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FGM... let's end it.

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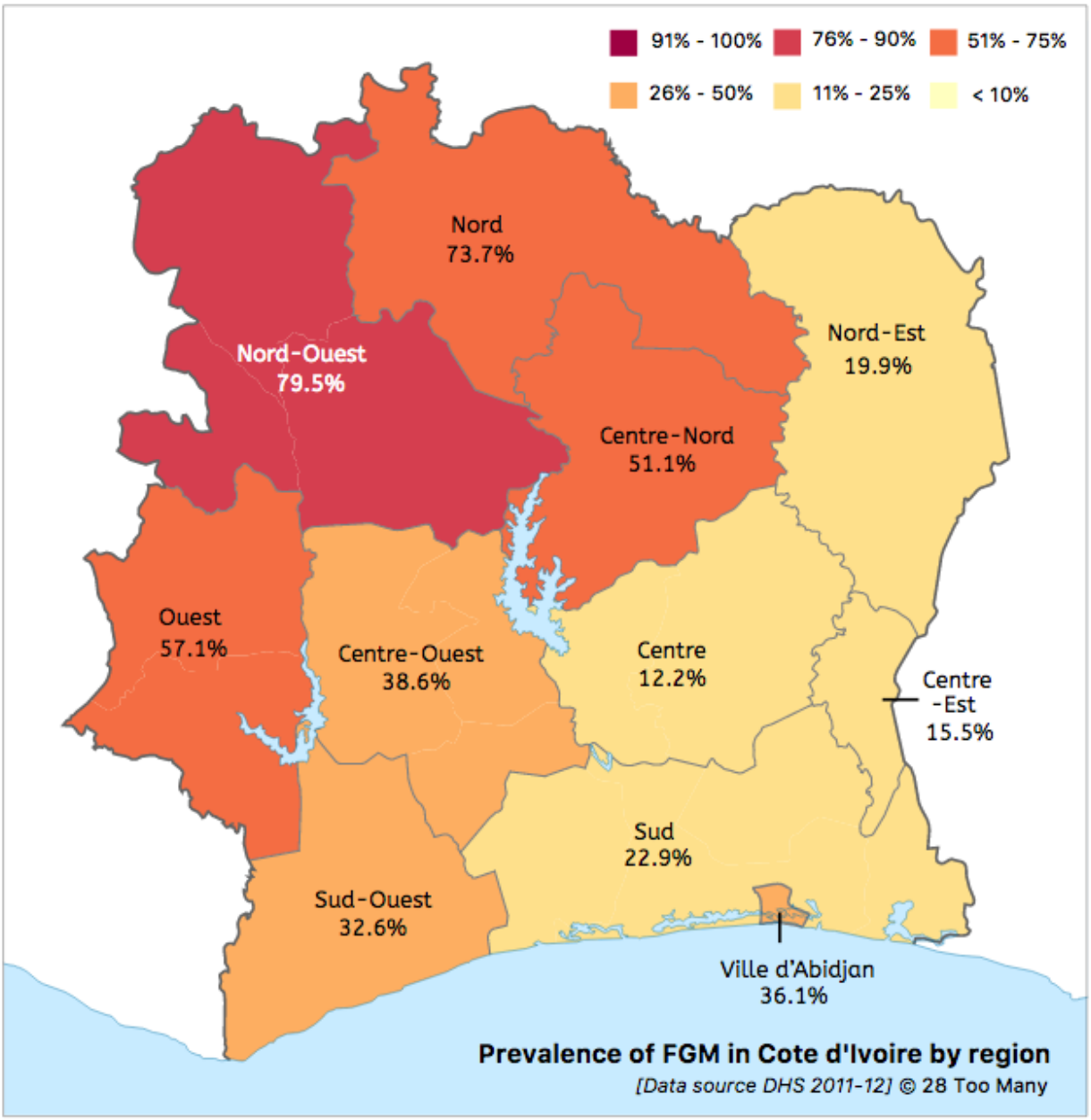
CÔTE D'IVOIRE:

THE LAW AND FGM/C

August 2018

In Côte d'Ivoire, the prevalence of FGM/C in women aged 15–49 is 38.2%.

The north and west have the highest prevalence; the centre and centre-east the lowest.



- FGM/C is most likely to take place before the age of five.
- 'Cut, flesh removed' is the most common type of FGM/C practised.
- Almost all FGM/C is carried out by traditional cutters.
- 81.5% of women and 82.1% of men aged 15–49 believe that FGM/C should be stopped.

