

FEMALE GENITAL MUTILATION: A HUMAN RIGHTS ISSUE

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Female Genital Mutilations: brief historical background

"Female circumcision" also referred to as "excision" is a long established custom and tradition in some countries, but its historical origins and background have not been properly clarified. Many research projects, studies and investigations have been carried out. Researchers and experts have deciphered ancient writings and studied histories and civilizations in an effort to find the origins and reasons for this practice which has stood the test of time. This research confirms that the practice had been followed by a number of peoples and societies across the ages in different countries.

When one studies traditional practices, in particular female circumcision, it must first be noted that they are rooted in a whole set of beliefs, values, cultural and social behaviour patterns governing the lives of the societies concerned. The societies concerned have not felt the need to question their practice. But the effect of the revolutions in technology, economics and culture has been, *inter alia*, to bring continents, people and cultures closer together, to breakdown frontiers, and to set many customs and traditions in a wider perspective.

Until the early fifties and even beyond, female circumcision was a taboo subject that few, even among the continent's officials and elites, dared to mention. Internationally, no study or positive recommendation could be made on any culturally related practice that carried a high emotional charge. It should be noted that during the decolonization process, the few attempts by the international community (1952 by the Commission on the Status of Women and 1958 by the World Health Organization) to discuss the issue of female circumcision were considered as a foreign interference and was rejected by the people concerned as attacks on their traditional culture and values.

Brief Overview of Measures Taken by Human Rights Bodies and Mechanisms

Sub-Commission on the Promotion and Protection of Human Rights

After a first unsuccessful attempt in 1981, the Sub-Commission took up consideration of the issue of female circumcision, one year later in 1982, and requested two of the experts serving on it to carry out and present the study on all aspects of the problem and how it might best be remedied. It should be mentioned that, during the subsequent session of the Commission on Human Rights, some countries, in particular African countries, were quite unenthusiastic about the Sub-Commission's proposal. The Senegalese delegate suggested a change to the title of the study, which would become a study on traditional practices affecting the health of women and children. The Commission voted and accepted this proposal. The Sub-Commission therefore decided to set up a group whose mandate was to study all aspects of the problem; the group comprised two experts from the Sub-Commission plus representatives from the United Nations

Educational, Scientific and Cultural Organization, World Health Organization and the United Nations Children's Fund and the issue of female circumcision was watered down in the title.

When it met the first time, the WG heard a broad exchange of views on traditional practices affecting the health of women and children. When the time came to select among the harmful practices for the Group to concentrate on, the representatives of WHO and UNICEF raised objections regarding the priority to be accorded to female circumcision. After some discussions, it was suggested that the Group should draw up a list of the most harmful traditional practices for women and children, and arrange them in order of priority according to certain criteria.

The list presented by the Group included female circumcision/excision, other forms of mutilation (facial scarring), the force-feeding of women, early marriage, various nutritional taboos and traditional practices associated to childbirth. The problem of dowries in certain parts of the world, crimes of honour and the consequences of son preference were also mentioned.

With respect to the particular issue of female circumcision, even though the WG had accepted that the practice was a violation of human rights by the standards laid down in international instruments, it recognized the need to be extremely cautious on how to address the issue and felt that it should not express any kind of judgement that might give offence to any society, culture nor religious community. The report noted that in the light of these international principles, all countries that had ratified the international instruments were confronted with the incompatibility that existed between the obligations they had assumed as States parties to the various agreements and the maintenance of certain traditional practices, especially since the practice had proved injurious to the physical and mental health of women and children.

The consequence of such a report was the appointment by the Sub-Commission of a special rapporteur on the traditional practices affecting the health of women and girl children. Moreover, at the Sub-Commission's suggestion, and with the Commission's approval, two seminars on the question of harmful traditional practices affecting women and children were organized, in 1991 in Burkina Faso and in 1994 in Sri Lanka.

Participants to both seminars mentioned the need for Governments to demonstrate their commitment, of education for women, of women's access to political and economic power, of the mobilization of well-intentioned people, and, of means of protecting women and girls.

Following the discussions, a draft programme of action was drawn up covering female circumcision, son preference, marriage related practices, and violence. The programme of action was adopted by the Sub-Commission in August 1994.

The shift and evolution in the language used by the international community when referring to female circumcision is to be noted. Indeed, we moved from the words "female circumcision" or "excision" to the more generic term of "female genital mutilations" (FGM). FGM encompasses all related-practices to circumcision and offers a wider protection to women and girls.

Since then, the special rapporteur, who submits yearly reports to the Sub-Commission for the promotion and protection of human rights, requests information from governments on how they are implementing the programme of action. She has deplored the small number of replies received from the governments (25 in 1966, 7 in 1997, 4 in 1998, none in 1999 and 9 in 2000).

Even though the mandate of the Special Rapporteur refers not only to FGM, it is clear, in light of the above that this question was and is still at the heart of the mandate. The Special Rapporteur reviews each year the implementation of the programme of action, as well as the initiatives taken at the national and regional levels. She also makes a brief overview of initiatives taken at the international level by UN bodies and specialized agencies.

Recent World Conferences Organized by the United Nations

The topic of traditional practices dangerous to the health of women and the girl child has been discussed at several United Nations world conferences. The Vienna Declaration and Programme of Action adopted at the World Conference on Human Rights in 1993 expanded the scope of the international programme on human rights. The Conference urged Governments to take steps to combat harmful traditional or customary practices, including female infanticide.

The Beijing Declaration and Platform for Action adopted at the Fourth World Conference on Women in 1995 deal with harmful traditional practices under a number of the key areas they identify. Consistent with the Declaration on the Elimination of Violence against Women adopted by the General Assembly in 1993, they define violence against women as encompassing dowry-related violence, female genital mutilation and other traditional practices harmful to women, female infanticide and prenatal selection. They emphasize the harmful effects of certain traditional and customary practices affecting women and the girl child, and call on Governments to take legislative steps to eliminate these practices and acts of violence against women.

Among the measures taken within the United Nations system, it is worth recalling that the General Assembly in its special session of the General Assembly for the review and appraisal of the implementation of the programme of Action of the International Conference on Population and Development (30 June - 2 July 1999) identified the key actions for more effective implementation of the programme of Action. Governments were recommended in particular to "promote and protect human rights of the girl child and young women, which include economic and social rights as well as freedom from coercion, discrimination and violence, including harmful practices and sexual exploitation."

Treaty monitoring bodies

A number of the bodies established under human rights treaties, such as the Human Rights Committee, the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child, have addressed traditional practices affecting the health of women and girls in the consideration of States parties reports.

As a matter of example, at its twentieth session in 1999, the Committee on the Elimination of Discrimination against Women adopted general recommendation 24 on article 12 of the "Women and health" Convention. General recommendation 24 emphasized that some cultural or traditional practices such as female genital mutilation carried a high risk of disability and even death for the women and girls subjected to them. States should therefore ensure the enactment and effective enforcement of laws that prohibited female genital mutilation and the marriage of girl children.