise or punish FGM/C carried out on or by a citizen of Chad in another country.

It has been observed by civil-society organisations that it is more likely that girls are being brought into Chad from countries such as France, where FGM/C laws are more tightly enforced.

Penalties

Under **Article 18 of The Reproductive Health Law**, anyone who, by practice or in writing, speech, advertising or propaganda, violates the provisions of the law will be punished with imprisonment from five months to five years and/or a fine of 100,000 to 500,000 francs CFA (approximately US$184–920[6]).

Under **Article 252 of the Penal Code**, any person who intentionally hurts, wounds or commits any other act of violence or assault upon another person will be punished by imprisonment for a period of six days to one year, plus a fine ranging from 500 to 50,000 francs CFA (approximately US$1–62[7]). In addition, under **Article 253**, if the victim suffers sickness or incapacity from personal work for more than 20 days because of the violence or assault, the perpetrator is subject to a similar fine and a longer imprisonment of one to five years.

Article 254 of the Penal Code states that if a child under the age of 13 is hurt or wounded, the penalty will be doubled.

Implementation of The Law

Cases

It has not been possible to find any recent cases where the laws listed in this report have been applied. The US Department of State Country Report on Human Rights Practices for 2017 states that no cases were prosecuted by the authorities during the previous year.[8]

According to the Ministry of Social Action and the Family, trials are currently taking place in some parts of Chad, including in N'Djamena, but further details have not been made available. Observers have noted that the Ministry of Social Action and the Family sent one of its representatives out to the courts to obtain a conviction. The outcome of this action is unknown.

It is also noted that with very little, if any, national application of The Reproductive Health Law, movement across borders from Chad to other countries to perform FGM/C is highly unlikely and that the reverse issue appears to be more of a problem, with girls being brought into Chad to avoid prosecution.

Relevant Government Authorities and Strategies

There are several authorities and organisations in Chad involved in campaigning to end FGM/C, in particular the Ministry of Women, Early Childhood Protection and National Solidarity, which is understood to be responsible for coordinating activities to combat FGM/C.[9] It has not been possible, however, to obtain details of any formal government strategies or national action plans currently in place for Chad.

According to the Ministry of Social Action and the Family, the emphasis in Chad is currently on raising, via public campaigns, parents' awareness of the harm of FGM/C. These public-awareness campaigns have taken place with assistance from the UN Population Fund. In Chadian society, the attitudes of parents dictate whether girls will be subjected to FGM/C or not, and there remains much resistance to the denunciation of the practice from traditional and religious leaders. As such, the Ministry of Social Action and the Family currently believes there is a greater need to change attitudes and reduce the stigma associated with denunciating FGM/C than to seek legislative changes.

The national committee of the Inter-African Committee in Chad, CONA/CI-AF, has previously worked on sensitisation campaigns with religious and community leaders and developed 'alternative rites of passage' programmes.[10] Work to end FGM/C is also carried out by groups and individual non-governmental organisations (*NGOs*), including Cellule de Liaison et d'information des Associations Féminines du Tchad (*CELIAF*), a network of over 450 NGOs dedicated to promoting women's rights in Chad, and the Association Tchadienne pour la Promotion et la Défense des Droits de l'Homme.

Civil Society Observations

The Ministry of Social Action and the Family has indicated that the existence of **The Reproductive Health Law** is leading to FGM/C being increasingly practised 'underground' and on girls at younger ages. It was reported that, in 2016, certain villages and schools were found to be deserted and that the Ministry of Social Action and the Family presumes girls were taken into the bush to undergo FGM/C.

Local commentators have informed this research that the provisions of **Articles 14, 17 and 18 of the Constitution** are often invoked in Chad, especially as they prohibit any form of invasion of privacy or degrading or discriminatory treatment against women. It has not been possible, however, to obtain any further details of the relationship between these provisions and efforts to end FGM/C.

