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# LIBERIA:

# THE LAW AND FGM/C

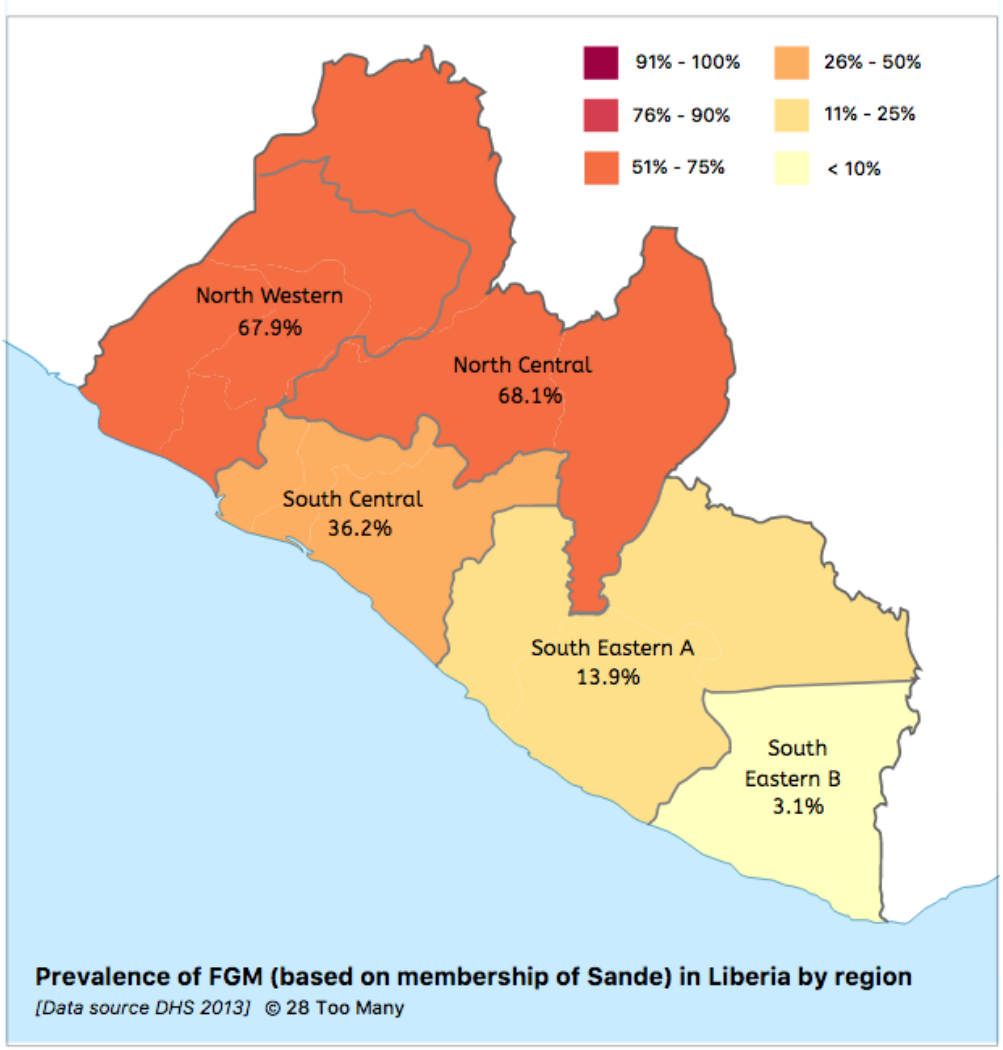
**September 2018**

Due to the taboo nature of FGM/C in Liberia, little official research has been conducted into the prevalence of the practice outside of Liberia's secret women's society, *Sande*. Instead, survey respondents are asked if they are members of Sande.

Anecdotal evidence from contacts who have worked in Liberia, however, shows that FGM/C is also performed on women who are not members of Sande. Therefore, any estimates of FGM/C prevalence based solely on Sande membership are unreliable. However, until further research can be done, we are only able to report the prevalence of Sande membership.

**Among all Liberian women aged 15–49, the prevalence of Sande membership is 44.4%.**

FGM/C appears to be most commonly practised in the north-western and north-central regions.




