

Female Genital Mutilation of Girls in Dagestan (Russian Federation)

Report based on the results of a
qualitative study on female genital
mutilation performed on girls

Contents

Introduction	5
Part 1. INTERNATIONAL LAW ASPECT OF THE ISSUE	8
Part 2. Female genital mutilation performed on girls in the Republic of Dagestan: QUALITATIVE STUDY	17
Part 3. CRIMINAL LAW ASSESSMENT OF FEMALE GENITAL MUTILATION	32
CONCLUSIONS AND RECOMMENDATIONS	37
Appendix. Relevant provisions of the Russian Federation Criminal Code	39

Female Genital Mutilation of Girls in Dagestan (Russian Federation)

«They did it at home, sliced a piece off
in front with a knife, and made an incision
in the middle»

Report based on the results of a qualitative study on female genital mutilation performed on girls in the Republic of Dagestan, Russian Fed- eration

Authors of the report:

Yu. A. Antonova, senior lawyer at Russian Justice Initiative;

S. V. Siradzhudinova, PhD candidate in pedagogical sciences, president
of the Centre for the Study of Modern Global Issues «Caucasus. Peace.
Development,» Rostov-on-Don

© Russian Justice Initiative, 2016

States parties shall take all appropriate measures to modify the social
and cultural patterns of conduct of men and women, with a view
to achieving the elimination of prejudices and customary and all other
practices which are based on the idea of the inferiority or the superior-
ity of either of the sexes or on stereotyped roles for men and women.

UN Convention on the Liquidation of all Forms of Discrimination
against Women (article 5 (a))

Introduction

Female genital mutilation (FGM), also known as female circumcision
or female genital cutting, is a harmful and barbaric practice that involves
partial or full removal of the external female genitalia, or which causes
other injury to the female genitalia with no medical grounds for such
intervention. Such operations are internationally recognised as a violation
of women's and girls' rights as an extreme form of discrimination and vio-
lence. They violate women's right to health, safety and inviolability of the
person, their right to freedom from torture and cruel, inhuman or degrad-

ing treatment, and also their right to life in cases when these operations lead to death.

The UN has stated that¹ customary practices — including the performance of different types of female genital mutilation practised in various cultures — reflect values and convictions that have often existed in a society over many generations.² All social groups around the world have their own specific customary practices and convictions, some of which benefit all members of the society, while others are negative for particular groups, in particular women. Despite its inherent dangers and the fact that it violates numerous international laws on human rights, female circumcision continues to be practiced because it is accepted in a number of countries and communities, and those who advocate the practice consider it a highly moral act.

The aim of female genital mutilation is to control women's sexuality and behaviour both before and after marriage — to preserve virginity before marriage and subsequently, sexual fidelity to her husband. This kind of sexual control imposed by men and communities on women creates obstacles for the structural change needed to eliminate the inequalities between men and women.

In an appeal³ delivered on 6 February 2015, UN General Secretary Ban Ki-moon called for an end to the practice of FGM.⁴ He noted the important role doctors play in the effort to eradicate this procedure that endangers women's health and called for efforts to ensure that all girls grow up free from violence and discrimination with full respect for their human dignity, human rights and equality. He particularly stressed in his speech that the first steps towards full eradication of female genital mutilation should be to break the silence and debunk the myths associated with the practice. 6 February is a UN-sponsored annual awareness-raising day known as the International Day of Zero Tolerance to Female Genital Mutilation.

UNICEF estimates that around 200 million girls and women have undergone some form of FGM, and at least three million more are at risk of being subjected to the practice every year.⁵ Surprisingly, some of them

¹<http://www.ohchr.org/Documents/Publications/FactSheet23en.pdf>

²United Nations Fact Sheet No.23, Harmful Traditional Practices Affecting the Health of Women and Children, available at: <http://www.ohchr.org/Documents/Publications/FactSheet23en.pdf>

³<http://www.un.org/en/events/femalegenitalmutilationday/2015/sgmessage.shtml>

⁴Secretary General's Message for 2015 (5 February 2016): <http://www.un.org/en/events/femalegenitalmutilationday/2015/sgmessage.shtml>

⁵See UNICEF, Statistics on FGM: <http://data.unicef.org/child-protection/fgmc.html>

live in Russia's Republic of Dagestan, where they undergo an inherently barbaric circumcision rite in infancy. This report is about these women and girls.

Up until very recently, the problem of FGM practiced on girls in Dagestan was very much in the shadows. Aside from a handful of activists, there was little public interest in the problem. Few expressed concern over the fact that dozens, even hundreds, of girls were falling victim to violence every year and faced cruel treatment from their own relatives.

Perhaps this silence or even tacit agreement and acceptance stemmed from the inability of the general population to imagine that such a practice could occur in Russia, and not in Africa, where the practice is traditionally widespread in several countries. Most Russians, including many residents of Dagestan itself, cannot fathom that infant girls in a Russian republic undergo operations on their genitalia, not on any medical grounds, but solely out of ritual considerations. The communities that carry out this practice generally look upon it as a sensitive issue related to custom, religion and the family, and do not accept outside intervention. The official authorities have long taken no action to protect girls whose mothers and other relatives have inflicted pain and suffering on them.

This report pursues a mainly practical goal: to draw attention to the practice of FGM in Dagestan in order to mobilise concern for the problem among various sectors and organisations, whose combined efforts have the potential to eradicate the practice in the region. The report's findings are based on interviews conducted in February-March 2016 with women respondents who have undergone such operations in childhood, as well as interviews with local experts in Dagestan. An analysis of the interviews with the female respondents also illustrates how women living in Dagestan's mountainous villages perceive and justify the practice of FGM. Finally, the report presents what is probably the first legal analysis of the practice under Russian national law, with reference to international law and standards.

For any questions related to the content or theme of this report, you can write to: srji.org@gmail.com

Yulia Antonova

Study coordinator

Part 1. INTERNATIONAL LAW ASPECT OF THE ISSUE

The term female genital mutilation was first used by the Inter-African Committee on Traditional Practices Affecting the Health of Women in 1990. In 1991, the World Health Organisation recommended that the UN system also adopt this terminology. This period marked the start of active efforts at the international level to prevent the spread of FGM.

In the late 1980s, the UN Convention on the Elimination of all Forms of Discrimination against Women¹ (CEDAW) contained an appeal to all states parties to take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women (article 2f).

Later, the Committee for the Elimination of Discrimination against Women (CEDAW), in its General Recommendation No. 14² concerning female circumcision (1990), formulated concrete recommendations for states parties to take appropriate and effective measures to eradicate the practice of female circumcision. Measures were to include collection and dissemination by universities, medical and pre-school institutions, national women's organisations and other bodies of statistics on these traditions and practices; support at the national and local levels for women's organisations working to eradicate female circumcision and other practices harmful to women's health; encouragement of politicians, specialists, religious and community leaders at all levels, including the media and arts world to work together to influence public opinion towards eradicating female circumcision; adoption of appropriate educational and teaching programmes and holding seminars based on the results of scientific studies on the problems caused as a result of female circumcision; inclusion in national healthcare policy strategies to eradicate female circumcision in state healthcare services; and inclusion, in accordance with articles 10 and 12 of CEDAW, of information on measures taken to eradicate female circumcision in reports to the Committee.