Although **The Reproductive Health Law** does not explicitly oblige a person to report awareness of FGM/C, nor makes failure to report FGM/C a criminal offence, it is understood that there are several organisations in the country that are able to file a complaint directly with the courts or tribunals of Chad against persons involved in the practice. Such organisations include the NGO coalition CELIAF; the Association of Women Lawyers of Chad, an NGO focused on improving socio-legal conditions for, and defending the rights of, women and children in Chad; and the Ministry of Social Action and the Family itself.

Conclusions and Suggestions for Improvement

Conclusions

- The Constitution and Penal Code in Chad address equality and the right to personal integrity, and set out penalties for violence against women and children.
- The Reproductive Health Law clearly prohibits FGM/C and subjects those who perform or encourage the performance of FGM/C to imprisonment and/or fines. However, the lack of implementation of this national legislation has meant that enforcement of the law is practically non-existent.
- Although The Reproductive Health Law has not yet been fully implemented in Chad, the efforts of the Ministry of Women, Early Childhood Protection and National Solidarity in raising awareness of the harm of FGM/C and changing attitudes towards it are an indication of the Government's concern to eliminate the practice.

Suggestions for Improvement

National Legislation

- A decree should be passed as a matter of urgency to fully implement The Reproductive Health Law in Chad and ensure that the provisions and penalties contained in the law are adequately enforced to protect all women and girls from FGM/C.
- A clear definition of FGM/C needs to be enshrined in the law, and both medicalised FGM/C and cross-border FGM/C need to be explicitly criminalised and punished. Further research would inform the Government and civil society on the prevalence of these specific issues.
- The Reproductive Health Law should also be amended to criminalise and punish the failure to report FGM/C, whether planned or already taken place, to the relevant authorities.
- Laws need to be made accessible to all members of society and easy to understand in all local languages.

Implementation of the Law

Once national legislation is in place prohibiting FGM/C, the following key actions will contribute to efforts to end the practice in Chad.

- Anti-FGM/C programmes should disseminate clear, easy-to-understand and accurate information around the law.
- Judges and local law enforcers need adequate support and training around the law and should be encouraged to fully apply the sentences provided for by the legislation.
- Increased involvement of local and religious leaders in education around the law, including their responsibilities and the importance of the law in protecting women and girls in their communities, would also be beneficial.

- Adequate monitoring and reporting of FGM/C cases in Chad would improve efficiency and inform policy-makers, the judiciary, the police, civil society and all those working to implement and enforce the law.
- All professions (including those in health and education) need training around the law and their responsibilities to respond to women and girls who are affected by or at risk of FGM/C.
- Increased support and protection for victims and witnesses in FGM/C cases is essential.
- Tribunals could be encouraged to make sure any prosecutions relating to FGM/C are clearly reported, including through local media such as community radio, and made available in local languages.
- Where literacy rates are low, information around the law needs to be made available through different media channels and resources.
- Mandatory reporting of instances of FGM/C by medical staff in hospitals and health centres could be considered.
- Where they are currently unavailable and a need is identified, appropriate protection measures (for example, emergency telephone helplines or safe spaces) should be put in place for girls at risk of FGM/C.

Appendix I: International and Regional Treaties

CHAD	Signed	Ratified	Acceded	Reservations on reporting?
International				
International Covenant on Civil & Political Rights (1966) (*ICCPR*)			✓ 1995	
International Covenant on Economic, Social & Cultural Rights (1966) (*ICESCR*)			✓ 1995	
Convention on the Elimination of All forms of Discrimination Against Women (1979) (*CEDAW*)			✓ 1995	
Convention Against Torture & Other Cruel, Inhuman or Degrading Treatment or Punishment (1984) (*CTOCIDTP*)			✓ 1995	
Convention on the Rights of the Child (1989) (*CRC*)	✓ 1990	✓ 1990		
Regional				
African Charter on Human & Peoples' Rights (1981) (*ACHPR*) (Banjul Charter)	✓ 1986	✓ 1986		
African Charter on the Rights and Welfare of the Child (1990) (*ACRWC*)	✓ 2004	✓ 2000	✓ 2000	
African Charter on Human and Peoples' Rights on the Rights of the Women in Africa (2003) (*ACHPRRWA*) (Maputo Protocol)	✓ 2004			

'**Signed**': a treaty is signed by countries following negotiation and agreement of its contents.