- FGM/C is most likely to take place during adolescence, when young women undergo Sande initiation
- Type I (partial or full clitoridectomy) is the most common type of FGM/C practised
- FGM/C is performed by traditional cutters known as *zoe*, (a Sande society leader who runs the bush schools attended by adolescent girls)

Source of data: Liberia Institute of Statistics and Geo-Information Services (LISGIS), Ministry of Health and Social Welfare [Liberia], National AIDS Control Program [Liberia], and ICF International (2014) L*iberia Demographic and Health Survey 2013*, p.276. Monrovia, Liberia: Liberia Institute of Statistics GeoInformation Services (LISGIS) and ICF International. Available at **https://dhsprogram.com/pubs/pdf/FR291/FR291.pdf**.

*For further information on FGM/C in Liberia see **https://www.fgmcri.org/country/liberia/**.*

# Domestic Legal Framework

| Overview of Domestic Legal Framework in Liberia | |
|---|---|
| | |
| ***The Constitution explicitly prohibits:*** | |
| X | 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*** |

* *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 Liberia can be found in Appendix I of this report.

The legal system in Liberia is a mix of common law (based on Anglo-American law) and customary law. It is a unitary state with health and criminal law policy set by the national government.

The **Constitution of Liberia (1996)**[1] is limited in its commitment to protect women and children: it does not address violence against women and girls, harmful practices or FGM/C. **Article 11** provides for **(a)** the fundamental right to 'security of the person' and **(b)** to equality regardless of gender.

**There is currently no national legislation in Liberia that expressly criminalises and punishes the practice of FGM/C.**

In 2016 new legislation was proposed in Liberia to address domestic violence, including FGM/C. The **Domestic Violence Act (amending Chapter 16, Offences Against the Family, of the Penal Code to add a subchapter on Domestic Violence)** was controversial in Liberian society in proposing to criminalise and punish FGM/C.[2] The initial draft of this bill would have amended the criminal law to make it an offence to perform FGM/C on a girl under the age of 18 – or a woman 18 years or over without her consent. Punishments for those who break the law included rehabilitation and fines, but these were not explicitly set out and would apparently be determined on a case-by-case basis.

However, the House of Representatives finally passed the bill in 2017 with all references to FGM/C removed, following intense political pressure and unease about prohibiting what are considered 'cultural traditions'.

In January 2018 the outgoing president of Liberia, Ellen Johnson Sirleaf, signed **Executive Order No. 92** banning FGM/C for girls under 18 years of age as originally proposed in the Domestic Violence Act (but effectively allowing women over 18 to consent to FGM/C), stating that its omission undermined the law.[3] The Executive Order will, however, expire after one year and the ban will lapse in January 2019 if it is not enshrined into national law.

## What The Law Covers

In the absence of adopted national legislation prohibiting FGM/C in Liberia, there are other laws in place that could address the practice, but to date have not included relevant provisions or been used to bring prosecutions.

**The Penal Code of Liberia (approved 1976, published 1978)**[4] currently addresses infliction of bodily injury with respect to several crimes in the following sections.

- **Section 14.23 (Recklessly endangering another person)**, which states, 'A person commits a misdemeanor of the first degree if he recklessly engages in conduct which creates a substantial risk of death or serious bodily injury to another.'
- **Section 14.50(1) (Kidnapping)** states, 'A person is guilty of kidnapping if he unlawfully removes another from his place of residence or business . . . **(e)** To inflict bodily injury . . .'
- **Section 14.51 (Felonious restraint)** states, 'A person commits a felony of the third degree if he knowingly: **(a)** Restrains another unlawfully in circumstances exposing him to risk of serious bodily injury . . .'
- The Penal Code does not yet directly refer to harmful practices or FGM/C (see above); however, **Section 16.15 (Subjecting a Child to Harmful Practices)** was introduced by the **Children's Law** (discussed below) and makes a person subject to a second-degree felony 'if she or he subjects a child to any of the following practices: . . .**(e)** or a practice that violates or endangers the bodily integrity, life, health, dignity, education, welfare, or holistic development of the child.'

**The Children's Law (2011)**[5] contains **Article VI, Section 4 on Harmful practices prohibited for a child**, but it does not address FGM/C and in fact specifically omits cultural practices by stating: 'No person or society shall subject a child to . . . any unnecessary or **uncultured practice** that may inflict physical, psychosocial, or emotional pain to the child or otherwise violate or endanger her or his bodily integrity, life, health, dignity, education, welfare, or holistic development.' **Section 7.1** does,

however, go on to state, 'No person shall subject a child to torture or other cruel, inhuman, or degrading treatment or punishment.'

### *Medicalised FGM/C*

Medicalised FGM/C is not widespread in Liberia. Almost all FGM/C continues to be carried out by traditional cutters (*zoes*) as part of Sande secret-society initiation.