Source of data: Institut National de la Statistique (INS) et ICF International (2012) *Enquête Démographique et de Santé et à Indicateurs Multiples de Côte d'Ivoire 2011-2012*. Available at **http://dhsprogram.com/pubs/pdf/FR272/FR272.pdf**.

For further information on FGM/C in Côte d'Ivoire, see ***https://www.fgmcri.org/country/cote-divoire/.***

Domestic Legal Framework

Overview of Domestic Legal Framework in Côte d'Ivoire	
The Constitution explicitly prohibits:	
X	Violence against women and girls
X	Harmful practices
✓	Female genital mutilation/cutting (FGM/C)
National legislation:	
✓	Provides a clear definition of FGM/C
✓	Criminalises the performance of FGM/C
✓	Criminalises the procurement, arrangement and/or assistance of acts of FGM/C
X	Criminalises the failure to report incidents of FGM/C
✓	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***

** No evidence of a national action plan currently in place.*

What is The Law Against FGM/C?

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

Côte d'Ivoire's domestic legal system is based on the French civil code. Judicial review of legislation is held in the Constitutional Chamber of the Supreme Court.

The **Constitution** of Côte d'Ivoire (amended 2016) specifically targets and prohibits FGM/C at **Article 5**: 'Slavery, human trafficking, forced labor, physical or mental torture, inhuman, cruel, degrading and humiliating treatments, physical violence, female genital mutilation as well as any other forms of degradation of human beings is prohibited.'[1]

Law No. 98-757 of 23 December 1998 (*Law No. 98-757*) on the punishment of certain forms of violence against women specifically prohibits and punishes the practice of FGM/C. This is the main law relevant to FGM/C in Côte d'Ivoire.[2]

In addition, **Law No. 1981-640** of 31 July 1981 (amended by **Law No. 1995-522** of 6 July 1995) (the ***Criminal Code***) addresses violence against children and sets out the penalties for offences, but does not specifically reference FGM/C.[3]

What The Law Covers

Article 1 of Law No. 98-757 defines FGM/C as 'any harm to the integrity of the female genital organs, by total or partial ablation, infibulation, desensitisation or any other procedure.'

Article 2 prohibits FGM/C and outlines the criminal offences related to its practice.

Article 4 makes it clear that there is no exception to this prohibition: it includes parents and relatives (up to and including the fourth degree) who have procured FGM/C or known that FGM/C is planned and done nothing to prevent it taking place. The only exceptions to the prohibition are minors of the families of both the victim and the perpetrator.[4]

The law does not, however, fully address the failure to report FGM/C. Although **Article 4** punishes parents or relatives who take no action, even when they have knowledge of imminent FGM/C, the law does not specifically criminalise and punish anyone else for failing to report the practice, whether it has taken place, is taking place or is planned.

Medicalised FGM/C

Until recently, the medicalisation of FGM/C did not appear to be significant in Côte d'Ivoire; according to 2012 data, only 0.3% of women aged 15–49 who had experienced FGM/C were cut by a health professional.[5] There are more recent reports, however, that an increasing number of medical professionals are becoming involved in FGM/C across West Africa and that medicalised FGM/C could be on the rise in Côte d'Ivoire.[6]

Article 2 of Law No. 98-757 doubles the penalty when FGM/C has been performed or attempted by a member of the medical or paramedical corps. The trial court may also order a removal of the right to practice for up to five years.

There is a potential exception in this law, however, as **Article 2** also states, 'There is no offense when the mutilation was made under the conditions indicated in article 350 of the Penal Code.'

Article 350(1) of the Criminal Code provides an exception when injury results from medical acts that:

(a) conform with scientific knowledge, medical ethics and the current state of the art;

(b) are performed by a person legally authorised to practice them; and

(c) are performed with the patient's consent or, if the patient is unable to consent, with the consent of their spouse or guardian unless it is impossible, without risk to the patient, to communicate with them.

While Article 350 is not stating that procedures such as FGM/C are exempt because they are necessary to the health of a patient, it is suggesting that FGM/C could be performed by medical professionals under these conditions and they would not be liable for punishment.