In its General Recommendation 19 on violence against women (1992),³ CEDAW condemned traditional attitudes that regard women as subordinate to men or as having stereotyped roles, and that perpetuate widespread

¹<http://www.ohchr.org/en/ProfessionalInterest/Pages/CEDAW.aspx>

²[http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=HRI/GEN/1/REV.9\(VOL.II\)&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=HRI/GEN/1/REV.9(VOL.II)&Lang=en)

³<http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm>

practices involving violence or coercion, such as forced marriage, dowry deaths, acid attacks and female circumcision. CEDAW recommended that states parties take effective legal measures, including criminal penalties and civil law measures and provisions on compensation to protect women from violence of this kind, including female genital mutilation.

FGM received broader attention in international legal practice only at the World Conference on Human Rights on 25 June 1993 in Vienna, where gender equality, women's human rights and eradicating violence against women in public and private life were declared priority action areas for all UN agencies. The conference's final declaration called for eradication of any conflicts which may arise between the rights of women and the harmful effects of certain traditional or customary practices, cultural prejudices, or religious motivations used as justifications for performing female genital mutilation.

In 1995, the UN published a special fact sheet: Harmful Traditional Practices affecting the Health of Women and Children¹. The fact sheet was based on an analysis provided by the special rapporteur on the causes and consequences of violence against women, Radhika Coomaraswamy, who studied various traditional practices, including female genital mutilation performed on the vulva. In particular, she noted that blind adherence to these practices and states' inaction in this area led to an increase in violence against women. She noted that governments pass new laws on economic development, advanced technology and other developing practices to meet the demands of modern democracy, but that change proceeded much more slowly in the area of protecting women from violence.

The Platform for Action² adopted at the Fourth World Conference on Women's Rights in Beijing on September 15, 1995, called on governments to adopt and implement laws penalising those who practice violence against women, including female genital mutilation, and to provide decisive support for NGOs and community organisations' efforts to eradicate such practices, and take all needed measures, particularly in education, in the aim of changing men's and women's social and cultural models of behaviour and to eradicate prejudices, customs and any other practice based on the inferiority or superiority of one sex over the other or on stereotyped ideas about the roles of men and women.

The Resolution of the UN General Assembly 53/117 of 9 December 1998: Traditional or Customary Practices affecting the Health of Women

¹ <http://www.ohchr.org/Documents/Publications/FactSheet23en.pdf>

² <http://www.un.org/womenwatch/daw/beijing/pdf/BDPfA%20E.pdf>

and Girls¹, called on states to draft and implement national laws and policies to ban traditional or customary practices affecting the health of women and girls, including FGM, penalise those who carry out such practices, and create specific national instruments for enforcing and monitoring laws, law enforcement measures and national policy. Governments were likewise called on to activate efforts to raise the level of awareness about traditional or customary practices affecting the health of women and girls, including female genital mutilation, and mobilise international and national public opinion on this issue, in particular through involving figures with an influence on public opinion, educational sector workers, religious leaders, community and traditional elders and leaders, health sector workers, teachers, organisations involved in women's health and family planning, social workers, childcare centres, the relevant NGOs, cultural sector workers and the mass media in campaigns to raise awareness and achieve full eradication of these traditions and practices (see also Resolution of the UN General Assembly 56/128 of December 19, 2001²).

In 1999, CEDAW's General Recommendation 24³ on Article 12 of the Convention (Women and Health) recommended that all states parties adopt legislation banning female genital mutilation and ensure enforcement of these laws.

On 24 May 2008, the 61st session of the World Health Organisation adopted resolution WHA61.16⁴ on Female Genital Mutilation, which states that FGM violates women's and girls' rights, including their right to the highest attainable level of physical and mental health, and calls on states to establish or reinforce services providing social and psychological support and protection, take measures to improve the health of and provide aid to women and girls who have undergone such violence, and undertake more active information campaigns to eradicate FGM and other forms of violence against girls and women.

That same year, the WHO and 9 other UN agencies issued a new statement to assist the growing informational campaign to eliminate the practice. The statement reflected the latest statistics on the practice over the last decade, stressed the growing recognition of the human rights and legal aspects of the problem, provided the latest figures on the frequency and scale of operations, and presented the results of scientific studies into the

¹ http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/53/117

² http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/56/128

³ <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm>

⁴ http://apps.who.int/iris/bitstream/10665/23532/1/A61_R16-en.pdf

causes of this practice's perpetuation, means for eliminating it, and the practice's harmful consequences for the health of women, children, and unborn children (for more detail see Eliminating female genital mutilation: an interagency statement UNAIDS, UNDP, UNECA, UNESCO, UNFPA, UNHCHR, UNHCR, UNICEF, UNIFEM, WHO. World Health Organization 2008.¹)

The WHO also established a systematised and unified classification² of types of female genital mutilation (2008).

The complete typology with subdivisions follows.

Type I – Partial or total removal of the clitoris and/or the prepuce (clitoridectomy). When it is important to distinguish between the major variations of Type I mutilation, the following subdivisions are proposed:

Type Ia, removal of the clitoral hood or prepuce only;

Type Ib, removal of the clitoris with the prepuce.

Type II – Partial or total removal of the clitoris and the labia minora, with or without excision of the labia majora (excision). When it is important to distinguish between the major variations that have been documented, the following subdivisions are proposed:

Type IIa, removal of the labia minora only;

Type IIb, partial or total removal of the clitoris and the labia minora;

Type IIc, partial or total removal of the clitoris, the labia minora and the labia majora.

Type III – Narrowing of the vaginal orifice with creation of a covering seal by cutting and appositioning the labia minora and/or the labia majora, with or without excision of the clitoris (infibulation). When it is important to distinguish between variations in infibulations, the following subdivisions are proposed:

Type IIIa, removal and apposition of the labia minora;

Type IIIb, removal and apposition of the labia majora.

Type IV – All other harmful procedures to the female genitalia for non-medical purposes, for example: pricking, piercing, incising, scraping and cauterization.

On December 20, 2012, the UN General Assembly, for the first time in its history, adopted special resolution A/RES/67/146 Intensifying global efforts for the elimination of female genital mutilation,³ in which it calls

¹ http://www.un.org/womenwatch/daw/csw/csw52/statements_missions/Interagency_Statement_on_Eliminating_FGM.pdf

² <http://www.who.int/reproductivehealth/topics/fgm/overview/en/>

on states parties to condemn all harmful practices that affect women and girls, in particular female genital mutilation, whether committed within or outside a medical institution, and to take all necessary measures, including enacting and enforcing legislation, to prohibit female genital mutilation and to protect women and girls from this form of violence, and to end impunity for perpetrators of the practice. The resolution also called for February 6 to be marked as the International Day of Zero Tolerance to Female Genital Mutilation, with efforts made on this day to conduct information and awareness campaigns and take concrete measures to eliminate FGM.

In December 2014, the UN General Assembly adopted without a vote Resolution 69/150, Intensifying global efforts for the elimination of female genital mutilation¹, in which it called on states parties to draft, support and implement comprehensive strategies for preventing female genital mutilation, including through education of healthcare workers, social workers and community and religious leaders to make it possible for them to provide competent support and aid services for women and children who face the risk of or have already undergone such operations, and to pay this issue due attention in drafting the development agenda after 2015.