Current national legislation does not criminalise FGM/C if it is carried out by a health professional or in a medical setting.

### *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. Liberia shares borders with Côte d'Ivoire, Guinea and Sierra Leone, where FGM/C prevalence and the existence and enforcement of laws vary widely.

The absence of any national legislation banning FGM/C in both Liberia and neighbouring Sierra Leone gives families and cutters from other countries the opportunity to move across borders to avoid prosecution. There is no accurate data available on the number of girls in the region who are taken across borders to be cut.

The existing national laws in Liberia make no provision for punishment of cross-border FGM/C.

## Penalties

There are currently no penalties set out in the laws of Liberia for practising FGM/C.

As stated above, although the **Executive Order** currently in place for a year bans FGM/C on girls under 18 years and on women over 18 without their consent, it also includes ineffective penalties for perpetrators, where counselling and fines can be arbitrarily determined by a judge.

Regarding other national laws, the **Penal Code** does not contain any specific penalties for FGM/C (see above). However, the aspects of the Penal Code that might indirectly cover FGM/C set out the following penalties:

- **Section 14.23 (Recklessly endangering another person)** – as a misdemeanour of the first degree, this is subject to 'a definite term of imprisonment to be fixed by the court at no more than one year';
- **Section 14.50(1) (Kidnapping)** – kidnapping is a felony of the first degree and is subject to 'an indefinite term of imprisonment, the maximum of which shall be fixed by the court at not more than ten years';
- **Section 14.51 (Felonious restraint)** – this is a felony of the third degree and is subject to 'an indefinite term of imprisonment to be fixed by the court, the maximum of which shall be three years'; and
- **Section 16.15 (Subjecting a Child to Harmful Practices)**, as introduced by the Children's Law (2011) – this is a second-degree felony and is subject to 'an indefinite term of imprisonment to be fixed by the court, the maximum of which shall be five years.'

# Implementation of The Law

## Cases

In the absence of national legislation outlawing FGM/C, there are no officially reported prosecutions or court proceedings in Liberia. There is also no evidence that other national legislation has been used in any way to prosecute perpetrators of FGM/C. There is also generally weak implementation and enforcement of both international and regional treaties that are meant to protect women and girls.

There have been isolated reports in the media of arrests and court hearings associated with FGM/C, although information is limited.

- In 2016, following the death of 16-year-old Zaye Doe in Nimba County after undergoing FGM/C, four individuals were charged with negligent homicide, criminal solicitation and criminal conspiracy.[6] However, the court case was postponed at least twice and eventually suspended. No further details are available on its current status.
- In 2013, the First Judicial Circuit Criminal Court found two women guilty in the case of Ms Ruth Berry Peal, who was kidnapped from her home in north-west Liberia in 2010 and forced to undergo FGM/C as part of the Sande initiation ritual.[7] She was reportedly also forced to take an oath of secrecy and threatened with death if she broke that oath. She was held for one month, during which she developed health complications and required three months of treatment following her release. The court found the women guilty after a month of deliberations, and they were eventually sentenced to three years' imprisonment. The judge cited both the **Liberian Constitution** and **Article 4(1) of the Maputo Protocol on the Rights of Women**, which entitle women to respect for life and integrity and security of person.[8]

## Relevant Government Authorities and Strategies

The leading government departments responsible for gender issues, including work to end FGM/C in Liberia, are the **Ministry of Gender, Children and Social Protection** and the **Ministry of Internal Affairs**. These departments have worked over recent years in partnership with both international and national non-governmental organisations (*NGOs*) to raise awareness of the harms of FGM/C and particularly engage traditional leaders in the dialogue. They have also worked with the **Ministry of Justice** in an attempt to pass anti-FGM/C legislation. It has not been possible, however, to identify a current national strategy or action plan in place to tackle FGM/C in Liberia.

In 2011 the Government condemned instances of forced initiation into Sande society, and across 2013 and 2014 the Ministry of Internal Affairs made attempts to shut down Sande activities and review licences. Despite this attempted ban on activities, evidence suggests that FGM/C continued as normal. There is also no evidence that the Ebola crisis in 2014 (and the associated education by governments about the spread of the disease) resulted in any change to the practice of FGM/C in Liberia.

In addition, the **Liberian National Police** (*LNP*) incorporates the **Women and Children Protection Services**, a unit specifically tasked with addressing violent crimes against women and children. The unit was established in September 2005 through an agreement between UNICEF and the LNP. It has

a presence in all 15 counties in Liberia.[9] It is not clear to what extent this unit is involved in the work to end FGM/C.