Cross-Border FGM/C

Côte d'Ivoire shares borders with other countries, including Guinea and Mali, where FGM/C prevalence remains high and the existence and enforcement of laws vary widely. Increased movement across borders to perform or procure FGM/C and avoid prosecution can be a consequence of laws being implemented and can leave girls living in border communities, such as in the north of Côte d'Ivoire, particularly vulnerable.

The main law, **Law No. 98-757**, does not address the movement across borders for FGM/C. More generally, **Law No. 60-366 of 14 November 1960** (the ***Criminal Procedure Code***) does address crimes committed by a citizen of Côte d'Ivoire in another country; specifically, **Article 658** states, 'Any national of Côte d'Ivoire who, outside the territory of the Republic, committed an offence described by the law of Côte d'Ivoire, may be prosecuted and tried by the courts of Côte d'Ivoire', but goes on to say, '. . . if the act is punishable by the laws of the country where it was committed.'[7]

This suggests, therefore, that cross-border FGM/C would only be punishable in Côte d'Ivoire if the practice is also criminalised in the country where it takes place (this would not be the case if the other country was Mali, for example).

Penalties

Article 2 of **Law No. 98-757** states that anyone who commits FGM/C in Côte d'Ivoire will be punished with imprisonment from one to five years and a fine of 360,000 to 2,000,000 francs CFA (US$649–3,608). This is doubled when FGM/C is carried out by a medical or paramedical professional.

Article 4 states that the above penalties also apply to:

- the parents and relatives of the victim, up to the fourth degree inclusively, for procurement of FGM or knowledge that FGM is planned, [who do] nothing to prevent it taking place; and
- the spouses, parents and relatives of the perpetrator of FGM, up to the fourth degree inclusively.

Minors from the families of both the victim and the perpetrator are not subject to these punishments.

If the FGM/C results in death, the penalty will be five to twenty years' imprisonment.[8]

Implementation of The Law

Cases

A few prosecutions for FGM/C have taken place in Côte d'Ivoire, but case details are limited and information about whether sentences were carried out is not publicly available.

Some reported cases in recent years include:

- July 2012: the first recorded trial of nine FGM/C practitioners (aged between 46 and 91) in the Katiola area in northern Côte d'Ivoire. Four were found guilty of performing FGM/C and the rest were found guilty of 'complicity' at a ritual cutting ceremony for 30 girls. They were sentenced to one year in prison and a fine of 50,000 francs CFA (US$90). It is not clear if the women were imprisoned, however, given their ages.[9]
- March 2013: two women and two men were sentenced to six months in prison and a fine of 30,000 francs CFA each (US$54) by the court in Danané (in the west of the country) for participating in the excision of a young girl, which was performed by an excisor from Guinea.[10]
- March 2015: a mother was convicted in Katiola for 'complicity' in the excision of her four-year-old daughter and was sentenced to one year in prison. The same sentence, accompanied by a fine of 360,000 francs CFA (US$649), was given to a relative who had accompanied her. Another mother whose five-year-old daughter was also cut was acquitted at the same time. The FGM/C practitioner had fled the scene already.[11]

Evidence suggests that such convictions are rare in Côte d'Ivoire, and FGM/C continues in communities where people claim it is their custom and they are unaware of it being against the law.

This research has not found any cases of FGM/C performed by medical practitioners being prosecuted.

Relevant Government Authorities and Strategies

In Côte d'Ivoire, the **Ministry for Women, Protection of the Child and Solidarity** is responsible for protecting women and girls in general, and ensuring equality for women in economic, social and cultural areas. Managed by the Ministry, the **National Committee for Combating Violence against Women and Children** provides support to women and children who are victims of violence.

Following the civil war in Côte d'Ivoire, a **National Action Plan** was put in place for 2008–2012, which specifically included the protection of women and girls against sexual violence, including FGM/C. The plan included a call for increased capacity in the police and judiciary to implement laws.[12] Since 2012, no new National Action Plan appears to have been implemented.

