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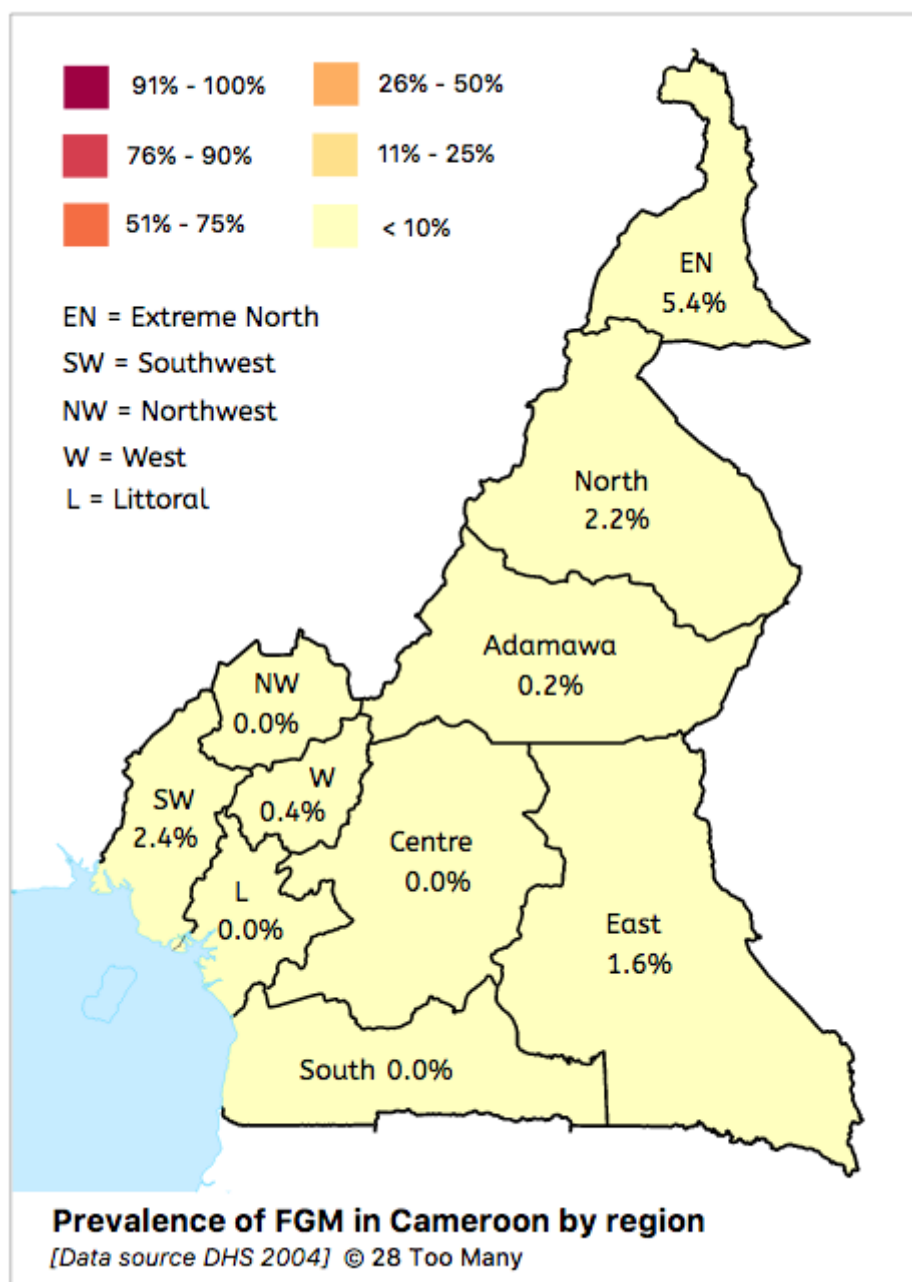


CAMEROON: THE LAW AND FGM

July 2018

In 2004, the prevalence of FGM in women aged 15–49 was 1.4%.

The highest prevalence was found in the far north (5.4%).