The persistence of the practice of FGM worldwide prompted CEDAW and the Committee on the Rights of the Child to draft their first joint statement on this harmful practice. In November 2014 they adopted the 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 practices². The two committees called on states parties to ban harmful practices through laws and the appropriate sanctions or through introducing criminal liability commensurate to that for serious crimes and taking into account the harm inflicted, to facilitate the adoption of measures to prevent these practices, and to protect, restore, reintegrate and compensate victims, and end the impunity of those guilty of carrying out harmful practices.

Resolution 70/1 of the UN General Assembly of 25 September 2015, Transforming our world: the 2030 Agenda for Sustainable Development³, sets out 17 sustainable development goals and 169 targets, goal 5 of which is to «achieve gender equality and empower all women and girls,» and

³ http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/67/146

¹ http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/69/150

² <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N14/627/78/PDF/N1462778.pdf?OpenElement>

³ http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E

urges countries to eliminate all forms of violence against women and girls in public and private life, including human trafficking and sexual and other forms of exploitation, eradicate harmful practices such as female genital mutilation and others. States parties are urged to act swiftly to draft national programmes with ambitious goals covering all areas of the proposed agenda and make regular and comprehensive progress reviews at national and subnational level.

In the area of children's rights, the UN Convention on the Rights of the Child,¹ which entered into force in 1989, requires states parties to take all effective and appropriate measures to end traditional practices harmful to children's health (article 24.3). The Committee on the rights of the child (CRC), in its General Comment No. 4,² urges states parties to draft and implement laws to modify widespread views and change gender roles and stereotypes that contribute to harmful traditional practices, and protect adolescents from all harmful traditional practices, including early marriages, honour killings, and female genital mutilation.

In General comment No. 13 (2011), «The right of the child to freedom from all forms of violence»,³ the CRC categorized FGM as a harmful practice and a form of violence against children.

The political and human rights institutions of the European Union and the Council of Europe have voiced serious concerns about the practice of FGM in Europe and beyond. In 2000, the European Parliament adopted a detailed resolution on female genital mutilation⁴, urgently recommending states parties to take legislative measures to combat this practice. In particular, states were urged to consider all forms of FGM as a concrete crime, regardless of whether the woman in question gave her consent to the operation, and punish all who aid or carry out such operations on women and girls, or encourage, advise and support this practice, and punish any European Union resident who commits such a crime even if the act takes place beyond EU borders (extraterritoriality). States parties are also recommended to approve legislative measures making it possible for judges and state prosecutors to take pre-emptive and preventive measures if they become aware of cases in which there is a danger that such operations will be performed on women or girls, and to adopt administrative provisions concerning healthcare facilities and healthcare workers, and also

¹ <http://www.ohchr.org/en/ProfessionalInterest/Pages/CRC.aspx>

² <http://www.ohchr.org/Documents/Issues/Women/WRGS/Health/GC4.pdf>

³ <http://www.refworld.org/docid/4e6da4922.html>

⁴ <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P5-TA-2001-476>

codes of behaviour, orders and codes of ethics to ensure that medical and healthcare workers and teachers at all levels inform the relevant authorities about any cases they may learn of when people in danger need protection, and at the same time carry out educational work and raise awareness in families.

That same year, the Council of Europe adopted resolution 1247 on female genital mutilation¹, calling on states parties to take concrete legislative measures to ban such operations and declaring the practice of FGM a violation of human rights and a practice harmful to health.

In 2002, the Council of Europe Committee of Ministers adopted resolution 5 on protecting women from violence². The recommendation defines violence against women as any act of gender violence, including honour crimes, female genital mutilation and other traditional practices harmful to women, such as forced marriages. Its list of crimes is not exhaustive. The recommendation urges states parties to revise their laws and policy in order to guarantee women's rights to recognition, realisation, use and protection of their human rights and basic freedoms, and to pay due attention to preventing and investigating acts of violence and punishing the perpetrators.

In 2003, the Council of Europe Parliamentary Assembly adopted resolution 1327 (2003) on so-called «honour crimes»³, urging states parties to take the following legal measures to prevent 'honour crimes' and punish the perpetrators: a) make amendments to national legislation on provision of asylum and immigration so that immigration policy recognises a woman's right to obtain a residence permit or right of asylum in order to avoid becoming victim of an honour killing, and her right not to be deported or forced to leave when there is or has been a real threat of an honour crime being committed; b) ensure more effective enforcement of laws to ensure that honour crimes of all kinds do not go unpunished and ensure that complaints about violence or assault are viewed as serious criminal complaints; c) ensure effective (and sensitive) investigation of such crimes and bring the perpetrators to justice. Judges must not view the concept of «honour' as a mitigating circumstance or justifying motive for crime; d) take the needed measures to implement laws on these crimes and carry out work among government agencies, law enforcement and justice system personnel to explain the causes and consequences of these

¹ <http://www.assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=16914&lang=en>

² http://www.coe.int/t/dghl/standardsetting/victims/rec_2002_5E.pdf

³ <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=17106&lang=en>

crimes; e) ensure a broader presence of women in the justice system and police.

In March 2009, the European Parliament adopted resolution 2008/2071 (INI)¹ on combating female genital mutilation in the European Union. This resolution called on states parties to pass laws specifically against the practice of FGM and to ensure the law provides for criminal prosecution of those who carry out such operations. It also urged states parties to enforce existing laws on female genital mutilation, take legal action to punish serious bodily harm resulting from these operations, and make all possible efforts to unify as much as possible the existing laws on this issue in all 27 member states.

In April 2009, the Council of Europe Parliamentary Assembly adopted resolution 1662 (2009)², calling on states parties to adopt national legislation to ban and institute criminal liability for forced marriages, female genital mutilation, and any other sexually motivated human rights violations. Relatively recently, in May 2009, the PACE Committee on Equal Opportunities for Men and Women adopted a draft resolution on the urgent need to fight so-called «honour crimes.»

Article 38 of the 2011 Council of Europe Convention on preventing and combating violence against women and domestic violence³ urges states parties to take all needed legislative and other measures to ensure criminal prosecution of deliberate acts of removal, infibulation or any other form of FGM involving the whole or part of the labia majora, the labia minora, or the clitoris, forcing or making women available to undergo any of these acts, and encouraging, forcing or making girls available to undergo any of these acts.

The European Court of Human Rights (ECHR) has not, to date, built up precedent on this issue. It has examined individual cases under article 3 of the Convention concerning repatriation in situations when the person's sex could put their life and health in danger in their native country, for example, put them at risk of having to undergo female circumcision. In two ECHR decisions, Izevbekhai vs Ireland⁴ (Appl. N°43408/08), of 17 May 2011, and Mary Magdalene Omeredo vs Austria⁵ (Appl. N°8959/10), of 20 September 2011, the issue in question was the applicants' repa-

¹ <http://publications.europa.eu/en/publication-detail/-/publication/cfd32769-80f4-49d4-a663-6b2435664297/language-en>

² <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17732&lang=en>

³ <https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168008482e>

⁴ <http://hudoc.echr.coe.int/eng?i=001-105081>

⁵ <http://hudoc.echr.coe.int/eng?i=001-106527>

triation to Nigeria. The court deemed that FGM violates Article 3 of the European Convention but ruled that in these particular cases the applicants had the possibility to flee, and thus that they were not in direct danger.

