

LAW FACTSHEET 1: International and Regional Treaties Relevant to FGM

This factsheet identifies and summarises some of the key international and regional treaties relevant to FGM and is based on the ‘Law and FGM’ reports published by 28 Too Many in 2018 (see <https://www.28toomany.org/thematic/law-and-fgm/>).

The following three treaties in particular recommend that countries legislate against FGM:

- Convention on the Elimination of Discrimination Against Women (*CEDAW*);
- African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (*ACHPRRWA*) – also known as the *Maputo Protocol*; and
- The Organisation of Islamic Co-operation (*OIC*) – Cairo Declaration on the Elimination of FGM (*CDEFGM*).

International Treaties and Mechanisms

Concern about FGM at the international level dates from 1990, when the **UN Convention on the Elimination of Discrimination Against Women** adopted **General Recommendation No. 14** calling on states ‘to take appropriate and effective measures with a view to eradicating the practice of female circumcision.’¹

Subsequent recommendations and statements have been issued by CEDAW and the **Office of the UN High Commissioner for Human Rights**, reminding member governments of their obligations to eliminate FGM and other harmful practices. In 2014 signatory states to CEDAW and the **Convention on the Rights of the Child** passed a **Joint General Recommendation on Harmful Practices**, confirming their obligations ‘to ensure full compliance . . . to eliminate harmful practices.’² In 2016 the **UN Human Rights Council (HRC)** adopted a resolution recognising FGM as an act of violence against women and girls. It urged countries to put in place national legislation prohibiting FGM and develop strategies for its enforcement.³

In March 2018 the **UN Commission on the Status of Women**, at its meeting to discuss ‘Challenges and opportunities in achieving gender equality and the empowerment of rural women and girls’, agreed to:

Eliminate harmful practices, such as female genital mutilation and child, early and forced marriage, which affect women and girls in rural areas disproportionately and may have long-term effects on girls' and women's lives, health and bodies, and which continue to persist in all regions of the world despite the increase in national, regional and international efforts, including by empowering all women and girls, working with local communities to combat negative social norms which condone such practices and empowering parents and communities to abandon them.⁴

In July 2018, the **HRC**, at its 38th Session, passed **Resolution No. 38/6**⁵, which affirmed all previous international treaties and commitments to the elimination of FGM and urged states at **Recommendation 2**:

to adopt, implement, harmonize and enforce laws and policies to prevent and put an end to female genital mutilation, protect those at risk and support women and girls who have been subjected to the practice.

It also urges them at **Recommendation 4**:

to ensure the national implementation of international and regional obligations that they have undertaken under the various international instruments that protect the full enjoyment of all human rights and fundamental freedoms of women and girls.

In addition to the formal international treaties, the globally accepted **Sustainable Development Goals (SDGs)** that were put in place for 2015–2030 make specific reference to the elimination of FGM at **Goal 5.3** (see below). It is hoped that this will strengthen the hands of governments, NGOs and multi-lateral organisations when implementing anti-FGM policies and legislation.



Sustainable Development Goal 5: Achieve gender equality and empower all women and girls

Goal 5.3 Eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation.

In May 2018 the **UN Economic and Social Council** reported on positive progress being made towards SDG Goal 5.3 as follows:

Female genital mutilation . . . is a human rights violation affecting girls and women worldwide, but especially in communities where it persists as a social norm. On average, around one in three girls aged 15 to 19 have been subjected to FGM in the 30 countries where the practice is concentrated around 2017, compared to nearly one in two around 2000.⁶

This followed the UN's SDG 5 report for 2017, which also warned that:

The harmful practice of female genital mutilation/cutting has declined by 24 per cent since around 2000. Nevertheless, prevalence remains high in some of the 30 countries with representative data.⁷

States that have signed, ratified or acceded to⁸ an international treaty are monitored on implementation of that treaty by its respective Treaty Body, which comprises independent experts from other countries. Most treaties require a three- or five-year review of a country's progress towards achievement of its obligations. The monitoring team reports on progress and makes recommendations for each country's government to follow up.

Some countries signed these treaties but stipulated reservations against certain clauses or conditions contained in them; an indication of whether reservations were made by individual countries can be found in the [individual country law reports](#) produced by 28 Too Many.

Regional Treaties and Mechanisms

On a regional level, the **African Union (AU)** has been calling on member states to eliminate FGM since 1990, when it adopted the **African Charter on the Rights and Welfare of the Child**. In 2003 the AU adopted the **Maputo Protocol**, of which **Article 5** specifically requires members to prohibit 'by legislative measures backed by sanctions all forms of female genital mutilation, scarification, medicalisation and para-medicalisation of female genital mutilation and all other practices in order to eradicate them.'⁹

Sub-Regional Commitments to End FGM

An ongoing challenge for the work to end FGM is cross-border FGM, when women and girls are taken to neighbouring countries to undergo the practice, usually to avoid prosecution under domestic laws. To combat this in East Africa, in 2016 the **East African Legislative Assembly** (which includes Kenya, South Sudan, Tanzania and Uganda) enacted the **East African Community Prohibition of Female Genital Mutilation Act (EAC Act)**¹⁰ to promote cooperation in the prosecution of perpetrators of FGM through harmonisation of laws, policies and strategies to end FGM across the region. The EAC Act aims to raise awareness about the dangers of FGMs and provide for the sharing of information, research and data.