- Data suggests that FGM is most likely to be performed between the ages of five and nine.
- 'Cut, flesh removed' is the most common type of FGM practised.
- 89% of girls/women are cut by traditional midwives/birth attendants.
- 84.1% of women and 84.6% of men who have heard of FGM believe it should be discontinued.

Source of data: Institut National de la Statistique (INS) et ORC Macro (2004) *Enquête Démographique et de Santé du Cameroun 2004*. Calverton, Maryland, USA: INS et ORC Macro. Available at <https://dhsprogram.com/pubs/pdf/FR163/FR163-CM04.pdf>.

For further information on FGM in Cameroon see <https://www.28toomany.org/cameroon/>.

Domestic Legal Framework

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

What is The Law Against FGM?

An overview of the International and Regional Treaties signed and ratified by Cameroon can be found in Appendix I of this report.

Cameroon's legal system is based on a mix of English common law, French civil law and customary law.

The **Constitution of the Republic of Cameroon (1996)**,¹ as amended in 2008, does not explicitly refer to violence against women, harmful practices or FGM. The **Preamble** states, however, that everyone has the right to physical and moral integrity and that '[u]nder no circumstances shall any person be subjected to torture, to cruel, inhumane or degrading treatment.'

Law No. 2016/007 of 12 July 2016, commonly known as the 'Penal Code' of the Republic of Cameroon, contains a section specifically referring to the criminalisation and prohibition of 'genital mutilation'.² This is the main law relevant to FGM in Cameroon.

The **Civil Code** of the Republic of Cameroon is currently being drafted³, and, when completed and enacted, it is expected to contain a Code of the Person and the Family and a Code on Child Protection. It is not yet known if and how it will address harmful practices or FGM.

What The Law Covers

The **Penal Code (Section 277-1)** of the Republic of Cameroon does not provide an explicit definition of FGM nor reference solely female genitalia; rather it refers to mutilation of 'the genital organ of a person, by any means whatsoever'. It outlines the criminal offences related to the performance of genital mutilation, including repeat offences and those for commercial purposes. It does not, however, criminalise aiding and abetting FGM nor failure to report the practice.

Section 350 ('Assault on Children') of the Penal Code specifically addresses genital mutilation committed on children and provides a more severe punishment if the offence is committed against a person under 15 years of age.

Genital mutilation is not criminalised in Cameroon if it is 'performed by a qualified person and in order to save life' (**Section 277–1[4]**). The Penal Code does not, however, provide a definition of a 'qualified person', nor does it specify under which conditions it would need to be used to 'save life'.

Medicalised FGM

The medicalisation of FGM does not appear to be significant in Cameroon, according to available data: only 4% of women aged 15–49 who have experienced FGM are reported to be cut by a health professional.⁴

Current national legislation does not address medicalised FGM in Cameroon. While the **Penal Code** exempts genital mutilation by a 'qualified person' (but does not include a definition of 'qualified'), under the **Law Relating to the Organization and Practice of Medicine 1990**⁵, any person engaged in the practice of medicine in Cameroon shall be subject to registration with the Medical Association. It could be assumed, therefore, that any persons registered with the Medical Association of Cameroon may be regarded as a 'qualified person' within the meaning of Section 277–1(4) of the Penal Code.

Regarding medical malpractice, under **Section 43 of Law No. 90–036** relating to the Organization and Practice of Medicine in Cameroon (the '**Medicine Law 1990**'), 'any conviction for any offence of a nature to discredit or jeopardize the reputation of the profession committed within or outside the national territory' or 'any conviction for professional misconduct' may be referred to the Disciplinary Board.⁶ Although this does not explicitly refer to FGM, if an action is seen to 'discredit or jeopardize' the medical profession or is seen as 'professional misconduct', it would fall under the scope of this law and therefore demand referral to the Disciplinary Board.

Cross-Border FGM

In some countries where FGM has become illegal, the practice has been pushed underground and across borders to avoid prosecution. Cameroon shares borders with other countries where the existence and enforcement of laws varies widely, including Nigeria, Chad and the Central African Republic. The movement across national borders to practise FGM is a continuing challenge to the campaign to end FGM across Africa.