In 2014, the Council of Europe, together with Amnesty International, published a Practical guide to preventing female genital mutilation¹, which sets out a comprehensive global approach for eradicating the practice.

In 2011, the UN Secretariat Department for Economic and Social Affairs' Division for the Advancement of Women published the Supplement to the handbook for legislation on violence against women: Harmful practices against women² with the aim of providing all concerned parties with detailed methodological recommendations for passing effective laws to prevent violence against women, punish perpetrators, and protect victims of violence related to female circumcision operations.

FGM remains a widespread practice in over 30 countries. Half of the girls and women who have been cut live in three countries – Egypt, Ethiopia and Indonesia, although studies and anecdotal accounts indicate that FGM is a global issue that affects girls and women in almost every region of the world.³ At the same time, since the beginning of concerted efforts to combat the practice, girls are less likely to undergo the operation now as compared to 30 years ago. Some African countries have adopted laws and implemented policy to eliminate female genital mutilation. In countries where legislative improvements have been coupled with educational programmes and awareness campaigns taking into account local cultural specificities, the extent of the practice has diminished. FGM prevalence rates among girls aged 15 to 19 have declined, including by 41 percentage points in Liberia, 31 in Burkina Faso, 30 in Kenya and 27 in Egypt over the last 30 years.⁴ But FGM remains very widespread in Somalia, Guinea and Djibouti, where nine out of ten girls and women aged 15 to 49 have undergone the operation.⁵ The UN said in February

¹<http://www.pharos.nl/documents/doc/istanbulconventionfgmguide.pdf>

²<http://www.un.org/womenwatch/daw/vaw/handbook/Supplement-to-Handbook-English.pdf>

³UN News Centre, «Senior UN officials urge elimination of «violent practice» of female genital mutilation by 2030,» 5 February 2016, available at: <http://www.un.org/apps/news/story.asp?NewsID=53171#.V9 wivmLSM8>

⁴Ibid.

⁵The Guardian, «FGM: number of victims found to be 70 million higher than thought,» 5 February 2016, available at: <https://www.theguardian.com/global-development/2014/jul/22/fgm-female-genital-mutilation-somalia-guinea-djibouti-egypt-sierra-leone>

2016 that if current trends continue, the number of girls and women subjected to FGM will increase significantly over the next 15 years, due to population growth.¹

From the standpoint of international law, female genital mutilation is a serious infringement on the health of women and girls and is qualified as a form of violence against women, sexual discrimination, and violence against children. It violates the human right of freedom from torture, the right to medical treatment, and the child's right to the highest attainable level of health, has negative consequences for individuals and groups, including physical, psychological, economic and social harm, and/or violence, and limits the possibility for full participation in community life and developing and realising individual potential.

The existence of FGM as a practice that discriminates against and harms women places the obligation upon states to pass laws to eliminate and criminalise all practices that infringe on women's right to the inviolability of the person, dignity and health. These obligations apply in full measure to the Russian Federation, which has grossly neglected them. The Russian authorities do not include in their periodic reports to the UN CEDAW or CRC Committees any information on the existence and extent of the practice of female genital mutilation conducted on girls in the Russian Federation, no specific legal provisions outlaw the practice of FGM in Russia, and Russian courts have not examined cases involving these kinds of operations.

Part 2. Female genital mutilation performed on girls in the Republic of Dagestan: QUALITATIVE STUDY

2.1. Description of the problem

FGM is carried out in certain areas of the Republic of Dagestan (Russian Federation). The practice has long drawn little to no attention from the authorities and the human rights community, and has never been the subject of public condemnation or debate. Media reports that have appeared over the last year demonstrate the extent to which FGM remains a hidden tradition, and the response to these publications illustrated that public

¹The Guardian, «Somalia, Guinea, Djibouti, Egypt and Sierra Leone have highest FGM rates,» 22 July 2014, available at: <https://www.theguardian.com/society/2016/feb/05/research-finds-200m-victims-female-genital-mutilation-alive-today>.

opinion is far from unanimous on the question of the legitimacy of FGM as a practice. Opinions verged from total rejection of the practice to condescending justification to promotion of its necessity. A large part of society in Dagestan is still not ready to admit that the problem exists, and because of the lack of reliable and scientifically-grounded information on the extent and forms of the practice, closer attention and further comprehensive study are called for.

In this context, the main purpose of our study was to analyse the prevalence of FGM performed on girls without medical grounds in some of Dagestan's high mountain regions. In this regard we set the following objectives:

To study the perception of the practice among various groups of respondents;

To study the geographical extent of the practice;

To study the reasons and justifications for carrying out these operations on girls and women;

To present the consequences of the practice of FGM in Dagestan.

2.2. Geographical location of the study

Most of the field surveys were conducted in Dagestan's southeast districts (Botlikhsky, Tsumandinsky, Tlyaratinsky districts) and the Kizilyurt, Kizlyar, and Tarumovsky districts, which are home to large numbers of settlers from the high mountain districts. To a lesser extent, we also interviewed respondents in Gumbetovsky, Untsukul'sky and Gunib'sky districts. Experts were interviewed in the Dagestani cities of Makhachkala and Kizilyurt, and in Rostov-on-Don (Stavropol region).

2.3. Methodology

The study was conducted by Saida Sirazhudinova, masters in law, PhD candidate in pedagogical sciences at the Rostov-on-Don branch of the South Russian Institute of Management under the Russian Academy of National Economy and Government Service, and President of the Centre for Study of Modern Global and Regional Problems «Caucasus. Peace. Development.» The study was carried out using the quantitative method and the surveys were conducted in two stages, from 27.04.2016 to 16.06.2016.

1) The first stage comprised work with female respondents in high mountain districts and villages with settlers from high mountain districts in Dagestan (non-standardised method/standardised interview N=25). The survey was conducted among a) women who had undergone female cir-

cumcision, b) women who had sent their daughters or female relatives to have the operation performed, and c) women who had performed the operation. The respondents' ages ranged from 19 to 70. The respondents came from a broad range of educational backgrounds and included pensioners, housewives, students, lawyers, engineers, teachers and people engaged in trade, and most had a higher education.

2) The second stage was an expert survey (non-standardised method/standardised interview N=17). The experts surveyed included those working for agencies responsible for guardianship and for minors' affairs, surgeons, gynaecologists, forensic medicine experts, lawyers, NGO representatives, the Children's Commissioner for Dagestan, and imams.

We encountered a number of difficulties during the study. The biggest obstacle was the reluctance of the respondents to discuss FGM as a social practice, to speak about it as something other than a highly secret aspect of their private lives, and to acknowledge the problematic aspects of the practice.

As the survey results revealed, there is close to full support for the practice in the mountain districts. Respondents saw it as their duty to simply keep the practice going and to pass it down to the next generation. In the cities, some experts said they knew nothing about the practice of female circumcision in Dagestan, while others, if they admitted to knowing of the existence of the practice, refused to openly condemn it.