A similar law still remains to be put in place by the **Economic Community of West African States (ECOWAS)**, although, at a conference in October 2017 in Niger, it was discussed by the first ladies of member states, who urged all ECOWAS states to put in place measures and resources for the elimination of FGM.¹¹

Another important regional organisation of states, which has the potential in future to address wider gender issues such as violence against women (VAW), harmful practices and cross-border FGM, is the **Intergovernmental Authority on Development (IGAD)**.¹² Founded in 1996 with the aim of collaborating on drought and other cross-border environmental issues, it has more

recently become a community of countries concerned with the general development of the region. Currently, IGAD comprises eight member states: Djibouti, Eritrea, Ethiopia, Kenya, Somalia, South Sudan, Sudan and Uganda.

Other International Mechanisms Concerned with Eliminating FGM

Some FGM-practising countries, such as **Somalia** and **Sudan**, have not signed CEDAW or other treaties that include references to the elimination of FGM. Others, such as **Egypt**, have signed them but given reservations, some of which effectively exempt these states from complying with a legislative framework criminalising FGM. One of the main reasons given for making these reservations has been that some provisions of CEDAW and the Maputo Protocol are not regarded as being in line with Sharia law. Most of these countries, however, are members of the **Organisation of Islamic Co-operation** and, in 2003, following the Afro-Arab Expert Consultation on Legal Tools for the Prevention of Female Genital Mutilation held in Cairo, they adopted the **Cairo Declaration on the Elimination of FGM (CDEFGM)**.¹³

The **CDEFGM** comprises 17 recommendations for governments to follow with the aim of preventing and prohibiting FGM. Importantly, these include the enactment of specific legislation addressing FGM and working with NGOs to develop strategies to change social perceptions of the practice. The CDEFGM was adopted by the following countries: **Benin, Burkina Faso, Cameroon, Central African Republic, Chad, Côte d'Ivoire, Djibouti, Egypt, Eritrea, Ethiopia, Gambia, Ghana, Guinea, Kenya, Liberia, Mali, Mauritania, Niger, Nigeria, Senegal, Sierra Leone, Sudan, Tanzania, Togo** and **Uganda**.

The Relevance of Treaties to the Elimination of FGM

Countries that have signed up to the international and regional treaties referred to above are obliged to put in place legislation and implementation measures to assist in the eradication of FGM. 28 Too Many, however, has not found any instance to date of a state formally being challenged for failing to adopt and enforce national anti-FGM legislation under these obligations, whether by the international or African regional communities, or by citizens of that state.

For further information on and analyses of how FGM was introduced into the various international treaties, see Analysis of Legal Frameworks on Female Genital Mutilation (2017) by the UNFPA Regional Office for West and Central Africa.¹⁴

For more detailed discussions on the legal situation in each African country in which FGM is practised, please go to <https://www.28toomany.org/thematic/law-and-fgm/>.

INTERNATIONAL TREATIES	International Covenant on Civil & Political Rights (1966)	International Covenant on Economic, Social & Cultural Rights (1966)	Convention on the Elimination of All forms of Discrimination Against Women (1979)	Convention Against Torture & Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)	Convention on the Rights of the Child (1989)
Benin	A	A	S/R	A	S/R
Burkina Faso	A	A	A	R	S/R
Cameroon	A	A	S/R	A	S/R
CAR	A	A	A	A	S/R
Chad	A	A	A	A	S/R
Côte d'Ivoire	A	A	S/R	A	S/R
Djibouti	A	A	A	A	S/R*
Egypt	S/R	S/R	S/R*	A	S/R
Eritrea	A	A	A	A*	S/R
Ethiopia	A	A	S/R*	A	A
The Gambia	A	A	S/R	S	S/R
Ghana	S/R	S/R	S/R	S/R	S/R
Guinea	S/R*	S/R*	S/R	S/R	A
Guinea Bissau	S/R	A	S/R	S/R	S/R
Kenya	A	A	A	A	S/R
Liberia	S/R	S/R	A	A	S/R
Mali	A	A	S/R	A	S/R
Mauritania	A*	A	A	A	S/R*
Niger	A	A	A*	A	S/R
Nigeria	A	A	S/R	X	S/R
Senegal	S/R	S/R	S/R	S/R	S/R
Sierra Leone	A	A	S/R	S/R	S/R
Somalia	A	A	X	A	S/R*
Somaliland	A	A	X	A	S
South Sudan	X	X	A	A	A
Sudan	A	A	X	S	S/R
Tanzania	A	A	S/R	X	S/R
Togo	A	A	A	S/R	S/R
Uganda	A	A	S/R	A	S/R