## Civil Society Observations

There are many international and national NGOs working at the grassroots level across Liberia to mobilise communities to end FGM/C, including the National Working Group Against FGM, which operates under the supervision of the National Civil Society Council of Liberia, which has a mandate to eliminate all harmful practices; the National Association on Traditional Practices Affecting the Health of Women and Children; Women Solidarity Incorporated and the Women of Liberia Peace Network. While some positive changes have been observed in terms of increasing awareness and dialogue around the subject, these efforts still face considerable challenges and are not being fully supported because of the continued absence of clear national policy and legislation addressing FGM/C in Liberia.

One challenge to ending FGM/C in Liberia is the ongoing, fierce resistance from advocates of the Sande society: families who resisted the cut or journalists who have attempted to speak out about the practice have faced both verbal and physical threats in the past, to the extent that some have had to move away for their own safety. In the continued absence of a national law, communities are reluctant to report FGM/C to the police and face stigma for attempting to do so.

> *'Social and cultural circumstances in Liberia do not allow girls and women to oppose FGM or to escape, though some girls resort to running away due to lack of protection under the law.'*
>
> *~ Women's Secretariat of Liberia (WONGOSOL)[10]*

Civil society has campaigned hard for many years for the Government to pass national legislation banning FGM/C. Those working to end the practice were particularly frustrated by the removal of FGM/C from the recent Domestic Violence Act, and they continue to urge the Government to meet its obligations under international and regional treaties, including CEDAW and the Maputo Protocol (see Appendix I).[11]

The 12-month ban put in place by the former president was welcomed in January 2018, but with much scepticism as to what extent it would deter communities from practising FGM/C.[12] It has not been widely publicised, and critics point out that it does not fully protect women over the age of 18 and leaves punishment to be determined by local judges.

Though enforcement may be lacking, civil society has expressed the intention to use the temporary ban in their awareness-raising activities in communities and to lobby the new Government to widen the policy further and develop a comprehensive national law.[13] It is reported that several NGOs and anti-FGM/C groups, together with legal experts, have drafted FGM/C legislation and plan to submit it to parliament in the coming months.

# Conclusions and Suggestions for Improvement

## Conclusions

- FGM/C remains firmly entrenched in Liberia, and societal pressure to maintain the practice as part of Sande society continues to be a challenge for all those working to protect the health and rights of women and girls.
- Although Liberia has signed up to many of the international and regional treaties that are relevant to protecting women and girls from gender-based violence and harmful practices, there is weak implementation and policy development. To date, amendments to existing national legislation have failed to include protection from FGM/C.
- While the former president of Liberia, Ellen Johnson Sirleaf, signed Executive Order No. 92 in January 2018, banning FGM/C for girls under 18 years of age, there is no evidence that the ban is being enforced, and it will expire after 12 months (in January 2019) unless enshrined into national law.
- While both international and grassroots NGOs and activists continue to work in communities to advocate for an end to harmful practices, the absence of formalised government policy and the failure to pass national legislation specifically banning FGM/C undermines these efforts.

## Suggestions for Improvement

***National Legislation***

- There is an urgent need to adopt robust national policy and pass legislation in Liberia to protect women and girls, of all ages, from FGM/C. The new Government has the opportunity to build upon the current Executive Order No. 92 and draft new national legislation in full consultation with civil society and community members. The Government should draw on the experience of other FGM/C-practising countries that have implemented legislation, to ensure the content of the law is applicable and enforceable in the context of Liberia.
- The Government is urged to draft and fully implement a national strategy to end FGM/C and work closely with all activists and communities to achieve long-lasting and positive change.
- Laws need to criminalise and punish all perpetrators of the practice (including those who perform, procure, aid or abet FGM/C). Instances of medicalised FGM/C and cross-border FGM/C need to be included, too.
- Failure to report FGM/C that is planned or has taken place is a further key consideration in protecting women and girls through national laws.
- The Government also has a responsibility to protect uncut women and girls (and their families) from verbal abuse, physical threats and exclusion from society. Such provisions are included in the laws of some other countries (for example, Uganda).
- Laws also need to protect all victims of FGM/C: women and girls who are pressured by society into agreeing to FGM/C should not be subject to criminalisation and further punishment.

- All relevant 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 to protect women and girls from FGM/C, the following actions will contribute to efforts to end the practice in Liberia.

- 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 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.
- Support and protection for victims and witnesses in FGM/C cases will be 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 these are currently unavailable and a need is identified, appropriate protection measures (for example, the provision of safe spaces) should be put in place for girls at risk of FGM/C.