The survey of respondents in the mountain districts was conducted in the form of a conversation (non-standardised interview N=25). The researcher explained to the respondents that her purpose was to study the status of women in Dagestan over the last several decades. The conversation thus mingled questions of a neutral and public nature with questions about the respondents' experience with regard to FGM. Because of the private nature of the questions concerning female circumcision, the respondents often had difficulty answering, and so the researcher would sometimes have to ask the same question several times. Many respondents turned hesitant, went silent or changed the subject when asked about female circumcision. Typical initial responses included «*Why do you need to ask about this?*», or «*This is our business, don't come prying,*» or «*This is something that concerns religion and not a subject of discussion.*»

Some respondents showed a reluctance to answer issues of such an intimate nature and did everything they could to avoid answering, so as not to let the conversation move into questions concerning their private life. These respondents did not pass any judgement on the practice of FGM, and certainly did not condemn the tradition, which in their view, was some-

thing enshrined by time and generations. The researcher at times encountered open resistance from respondents during the interviews.

These dynamics made for a more difficult process and therefore the surveys took much longer than originally expected.

The other major difficulty we encountered when conducting the surveys was the control exerted by men over the women in their families. Studies carried out in Dagestan show that public consciousness views the individual primarily as part of the extended family or *tukhum*,¹ which includes up to three generations of the nearest relatives. Parents, uncles, brothers and male cousins all bear common responsibility for the behaviour of girls and women and consider it their duty to control the behaviour of their daughters, nieces, sisters and female cousins. Failure to control them could damage the family's reputation. This meant that when male members of the community saw that newcomers had arrived, they made an effort to be present during all conversations, and would listen to and try to control the discussion. This was particularly noticeable in the tsez (dido) districts,² where the local people felt that no stranger would make such a long and dangerous journey without some special reason. In these cases, the researcher had to spend even more time and effort to win over the women's trust and to overcome the suspicion of the men in their *tukhum*.

In the expert survey (standardised interview method; N=17), we also encountered situations when the experts tried to avoid answering questions or gave evasive replies. Although the topic at hand was not a personal matter for the experts, the subject of female circumcision is nonetheless an issue within the private sphere, and it was not easy or acceptable for members of a traditional society to cross these bounds. Some experts we originally planned to survey in the end refused to agree to the interview on the topic of FGM.

2.4. Review of the interview and preliminary evaluation

2.4.1. Extent and perception of the practice of female genital mutilation among Dagestan's population

Respondents' perception of FGM as a tradition not open for discussion created considerable complications for the work with both respondents and experts. Not all attempts to conduct interviews were successful. But the

¹ Today, the word *tukhum* usually designates close relatives on both the father's and the mother's side, though it was originally used to designate that agnatic group of relatives on the father's side alone (Brokgauz and Efron Encyclopaedic Dictionary). In this report, we use the term to designate close relatives on both the father's and mother's side.

² The Tsez people live in the Tsunta district of Dagestan.

results of the study nonetheless revealed that of the 25 women interviewed in the region, all had undergone the operation. The results also allow for the conclusion that the practice of FGM is practiced locally in Dagestan's mountain villages and in those villages on the plains with sizeable populations of settlers from the mountains.

The practice is most frequently encountered among the peoples inhabiting eastern Dagestan, chiefly among the area's most numerous ethnic group — the Avars (mostly in Tlyaratinsky and Tsumadinsky districts) — and less numerous ethnic groups who are often counted as Avars. It is difficult at this point to estimate how many women in total have undergone or currently undergo the operation. This is linked to the fact that several ethnic groups, such as the Gunzib and Bezhta groups, have started identifying themselves as Avar. We cannot rely on the last census, as it does not give an objective picture and does not provide reliable quantitative data.¹ But even if we take into account the considerably lower official figures we currently have, we can surmise that tens of thousands of women have undergone female circumcision. Another result of the study that allows for this conclusion is the discovery that the tradition was practiced earlier in other Avar areas that had come under the influence of the Andi people. Furthermore, the practice was a mandatory ritual in the Gumbetovsky and Untsukul'sky districts right up until the 1990s.

Views of female respondents in the mountain districts

The interview results give the impression that female circumcision has the full support of local people in the districts where it is practiced and is considered a compulsory ritual every girl must go through, and something that should be continued in the future. Most respondents said that they had either already subjected their daughters to the ritual or intended to do so. «*All Muslims have to do it; you cannot be a Muslim woman otherwise. It's essential, it's in the Sunna. I went through it and I have put my children and grandchildren through it.*»

The respondents' respectful attitude towards this tradition shows that female circumcision is actively practiced in Dagestan and will continue to be practiced. «*Circumcision existed before and it exists today,*» «*We also have it done to everyone.*»

¹Dido people 11,683, Andi people 11,789, Bezhtin people 5,958, Botlikh people 3,508, Ginukh people 443, Gunzib people 918. See Часть 1. Национальный состав населения\\Всероссийская перепись населения 2010 года: Том 4. Национальный состав и владение языками, гражданство (Part 1. Ethnic makeup of the population// Russian national census 2010: Vol. 4 Ethnic makeup, knowledge of languages, citizenship.

Even those who recall the operation as a form of violence nonetheless perpetuate this cruel tradition. «*It was done to me and I will do it to my daughter...*» Respondents noted during the interviews that girls are frightened by the procedure and do not understand its purpose. They also said that following the operation, girls frighten each other with stories about it and share with their sisters their experience of «*what was done to them.*» But the emotional side of the practice, like the question of medical necessity, was of little importance for the respondents, who saw the practice only from the ritual point of view: «*People used to perform it properly, while now they just make a piercing.*»

The informational environment in village communities provides its own kind of guarantee of future brides based on family reputation. We can suppose that for the respondents, undergoing the operation was a form of recognition and confirmation of their status as full members of the community, and to take a daughter, granddaughter or relative to have the operation done was to show social solidarity with one's extended family and community, maintain the extended family's reputation in the community and thus ensure continuation of the family's good name.

There were cases during the interviews when women who had been circumcised expressed the thought that their daughters or granddaughters might not go through with the operation. «*I had it done to me, but not everyone goes through it today. People in the towns or on the plains, for example, they don't all do it. But we try to continue the tradition.*» In rare cases, respondents said that it was possible not to follow the ritual. «*Some do not have it done now,*» or «*Those who want to do it can do it, while before, you simply had no choice.*» Such assertions were very few during our study and fall into the category of «*situational shift*» of behaviour from the social norm, as these views were expressed mostly by respondents who had resettled to the plains or those in mixed marriages, in other words, people who for whatever reason were no longer part of the extended family.

Experts' views

Some of the experts expressed great surprise during the interviews over the issue of female circumcision and/or expressed their ignorance on the subject. «*I haven't heard about it,*» «*Is there really such a practice going on?*», «*I haven't heard anything about it for a long time.*» Other experts expressed indignation and described the practice as violent and counter to civilised behaviour. «*They are depriving people of pleasure. This is barbaric. It's against nature.*» Medical experts noted the dangers and cruelty of the procedure and the absence of medical grounds for surgical intervention.