In evidence presented to the United Nations Human Rights Committee in 2015, the Government of Côte d'Ivoire stated that awareness campaigns around FGM/C were taking place and alternative-income projects had been provided for cutters in the north of the country. However, the report also states, 'The issue had been put on the back burner because nowadays the urban population was larger than the rural population, where the practice was more prevalent' and that 'with modernization the practice would disappear.'[13]

Evidence in the media suggests that representatives from Côte d'Ivoire have attended events in recent years to discuss the issue of cross-border FGM/C with neighbouring countries. In February 2017 the Minister for Women, Protection of the Child and Solidarity, Mariatou Koné, stated with respect to the continuing challenge of FGM/C that

> the State of Côte d'Ivoire intends to take ownership of innovative control strategies and ensure the coordination of the interventions of all stakeholders, whether it is about prevention or holistic care.[14]

In February 2018 Ms Koné publicly reaffirmed the commitment of the Government to tackle FGM/C and called for a strengthening of efforts through both collective and individual actions.[15]

Civil Society Observations

FGM/C is deeply entrenched in the rural communities of Côte d'Ivoire, particularly in the north and west, where prevalence reaches 79.5% and 38.6% respectively. Programmes to end the practice are met with fierce resistance. According to civil society, attempts in the past to punish perpetrators of FGM/C never progressed and 'out of court' arrangements brokered between village leaders and local police commissioners were commonplace.[16]

There are many international and local grassroots NGOs working on projects to end FGM/C in Côte d'Ivoire, and in many communities surveillance and protection committees have been set up.[17] The bringing of a few cases to court has been widely welcomed by civil society, but much still remains to be done in spreading knowledge of the law.

Conclusions and Suggestions for Improvement

Conclusions

- **Law No. 98-757** criminalises and provides for the punishment of the performance, procurement, aid and abetting of FGM/C in Côte d'Ivoire, including FGM/C performed by health professionals. It does not, however, fully address the failure to report FGM/C or cross-border FGM/C.
- There appears to be weak law enforcement, and few cases have been brought to court since the legislation was introduced.
- FGM/C remains deeply entrenched in parts of Côte d'Ivoire. There is a lack of reliable data and up-to-date information on the Government's plan to implement and enforce the law in those communities where prevalence remains high.

Suggestions for Improvement

National Legislation

- The law around medicalised FGM/C needs to be tightened to close a possible loophole in its reference to conditions under which the act is permitted when carried out by medical professionals. All acts of FGM/C carried out by members of the health profession should be clearly criminalised and punished.
- The law should criminalise and punish anyone who fails to report FGM/C to the relevant public authorities, whether the practice has taken place, is taking place or is planned.
- Cross-border FGM/C needs to be directly addressed by the law, and its procurement or performance should be criminalised and subject to punishment on the perpetrator(s) return to Côte d'Ivoire, irrespective of whether there are existing laws on FGM/C in neighbouring countries.
- Laws need to be made accessible and easy to understand in all local languages.

Implementation of the Law

- Anti-FGM/C programmes should disseminate clear, easy-to-understand and accurate information about the law.
- Judges and local law enforcers need adequate support and training in relation to the law and should be encouraged to apply the sentences provided for by the legislation.
- Tribunals could be encouraged to make sure any prosecutions related to FGM/C are clearly reported, including in local media such as community radio and in local languages, where required.
- Adequate monitoring and reporting of FGM/C cases in Côte d'Ivoire would improve efficiency and inform policy-makers, the judiciary, the police, civil society and all those working to implement and enforce the law.

- There needs to be a focus on further strengthening partnerships and enforcing laws across national borders with countries where prevalence remains high.
- Increased involvement of key local and religious leaders in education around the law should be encouraged, emphasising their responsibilities and the importance of the law in protecting women and girls in their communities.
- All professionals (including those in health and education) need training on the law and their responsibilities to respond to women and girls who are affected by or at risk of FGM/C.
- In areas where literacy rates are low, information on 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

CÔTE D'IVOIRE	Signed	Ratified	Acceded	Reservations on reporting?
International				
International Covenant on Civil & Political Rights (1966) (*ICCPR*)			✓ 1992	
International Covenant on Economic, Social & Cultural Rights (1966) (*ICESCR*)			✓ 1992	
Convention on the Elimination of All forms of Discrimination Against Women (1979) (*CEDAW*)	✓ 1980	✓ 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	✓ 1991		
Regional				
African Charter on Human & Peoples' Rights (1981) (*ACHPR*) (Banjul Charter)	✓ 2005	✓ 1992		
African Charter on the Rights and Welfare of the Child (1990) (*ACRWC*)	✓ 2004	✓ 2002		
African Charter on Human and Peoples' Rights on the Rights of the Women in Africa (2003) (*ACHPRRWA*) (Maputo Protocol)	✓ 2004	✓ 2011		