# Appendix I: International and Regional Treaties

| LIBERIA | Signed | Ratified | Acceded | Reservations on reporting? |
|---|---|---|---|---|
| **International** | | | | |
| International Covenant on Civil & Political Rights (1966) (*ICCPR*) | ✓ 1967 | ✓ 2004 | | |
| International Covenant on Economic, Social & Cultural Rights (1966) (*ICESCR*) | ✓ 1967 | ✓ 2004 | | |
| Convention on the Elimination of All forms of Discrimination Against Women (1979) (*CEDAW*) | | | ✓ 1984 | |
| Convention Against Torture & Other Cruel, Inhuman or Degrading Treatment or Punishment (1984) (*CTOCIDTP*) | | | ✓ 2004 | |
| Convention on the Rights of the Child (1989) (*CRC*) | ✓ 1990 | ✓ 1993 | | |
| **Regional** | | | | |
| African Charter on Human & Peoples' Rights (1981) (*ACHPR*) (Banjul Charter) | | ✓ 1982 | | |
| African Charter on the Rights and Welfare of the Child (1990) (*ACRWC*) | ✓ 1992 | ✓ 2007 | | |
| African Charter on Human and Peoples' Rights on the Rights of the Women in Africa (2003) (*ACHPRRWA*) (Maputo Protocol) | ✓ 2003 | ✓ 2007 | | |

'**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 *Liberia's Constitution of 1986* (1986) Available at https://www.constituteproject.org/constitution/Liberia_1986.pdf.
2 Bettie K. Johnson Mbayo (2017) 'Liberian Women Protest For Passage of Domestic Violence Bill', *Front Page Africa*, 17 May. Available at http://frontpageafricaonline.com/news/2016news/liberian-women-protest-for-passage-of-domestic-violence-bill/.
3 Emma Batha (2018) 'Liberia bans female genital mutilation – but only for a year', *Reuters*, 25 January. Available at https://www.reuters.com/article/us-liberia-fgm-law/liberia-bans-female-genital-mutilation-but-only-for-a-year-idUSKBN1FE1N7.
4 *Penal Law – Title 26 – Liberian Code of Laws Revised* (1978) Available at http://www.icla.up.ac.za/images/un/use-of-force/africa/Liberia/Penal%20Code%20Liberia%201978.pdf.
5 An Act to Establish The Children's Law of Liberia, 2011 (2011) Available at https://www.unicef.org/liberia/Liberia_Childrens_Law2011.pdf.
6 US Department of State (2017) *Liberia 2017 Human Rights Report*, p.23. Available at https://www.state.gov/documents/organization/277259.pdf.
7 Emma Batha (2013) 'Kidnappers jailed for forcing Liberian woman to undergo FGM', *Thomson Reuters Foundation*, 12 March. Available at http://news.trust.org/item/20130312140000-oa2bp.
8 United Nations Security Council (2011) *Security Council Resolution 1325: Civil Society Monitoring Report Liberia. A project of the Global Network of Women Peacebuilders*. Available at http://docplayer.net/34859704-Security-council-resolution-1325-civil-society-monitoring-report-liberia-a-project-of-the-global-network-of-women-peacebuilders.html.
9 *Ibid.*
10 Equality Now (2015) Information on Liberia for Consideration by the Committee on the Elimination of Discrimination against Women at its 62nd Pre-Sessional Working Group (9–13 March 2015) [correspondence to CEDAW]. Available at http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/LBR/INT_CEDAW_NGO_LBR_19261_E.pdf.
11 Alvin Worzi (2017) 'FGM Excluded from Domestic Violence Act', *Daily Observer*, 15 August. Available at https://www.liberianobserver.com/news/fgm-excluded-from-domestic-violence-act/.
12 RT (2018) *Liberia imposes 12-month moratorium on female genital mutilation*, 26 January. Available at https://www.rt.com/news/417016-liberia-female-genital-mutilation-ban/.
13 Christin Roby (2018) 'Liberian executive order banning FGM expected to lack enforcement', *devex*, 2 February, Available at https://www.devex.com/news/liberian-executive-order-banning-fgm-expected-to-lack-enforcement-91981.

***Cover image:*** EU Civil Protection and Humanitarian Aid Operation (2013) *Women of Liberia: Portraits of women and girls in Montserrado county, Liberia*. Available at https://flic.kr/p/e1kLqA. CCL: https://creativecommons.org/licenses/by-nc-nd/2.0/.

*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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