A forensic medical expert said: *«If this practice exists, it is harmful to health, of course. We could qualify it as causing harm to health, but it is hard to believe that such a barbaric practice exists. There is no need for this procedure and it can be dangerous and cause infections, all the more so as they do not have the right sanitary conditions. There have been serious and irremediable problems even with boys when it wasn't doctors who performed circumcision. This kind of practice, if it exists, is harmful to health. It is a case of causing bodily harm.»*

An expert gynaecologist in Makhachkala spoke of cases of female circumcision she had come across in her practice: *«From what I saw, it was people from the Tlyaratinsky, Tsumadinsky and Tsuntinsky districts who did it. I used to work in Kizilyurt and you came across it more often there. You encountered it too among Yuzhdag people (Tabarasan and Agul people). It was done completely anonymously, not talked about and not publicised at all. It is a traumatic experience for women.»*

The lawyers among the experts said the practice *«is a crime against health, but it is a local problem and the law regulates it.»* As one of the experts said, *«I heard from my girlfriends from Khadzhalmakhi and Tashkapur about this procedure. They do not feel sexual arousal. They had had the erogenous zones removed and this led to loss of bodily function (full or partial), if we put in medical terms. We need to introduce a new medical definition.»*

Experts who worked for guardian and trusteeship agencies said they do not work with this kind of issue as *«there are problems enough as it is.»* In one women's organisation they said, *«we do not discuss whatever is written in the Qur'an, the hadis and our religion, we carry it out each of us as we can. It is advised, very much advised, but it is not a duty.»*

Both respondents and experts often motivated the need to perform female circumcision by arguing that Islam prescribes it. Given the numerous different interpretations believers give to religious prescriptions, we felt it very important to obtain the views of religious experts. Their views on the matter were not entirely clear, nor were they unanimous. An imam at a Salafi mosque said that the practice *«is not a duty and is not contradictory. We have people in Tsumadinsky district who do it, but we do not do it. There are no grounds for it. Not all people think deeply enough.»* An imam at a Kumyk mosque said that the Kumyk people do not traditionally practice this custom and that female circumcision is not necessary and not even desirable in view of the prohibition on causing harm to health and harming the body's organs.

At the same time, an imam at a mosque in Makhachkala, who consults local people, said, *«In the Salafi school, female circumcision is Sunnah wajib, that is to say Sunnah that is very close to an obligatory duty (fard), and if*

you do not perform it, you would be committing a sin.» An imam at the central mosque said that “ *[circumcision] should be performed before the age of majority. After this age, girls are not circumcised.»* This imperative view — that female circumcision must be performed on girls — is the dominant view for the majority of Dagestan’s population.

Our study showed that the issue of female genital mutilation is strictly taboo or is perceived by respondents as something to be kept very much part of their private lives. In other words, the issue seldom makes its way into public life or into broader discussion. It is not by chance that not all the experts we surveyed were aware that this practice exists in the region. At the same time, we observed that the official and influential clergy support the practice (especially among the Avar people and in those districts where female circumcision is practiced). In other words, their opinion enters the private sphere, propagandising female circumcision as a duty.

In this context, the view of the Children’s Rights Commissioner for Dagestan, Intizar Mamutayeva, stood out. She said, *«We have brought this issue to the attention of the Education Ministry, law enforcement agencies and the public. We said that this can have serious consequences, is dangerous, and we want the situation to be brought under control and want educational work carried out. This is a violation of children’s rights. The law can punish for assaults on children’s health and cruel treatment of children. This is a legal issue and an issue of health protection and violence against children.»*

In May 2016 Ms Mamutayeva raised the issue of female circumcision at a Public Council meeting on protecting motherhood, attended by Dagestan’s regional head, thus designating the problem as an issue of social relevance and importance.

2.4.2. Types of female genital mutilation encountered in Dagestan

The results of our study in Dagestan showed that there is no single standard for surgical procedures concerning female circumcision. The types and forms of the operation depend on the women performing them, on the wishes of the village women who bring their daughters in for the procedure, and on the customs in each district.

Circumcision is mostly performed on girls before the age of three. The experts who were surgeons said that these operations remove or damage the clitoris. The gynaecologist said that, *«each group has their own variation on circumcision. Some simply pierce a hole, some remove parts, others make an incision.»* Many of those who practice female circumcision have transitioned to just imitating the ritual, i.e. to let out some blood after making a scratch or a cut with a knife. In these cases, the procedure has the status

of an initiation rite and is carried out only in order to observe the ritual. At the same time, the imam at the central mosque said that *«the main thing is to kill a girl's desire and sexual arousal.»*

Among the different types of female genital mutilation practiced in Dagestan,¹ we can highlight the following as the most prevalent:

– Incision and bloodletting: *«they made a scratch, let some blood flow, and that was all;» «it was done when I was a child. They hardly cut anything at all. I don't see what all the fuss is about.»*

– Partial removal of the clitoris: *«They cut away the tip of something closer to the front and then the blood flowed»; «they cut off the bit that sticks out down there»; «a granny took a pair of scissors and cut a piece away from up front.»*

– Removal of the clitoris and the labia minor: *«They cut and removed the clitoris and the labia minor.»*

Under the WHO classification, three of the four different types of female circumcision are practiced in Dagestan: Type I (full or partial removal of the clitoris); Type II (partial or full removal of an underage girl's clitoris and labia minor); and Type IV (All other harmful procedures to the female genitalia for non-medical purposes)² – from incisions (in most cases) to removal of the clitoris and the labia minor (encountered among the Andi people).

2.4.3. Origins of the practice of female genital mutilation

The vast majority of respondents linked the emergence of the practice of female circumcision to the arrival of Islam and view it as a religious initiation (*«a girl needs to undergo circumcision in order to become a Muslim;» «circumcision is essential so that a girl will start to pray»*), as a woman's religious duty (*«I think there are many reasons, but in the religious context in which they put it, women must learn to be meek and moderate»*), and as a marker of sharing the religious community's values (*«those who undergo circumcision will go to paradise»*).

If we look at the geographical factor in the practice's spread, we can observe that female circumcision is practised by those peoples in Dagestan whose conversion to Islam occurred later, relative to other ethnic groups.

¹ See Sirazhudinova S. V. *Женское обрезание в Республике Дагестан: социокультурные детерминанты и концептуальный анализ// Женщина в Российском Обществе (Female circumcision in the Republic of Dagestan: sociocultural determinants and conceptual analysis// Women in Russian Society) 2016. No.2*

² World Health Organization (WHO). 2008. «Eliminating female genital mutilation: An inter-agency statement.» Geneva: WHO, Department of Women's Health. p.4.

Some experts with whom we conducted interviews noted the practice's non-religious nature and saw it as a «barbaric» custom not linked to religion. Other experts see the practice as having roots in local custom and ethnic traditions. In our view, this means that we need to search for the origins of the practice of female circumcision in customs that pre-date Islam's arrival in the region, but this question is complex and should become the topic of a separate study.

2.4.4. Motives explaining the practice of female genital mutilation

As noted above, there are diverging views on the need to perform female circumcision among religious figures, and we encountered imams not part of the official clergy who — while they did not deny the possible religious context of the practice — declared it unnecessary, useless, and even harmful.

Some members of the official clergy, however, actively advocate the practice, seeing it as part of the religious prescriptions laid down by the Shafi'i school of Sunni Islam. Given that more than 90 percent of Dagestan's population follow the Shafi'i school, it is reasonable to assume that the vast majority of the population consider its demands obligatory.