There is a lack of data on cross-border FGM in Cameroon. It is not known to what extent families or practitioners cross borders into other countries, or residents of neighbouring countries cross into Cameroon. It is also unclear from the Penal Code whether FGM is criminalised or not when it is committed or arranged by a Cameroonian to take place outside of the country.

Penalties

Under **Section 277 of the Penal Code** that deals with 'Grievous Harm', the **punishment** for the perpetrator of genital mutilation (**Section 277–1**) is imprisonment for ten to twenty years. This is increased to life imprisonment (**Section 277–1 [2]**) where the perpetrator habitually carries out the practice or does so for commercial purposes, or if the act leads to the death of the victim. **Forfeitures** may also be imposed by the court for practising genital mutilation (**Section 277–1[3]**); these include removal from any public service or employment, or prevention of holding any post connected with the education or care of children.

If genital mutilation is committed against **a person under 15 years of age**, under **Section 350 of the Penal Code (Assault on Children)**, the penalty is increased to life imprisonment. Forfeitures, as above, may also be ordered by the court.

In addition, punishments for medical malpractice under the **Medicine Law 1990 (Section 48)** include a warning, reprimand or suspension from practice for three months to one year, depending on the seriousness of the offence committed, with ineligibility for membership of the Council of the Association for two to three years with effect from the date of notification of a sanction.

Enforcement of The Law

Cases

It has not been possible to find any recent cases where the laws listed in this report have been applied. It appears that the Government of Cameroon has, to date, mostly concentrated on sensitising communities to stop FGM rather than enforcing the Penal Code.

Relevant Government Authorities and Processes

In Cameroon, the **Ministry of Women Empowerment and the Family** is responsible for eliminating and preventing violence against women and girls in general, and ensuring and guaranteeing equality for women in all political, economic, social and cultural areas. Within the Ministry, the **Department for the Promotion and Protection of the Family and Children's Rights** was established in 2012 to strengthen the focus on the protection of children.⁷

In 2011 the Government adopted a **National Action Plan** to combat FGM. The Ministries of Social Affairs and of Women's Empowerment and the Family established local committees in areas where the practice was most prevalent, particularly in the extreme northern region. The committees worked with civil society organisations, traditional and religious leaders and former excisors on sensitisation and education programmes.⁸ Research on FGM practices was undertaken and a collaboration signed in June 2013 with the Council of Imams and Muslim Dignitaries of Cameroon (**CIDIMUC**) to combat FGM, forced or early marriages and other forms of violence.⁹

It has not been possible to establish if or how these government-led initiatives incorporate recent legislation on genital mutilation into their education and awareness programmes.

Civil Society Observations

There is a lack of recent data available on progress being made towards ending FGM in Cameroon, and it is difficult to assess reliable trends in prevalence. While there are organisations working to combat the practice in country, there is no available evidence from them as to whether the law is being enforced in the communities where they work. As in other countries with laws against FGM, there are suggestions that criminalising the practice has driven it underground, but, again, there is no evidence to corroborate this or to help understand the impact of the Penal Code since it came into force.

Conclusions and Suggestions for Improvement

Conclusions

- Although the Penal Code provides for the punishment of genital mutilation, the law lacks a clear definition of FGM and does not punish those who aid, abet or fail to report FGM.
- It has not been possible to identify any cases brought forward under the Penal Code, suggesting that enforcement of the law in Cameroon is weak.
- The absence of a specific reference to FGM in the Medicine Law means that there is uncertainty as to the role of the medical professional in Cameroon in relation to FGM.
- There is a lack of reliable data on FGM and up-to-date information on the Government's plan to implement and enforce the law to tackle the practice.

Suggestions for Improvement

National Legislation

- **The Penal Code** requires strengthening to include a clear definition of FGM and to criminalise and punish all perpetrators of FGM, including those who aid and abet the practice.
- Failure to report FGM should also be criminalised and subject to punishment.
- Research is required to understand to what extent cross-border FGM takes place, and its procurement or performance should be criminalised and subject to punishment.
- Clear definitions and a reference to FGM should be included in the Medicine Law, and punishments for performance of FGM by health professionals should be set out.
- The Civil Code currently being drafted offers a further opportunity to strengthen legislation and protect women and girls from FGM.
- Laws need to be made accessible to all members of society and easy to understand in all local languages.