'**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 *Journal Officiel de la Republique de Cote d'Ivoire* (2016) Available at http://www.caidp.ci/uploads/52782e1004ad2bbfd4d17dbf1c33384f.pdf.
2 *Loi Portant Répression de Certaines Formes de Violences à l´Égard des Femmes (FGM)* (1998) Available at http://evaw-global-database.unwomen.org/fr/countries/africa/cote-d-ivoire/1998/loi-repression-certaines-violences-fgm.
3 *Law No. 1981-640 of July 31, 1981 establishing the Criminal Code (amended by Law No. 1995-522 of July 6, 1995)* (1981) Available at http://www.wipo.int/wipolex/en/details.jsp?id=6480.
4 *A minor in Côte d'Ivoire is an individual of either sex who has not yet reached 21 years (see The African Child Policy Forum (2013): http://www.africanchildforum.org/clr/Harmonisation%20of%20Laws%20in%20Africa/other-documents-harmonisation_2_en.pdf).*
5 Institut National de la Statistique (INS) et ICF International (2012) *Enquête Démographique et de Santé et à Indicateurs Multiples de Côte d'Ivoire 2011-2012*, p.338. Available at http://dhsprogram.com/pubs/pdf/FR272/FR272.pdf.
6 Pierre Foldes and Frédérique Martz (undated) 'The medicalisation of female genital mutilation', *Forced Migration Review*. Available at http://www.fmreview.org/climatechange-disasters/foldes-martz.html.
7 *Loi N° 60-366 du 14 Novembre 1960 Portant Code de Procedure Penal* (1960) Available at https://www.unodc.org/res/cld/document/civ/1960/loi-no-60-366-du-14-novembre-1960-portant-code-de-procedure-penale_html/Cote_dIvoire_Loi_No_60-366_du_14_Novembre_1960_portant_code_de_procedure_penale.pdf.
8 Office Franc Prote Refugies et Apatrides (2017*) Côte d'Ivoire: Les mutilations génitale féminines (MGF) en Côte d'Ivoire*, p.6. Available at https://www.ofpra.gouv.fr/sites/default/files/atoms/files/1702_civ_mgf.pdf.
9 Le Monde Afrique (2012) *Côte d'Ivoire : pour la première fois, neuf femmes ont été condamnées pour excision*, 19 July. Available at: http://www.lemonde.fr/afrique/article/2012/07/19/cote-d-ivoire-pour-la-premiere-fois-neuf-femmes-ont-ete-condamnees-pour-excision_1735489_3212.html.
10 Fédération GAMS (2013) *Quatre personnes condamnées pour pratique d'excision à Danané #Côte d'Ivoire.* Available at https://federationgams.org/2013/03/04/quatre-personnes-condamnees-pour-pratique-dexcision-a-danane-cote-divoire.
11 Abidjan.net (2015) *Côte d'Ivoire : une mère condamnée à un an de prison ferme pour 'complicité d'excision'*, 25 March. Available at: http://news.abidjan.net/h/539639.html.
12 Republic of Cote D'Ivoire; Ministry of the Family, Women and Social Affairs; and Gender Equality and Promotion Directorate (2008) *National Action Plan for the Implementation of Resolution 1325 of the Security Council (2008–2012) Background Document*. Available at http://evaw-global-database.unwomen.org/-/media/files/un%20women/vaw/full%20text/africa/nap%20on%20implementation%20fo%201325%20-%202007.pdf.
13 United Nations Human Rights Office of the High Commissioner (2015) *Human Rights Committee considers report of Côte d'Ivoire.* Available at http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=15722&LangID=E.
14 Abidjan.net (2017) *Mutilations génitales/Excision: la Côte d'Ivoire enregistre une prévalence nationale de 38% (Ministre)*. Available at http://news.abidjan.net/h/609108.html.
15 Portail Officiel du Gouvernement de Cote d'Ivoire (2018) *Les mutilations Genitales Feminines : Le Gouvernement Ivoireient Reaffirme sa Volonte de Lutter Contre le Phenomene*, 6 February. Available at http://www.gouv.ci/_actualite-article.php?recordID=8555.
16 Abidjan.net (2014) *Côte d'Ivoire : Le poids de la tradition fait perdurer la pratique de l'excision*. Available at http://news.abidjan.net/h/495117.html.
17 Office Franc Prote Refugies et Apatrides, *op. cit*.

Cover image: vystekimages (undated) *Smiling and shy woman is happy to wear a veil*. Shutterstock photo ID: 598817975.

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.

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