One of the religious experts we interviewed said of female circumcision: «*It is Sunnah wajib [obligation], and whoever ignores it can end up in sin*» and the practice is carried out in Islam to «*calm women's madness.*»

Many respondents in the different districts said: «*If a person does not follow Sunnah wajib, this is committing a sin and serious consequences will follow. Such are the rules of the Sharia*»; «*I have imposed nothing upon you that is not for your benefit, and have prohibited nothing for you that would not bring you harm.*»

Therefore, the experts and female respondents who justify female circumcision on religious grounds believe the practice protects a woman from sin and helps to prevent divorces and debauchery in society by curbing a woman's «uncontrollable passions,» — in other words, by regulating female sexuality and preventing sexual liaisons considered sinful.

The medical justifications given for female circumcision are not entirely independent from other arguments in favour of the practice. Both respondents and experts, including religious figures, said that the practice is necessary in order to reduce women's «intensity of feeling,» in order to preserve stable families and keep order in society.

During the interviews, we often heard statements such as: «*Women should not be given to debauchery. [Female circumcision] is essential so as to preserve order in society. Everything depends on the women. It is they who*

bear the responsibility»; «Women should be meek»; «I have lived so long without a husband and have never gone wandering»; «It's so that women don't go wandering before marriage, and don't cheat on their husbands after marriage»; «So that they don't go wandering and don't get the temptation to try»; «In order to preserve a girl's decency.»

The views expressed show that surgical intervention and restrictions on women's sexuality are based on moral and ethical grounds that place greater responsibility on women for preserving the family in society and its honour. We recall that the present study was carried out primarily in traditional villages, in other words, in rural settlements where traditional custom continues to act as an institution regulating social life. In this respect, the practice of female circumcision has both religious motivations (the Sunna, Sharia law, initiation into Islam), as well as moral and ethical motivations dictated by the community's collective consciousness. The views of religious figures, experts and the female respondents illustrate that these various motivations for carrying out the practice are interlinked.

As we noted above, religious belief implies neither a categorical prohibition, nor a clear approval to perform female genital mutilation. Likewise, respecting the local community's rules does not exclude renunciation of female circumcision, which is encouraged not only by religious prescriptions but also by individuals' perception of themselves as part of their society.

2.4.5. Consequences of female genital mutilation for women's health

The consequences of such operations involve loss of feeling and sexual desire. This was confirmed by the female respondents and by the medical experts interviewed: *«This is the whole purpose of the operation — so that they don't feel anything after circumcision.»*

An obstetrician and gynaecologist interviewed in Rostov-on-Don said: *«Whether or not functions have been lost can be ascertained only once the girl grows up, but the damage to the clitoris, the scarring, opening up and removal all lead to a loss of sensitivity.»* The forensic medicine expert noted that women would not feel pleasure from sex and would not experience orgasm.

Female circumcision is also a form of psychological trauma. One expert interviewed, a surgeon, said: *«if circumcision is carried out without anaesthetic, the child does not understand why the intervention is being performed and this [becomes] a psychological problem.»*

Although women who had themselves undergone circumcision defended the practice and said they wanted it to continue, the actual procedure left a strong impression in their memories. Women who had undergone the

operation recalled pain, stress, and not understanding the reason for harming their bodies: «*It was terribly painful. I don't even want to remember it. I couldn't give birth, I had infections, and my husband divorced me*»; «*I came and told my sisters, and they said, everyone goes through it and it's painful for everyone.*» Most of the respondents could still remember the event, even though they were very young when they went through it: «*It was unpleasant and painful at first. What can I feel now?*»; «*It was traumatic, but maybe that is necessary.*» Others expressed a contrary view, saying: «*It had no negative consequences and has its use*»; «*Whatever is in accordance with sharia is useful.*»

Circumcision is rarely performed in hospitals. It is usually done at home by people with no medical background: «*They do it in cottage fashion, at home. The mistress of the house does it, takes scissors and cuts a small piece off the clitoris*»; «*A woman came especially for the purpose, in springtime, from the mountains to stay with someone, and we were taken there and offered presents to get us to agree.*» A gynaecologist noted, «*We more often stitch things up, but we don't carry out circumcision. I won't condone this, it's not necessary and is just an added trauma for the woman. No normal doctor would do this. It gets done at home, they don't have antiseptic conditions and of course this is a risk.*»

It is usually the girl's mother or maternal relatives (grandmother, aunts) who decide to have the operation done. Circumcision is performed on girls from birth to three years and in rare cases up to 12 years of age.

Infections and bleeding often follow the operation: «*the girl maybe had an infection, or maybe it was that the wound took a long time to heal.*» Nothing is known of fatal cases, infections and illnesses resulting from the operation: «*We don't know [that circumcision has been performed], it's always kept hidden.*» It is therefore not possible to know if an infection was the result of circumcision. Few make any connection between subsequent infections and the fact that circumcision was performed.

Infections are common in the districts studied, but there is no way of obtaining statistical data on illnesses caused by female circumcision since the practice is kept hidden.

2.4.6. Preventing female genital mutilation and the issues involved

As was noted above, individuals in the culture studied are first and foremost part of the *tukhum* or extended family. This strong community-based lifestyle is by nature closed, and exhibits traditionalism and sometimes even religious fanaticism, and individual lives within it depend on the observance of social and ethnic norms and religious traditions.

Experts and respondents believe that this situation will impede efforts to eliminate female circumcision. *«This is part of local custom and we don't have the power to fight it. We have to explain, talk with people. It's not doctors we need here; it's the muftis who need to do this, our official religious organisations»; «It's important to stop the propaganda»; «Who's going to try to prevent it? Who would take a stand against religion? This isn't an issue for discussion. Let people pay more attention to their own women and to the debauchery that goes on.»*

When we spoke with experts about ending female circumcision, they noted that the practice is not widespread and is a custom followed only by certain ethnic groups living in remote and sometimes difficult to access regions with rough living conditions. *«You would need to learn their language too, to be able to explain things to them, but even then they'd not be likely to understand. These are very particular people with very particular ways of life»; «Getting things across to them is very difficult, considering the obstacles these people face in getting education. The school in Mokok is falling apart and at the school in Garbulin many of the teachers have not gone through a full teacher training programme and do not know Russian well.»*

Only one respondent, a lawyer by training, agreed that the practice is a social problem that people can attempt to solve through legal measures and information and awareness campaigns.

2.4.7. Legal qualification of female genital mutilation

Many of the experts with a legal background had trouble giving female genital mutilation a legal qualification and their replies were cautious and reserved.

The responses of the different experts surveyed can be characterized as follows:

Doctors noted that the procedure is dangerous *«It can cause infections, all the more so as they do not have the right sanitary conditions. There have been serious and irremediable problems even with boys when it wasn't doctors who performed circumcision»*).

The children's rights commissioner for Dagestan noted that the procedure violates children's rights *«It damages children's health and is cruel treatment of children. This is a health protection issue and an issue of violence against minors»*).

A forensic medical expert said that the practice is a crime against health *«It damages health and causes bodily harm»*).

A lawyer noted that the practice needs a legal evaluation *«It is important here to turn to international experience and look at the international laws*

and the laws that particular countries in Europe and Africa have passed»).