'**Ratified**': once signed, most treaties and conventions must be ratified (i.e. approved through the standard national legislative procedure) to be legally effective in that country.

'**Acceded**': when a country ratifies a treaty that has already been negotiated by other states.

#NOFGM

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1 *Constitution du Tchad du 14 avril 1996* (1996) Available at http://mjp.univ-perp.fr/constit/td1996i.htm.
2 *LOI No. 006/PR/2002 Portant Promotion de la Santé de Reproduction* (2002) Available at http://www.droit-afrique.com/upload/doc/tchad/Tchad-Loi-2002-06-promotion-sante-reproduction.pdf.
3 *Ordonnance 67-012 1967-06-09 PR/MJ – Ordonnance Portant Promulgation d'un Code Pénal* (1967) Available at https://landwise.resourceequity.org/record/2726.
4 US Department of State (2012) *Chad 2012 Human Rights Report*, p.22. Available at https://www.state.gov/documents/organization/204315.pdf.
5 Institut National de la Statistique, des Études Économiques et Démographiques (INSEED), Ministère de la Santé Publique (MSP) et ICF International (2015) *Enquête Démographique et de Santé et à Indicateurs Multiples (EDS-MICS 2014–2015)*, p.343. Rockville, Maryland, USA : INSEED, MSP et ICF International. Available at http://dhsprogram.com/pubs/pdf/FR317/FR317.pdf.
6 *As at 30 April 2018 (https://www.xe.com/currencyconverter/convert/?Amount=100%2C000&From=XAF&To=USD).*
7 *As at 30 April 2018 (https://www.xe.com/currencyconverter/convert/?Amount=5000&From=XAF&To=USD)*.
8 US Department of State (2017) *Chad 2017 Human Rights Report*, p.16. Available at https://www.state.gov/documents/organization/277227.pdf.
9 US Embassy in Chad (2016) *Country Reports on Human Rights Practices for 2016*. Available at https://td.usembassy.gov/country-reports-human-rights-practices-2016/.
10 Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH (2011) *Female Genital Mutilation in Chad*. Available at https://www.giz.de/fachexpertise/downloads/giz2011-en-fgm-tschad.pdf.

Cover image: IHH Humanitarian Relief (2012) *Orphan Solidarity Days in Chad, March 2012*. Available at https://flic.kr/p/dUVpKK.

Please note that the use of a photograph of any girl or woman in this report does not imply that she has, nor has not, undergone FGM/C.

This report was prepared in collaboration with TrustLaw, the Thomson Reuters Foundation's global, legal pro bono service that connects law firms and legal teams to NGOs and social enterprises that are working to create social and environmental change.

The information in this report has been compiled in cooperation with Latham & Watkins from documents that are publicly available and is for general information purposes only. It has been prepared as a work of legal research only and does not represent legal advice in respect of any of the laws of Chad. It does not purport to be complete or to apply to any particular factual or legal circumstances. It does not constitute, and must not be relied or acted upon as, legal advice or create an attorney-client relationship with any person or entity. Neither 28 Too Many, Orchid Project, Latham & Watkins, the Thomson Reuters Foundation nor any other contributor to this report accepts responsibility for losses that may arise from reliance upon the information contained herein, or any inaccuracies, including changes in the law since the research was completed in July 2018. No contributor to this report holds himself or herself out as being qualified to provide legal advice in respect of any jurisdiction as a result of his or her participation in this project or contribution to this report. Legal advice should be obtained from legal counsel qualified in the relevant jurisdiction/s when dealing with specific circumstances. It should be noted, furthermore, that in many countries there is a lack of legal precedent for the penalties laid out in the law, meaning that, in practice, lesser penalties may be applied.

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