Implementation of the Law

- Up-to-date research is required to better understand the current prevalence of FGM in Cameroon (including any cross-border movement) and to efficiently target programmes, funding and law enforcement.
- Increased funding for dissemination and awareness-raising of the relevance and implications of the law is required in communities that continue to practise FGM.
- The local judiciary and police need adequate support and training around the law and enforcement procedures. They 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.
- Where literacy rates are low, information on the law needs to be made available through different media channels and resources, particularly in remote rural areas where girls are at greatest risk.
- Mandatory reporting of instances of FGM coming to the attention of medical staff 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.

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- 1 *Law No. 96-06 of 18 January 1996 to amend the Constitution of 2 June 1972* (1996). Available at <http://confinder.richmond.edu/admin/docs/Cameroon.pdf>.
 - 2 *Law No. 2016/007 of 12 Jul 2016 relating to the Penal Code* (2016). Available at <http://fakoamerica.typepad.com/files/law-relating-to-the-penal-code.pdf>.
 - 3 UN Human Rights Office of the High Commissioner (2017) *Committee on the Rights of the Child examines the report of Cameroon*. Available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21675&LangID=E>.
 - 4 Institut National de la Statistique et ORC Macro (2004) *Enquête Démographique et de Santé du Cameroun 2004*. Calverton, Maryland, USA: INS et ORC Macro, p.238. Available at <https://dhsprogram.com/pubs/pdf/FR163/FR163-CM04.pdf>.
 - 5 *Law relating to the Organization and Practice of Medicine (Law No. 90-036 of 10th August 1990)*.
 - 6 *Law relating to the Organization and Practice of Medicine (Law No. 90-036 of 10th August 1990), Section 43*.
 - 7 *The Ministry of Women Empowerment and the Family was established in 2004 by virtue of Decree No. 2004/320 of 8 December 2004 on the organization of the Government, which came into force by virtue of Presidential Decree No. 2005/088 of 29 March 2005 on the organization of the Ministry for the Advancement of Women and the Family. The Department for the Promotion and Protection of the Family and Children's Rights was established by Decree No. 2012/638 dated 21 December 2012.*
 - 8 US Department of State (2015) *Cameroon 2015 Human Rights Report*, p.30. Available at <https://www.state.gov/documents/organization/252873.pdf>.
 - 9 Committee on the Rights of the Child (2015) *Consideration of reports submitted by States parties under article 44 of the Convention: Combined third to fifth periodic reports of States parties due in 2015, Cameroon*, p.25. Available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/CMR/3-5&Lang=en.

Cover image: akturer (2015) BATOUFAM - CAMEROON / 15.01.2015: A primary school in Batoufam, Cameroon. The students are learning English. Shutterstock ID: 385411114.

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.

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.

Appendix I: International and Regional Treaties

CAMEROON	Signed	Ratified	Acceded	Reservations on reporting?
International				
International Covenant on Civil & Political Rights (1966) (<i>ICCPR</i>)			✓ 1984	
International Covenant on Economic, Social & Cultural Rights (1966) (<i>ICESCR</i>)			✓ 1984	
Convention on the Elimination of All forms of Discrimination Against Women (1979) (<i>CEDAW</i>)	✓ 1983	✓ 1994		
Convention Against Torture & Other Cruel, Inhuman or Degrading Treatment or Punishment (1984) (<i>CTOCIDTP</i>)			✓ 1986	
Convention on the Rights of the Child (1989) (<i>CRC</i>)	✓ 1990	✓ 1993		
Regional				
African Charter on Human & Peoples' Rights (1981) (<i>ACHPR</i>) (Banjul Charter)	✓ 1987	✓ 1989		
African Charter on the Rights and Welfare of the Child (1990) (<i>ACRWC</i>)	✓ 1992	✓ 1997		
African Charter on Human and Peoples' Rights on the Rights of the Women in Africa (2003) (<i>ACHPRRWA</i>) (Maputo Protocol)	✓ 2006	✓ 2012		

'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.

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