REGIONAL TREATIES	African Charter on Humanitarian and People's Rights (1981) (<i>Banjul Charter</i>)	African Charter on the Rights and Welfare of the Child (1990)	African Charter on Human and Peoples' Rights on the Rights of the Women in Africa (2003) (<i>Maputo Protocol</i>)	Cairo Declaration on the Elimination of FGM (CDEFGM)
Benin	S/R	S/R	S/R	✓
Burkina Faso	S/R	S/R	S/R	✓
Cameroon	S/R	S/R	S/R	✓
CAR	R	S	S	✓
Chad	S/R	S/R/A	S	✓
Côte d'Ivoire	S/R	S/R	S/R	✓
Djibouti	S/R	S	S/R	✓
Egypt	S/R	S/R	X	✓
Eritrea	R	R	S	✓
Ethiopia	R	R	S	✓
The Gambia	S/R	A	S/R	✓
Ghana	A	S	S/R	✓
Guinea	S/R	S/R	S/R	✓
Guinea Bissau	S/R	S	S/R	–
Kenya	R	A	S/R	✓
Liberia	R	S/R	S/R	✓
Mali	S/R	S/R	S/R	✓
Mauritania	S/R	X	R	✓
Niger	S/R	S/R	S	✓
Nigeria	S/R	S/R	S/R	✓
Senegal	S/R	S/R	S/R	✓
Sierra Leone	S/R	S/R	S/R*	✓
Somalia	S/R	S	S	–
Somaliland	S/R	S	S	–
South Sudan	X	X	S	–
Sudan	S/R	X	S	✓
Tanzania	S/R	S/R	S/R	✓
Togo	S/R	S/R	S/R	✓
Uganda	S/R	S/R	S/R	✓

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- 1 UN Committee on the Elimination of Discrimination Against Women (1990) *CEDAW General Recommendation No. 14: Female Circumcision*. Available at <http://www.refworld.org/docid/453882a30.html>.
 - 2 UN Convention on the Elimination of All Forms of Discrimination against Women (2014) *Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/ general comment No. 18 of the Committee on the Rights of the Child on harmful practices*, 14 November.
 - 3 United Nations General Assembly (2016) *Human Rights Council 32nd Session*. Available at http://www.un.org/ga/search/view_doc.asp?symbol=A/HRC/32/L.31/Rev.1.
 - 4 Commission on the Status of Women (2018) *62nd Session*. Available at <http://www.unwomen.org/-/media/headquarters/attachments/sections/csw/62/outcome/csw62-agreed-conclusions-advanced-unedited-version-en.pdf?la=en&vs=3837>.
 - 5 UN Human Rights Council (2018) *38th Session of the Human Rights Council*. Available at <https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session38/Pages/ResDecStat.aspx>.
 - 6 UN Economic & Social Council (2018) *Progress Towards the Sustainable Development Goals: Report of the Secretary General*, p.9. Available at https://sustainabledevelopment.un.org/content/documents/18541SG_SDG_Progress_Report_2018_ECOSOC.pdf.
 - 7 United Nations (2017) 'Progress of Goal 5 in 2017', *Sustainable Development Knowledge Platform*. Available at <https://sustainabledevelopment.un.org/sdg5>.
 - 8 **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.
 - 9 African Commission on Human and People's Rights (2003) *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa*. Available at <http://www.achpr.org/instruments/women-protocol/#5>.
 - 10 Hon. Dora Christine Kanabahita Byamuka (2016) *The EAC prohibition of Female Genital Mutilation Bill*. Available at <http://www.eala.org/documents/view/the-eac-prohibition-of-female-genital-mutilation-bill2016>.
 - 11 Economic Community of West African States (2017) *First Ladies Move To Eliminate Obstetric Fistula And Protect Child Rights In West Africa*, 10 October. Available at <http://www.ecowas.int/first-ladies-move-to-eliminate-obstetric-fistula-and-protect-child-rights-in-west-africa/>.
 - 12 Intercontinental Government Authorities Development (2011) *Intergovernmental Authority on Development*. Available at <http://www.igadregion.org/intergovernmental-authority-on-development/>.
 - 13 The National Council for Childhood and Motherhood (2003) *Afro-Arab Expert Consultation Legal Tools for the Prevention of Female Genital Mutilation: Cairo Declaration for the Elimination of FGM*. Available at http://www.sexarchive.info/ECR6/pdf_fgm_cairo2003_eng.pdf.
 - 14 UNFPA Regional Office for West and Central Africa (undated) *Analysis of Legal Frameworks on Female Genital Mutilation in Selected Countries in West Africa*. Available at <http://wcaro.unfpa.org/sites/default/files/pub-pdf/EN-UNFPA-ANALYSIS-ON-FGM.pdf>.