2.5. Results of the study

The study's results indicate that female genital mutilation is a current issue in Dagestan. The practice is ongoing in the republic although is confined principally to districts such as Tsuntinsky and Bezhtinsky (where nearly all girls undergo it, at least, all of those we surveyed in these districts had undergone it), Botlikhsky district (close to all girls), and the Tsumadinsky and Tlyaratinsky districts (partial spread, with around half of girls undergoing it). The practice can be encountered among older women in the Gumbetovksy and Untsukulksy districts, where female circumcision was performed from the 1970s through the 1990s.

Southern Dagestan (Tabasarinsky and Agulsky districts) was not included in this particular study, but the doctors interviewed said that in these districts a large percentage of women have had the procedure done.

There is no common standard for how female genital mutilation is performed in Dagestan. The practice is encountered in various forms ranging from an incision (in the majority of cases) to removal of the clitoris and the labia minor (encountered among the Andi people).

In nearly all cases, the operation's purpose is to control female sexuality (so that «they don't go wandering,» «don't get consumed by passions»).

Members of the communities that practice female circumcision view it as an Islamic practice and link it to the arrival of Islam, while many others think the practice has its origins in local custom and ethnic traditions.

The practice's continuation is bolstered by the religious justification it receives from members of the official clergy, who see it as a demand of their faith (the shafi'i school of Sunni Islam), and who bestow on the practice social and cultural value (the reduction of divorces and debauchery) and justify it on quasi-medical grounds (to curb women's «sensitivity» and «violent passions»). At the same time, religious figures are not unanimous in their views on the practice, and some imams not part of the official clergy characterized the procedure as unnecessary and harmful, while not denying the possible religious context.

Women who had undergone the procedure reported problems in their sexual lives and more than half of them suffered psychological trauma as a result of the operation. The memory of pain and a sense of injustice on the part of adults towards the child remained, but the sense of belonging to the extended family and the need to keep up the *tukhum's* reputation leaves women no choice but to continue perpetuating the practice.

In recent years, a number of Avar districts have practically abandoned female circumcision, but it continues to be practiced in the mountain districts.

Female circumcision violates the rights of the girl child by attempting to control and suppress her sexuality on the basis of gender stereotypes.

It is usually the mother or other maternal-line relatives who make the decision to perform the operation, motivated by their sense of belonging to the community (among traditionalists) and as a religious initiation rite (in highly religious communities).

The reasons for carrying out female circumcision are linked to both religion and the dictates of local custom, which see the operation as a way to guarantee a woman's (and bride's) virtues, protect the family reputation and ensure the family line continues.

Female genital mutilation has a wide variety of consequences:

- For physical health (obstructions, damage and scarring caused by the operation, as well as the consequences of carrying out the procedure at home, without anaesthetic or antiseptic conditions), including for sexual health;

- For psychological health (fear, lack of understanding, traumatic memories).

Female circumcision is seldom performed in hospitals. It is usually performed at home (only a few respondents spoke of the operation being carried out in secret and anonymously at a hospital in Tlyaratinsky District).

There are no statistics on cases of infections and disease and it is therefore not possible to prove any link between the incidence of infections and female circumcision. In the experience of the researcher and in discussion with experts interviewed for the report, however, it appears that infectious diseases such as hepatitis, as well as problems with reproductive health, are encountered at a higher rate in the districts in which FGM is practiced. Scientific research is necessary in order to study any potential causal links between the practice of FGM and ensuing infection or reproductive problems in these regions.

The fact that the practice is kept hidden from healthcare services and enjoys the support of the local community makes it even more difficult to bring to light the full medical consequences of this violent operation.

The respondents said that trying to end the practice was senseless and would bring no results because female circumcision is bound up in local traditions and ethnic customs. Furthermore, the population in the districts where the practice is performed think that it should be preserved and made more widespread through information and discussions with religious lead-

ers.

Surveys of religious leaders from official mosques and from mosques not part of the muftiate (a Kumyk and Salafi mosque) showed that Dages-tan's official clergy, who have a large degree of influence over their follow-ers, consider female circumcision a duty. But taking into account the prac-tice's link to religious faith, we can suppose that the clergy could play an influential role in preserving the practice or, on the contrary, in containing it and preventing its spread.

Part 3. CRIMINAL LAW ASSESSMENT OF FEMALE GENITAL MUTILATION

The expert¹ we interviewed identified three interlinked issues impor-tant for analysing the practice from the standpoint of criminal law:

- a) Does legislation prohibit practices of this kind?
- b) If so, what is the criminal law assessment of this practice?
- c) Are there any provisions in Russian legislation that mean the act is not qualified as a crime or that prevent in any other way criminal charges from being brought for the crime?

Prohibition of the practice of female circumcision

Article 21 of the Russian Federation Constitution states that «A person's dignity is protected by the state. Nothing may serve as a basis for its derogation (point 1); No one may be subjected to torture, violence or other humiliating treatment or punishment (point 2).» It follows from this general ban on inflicting violence on another that there is also a particular ban on inflicting harm on another's health as a consequence of violence. The provisions of article 16 of the Criminal Code of the Russian Federation institute criminal liability for causing harm to health, based on the con-stitutional provision mentioned above, and institute penalties for different types of harm caused to health.

Under the terms of point 2 of the Rules for Defining Degrees of Severity of Damage to Human Health, approved by government resolution 522 of 17 August 2007, «damage to human health is defined as a violation of a person's anatomical integrity and physiological functions of their organs and tissues as a result of the effect of external physical, chemical,

¹Conclusion given by the head of the criminal law and criminology faculty at the Higher School of Economics Professor G. A. Yesakov, 27. 06. 2016

biological and psychological factors.» In accordance with the WHO classification, the three relevant types of female circumcision (I, II, and IV), based on point 2 of the Rules, constitute damage to health of a kind that entails criminal liability.

We should note too that the European Court of Human Rights defines female genital mutilation as an act that violates Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms (No one shall be subjected to torture or to inhuman or degrading treatment or punishment).

Criminal law classification of female genital mutilation

The Criminal Code of the Russian Federation defines three types of deliberate harm to health:¹ Very grave, grave and of light gravity.

These three degrees of harm are distinguished from each other according to «qualifying signs of the degree of seriousness of harm caused to a person's health,» including among other things, danger to health or life, loss of sight, hearing or the loss of function of any other organ, and how long the damaging effects last» (point 4 of the Rules).

In the case of female circumcision, following the Medical Criteria for Determining the Degree of Damage to Health, approved by the Russian Ministry for Healthcare and Social Development on April 24, 2008, No 149N, we can make the following conclusions:

— female circumcision can be qualified as causing grave damage to health (article 111 of the Criminal Code) if it involves «damage (disintegration, tearing, rupture) of the pelvic organs; open and (or) closed injury to the bladder, the membranous part of the urinary tract, the ovaries, the fallopian tubes, the uterus, or other pelvic organs (the prostate gland, testicles, or sperm ducts) » (point 6.1.21), or, alternatively, «injury to the vaginal wall or the large intestine or injury to the surrounding space, penetrating the pelvic cavity and (or) cellular tissue» (point 6.1.22), or, alternatively, «blunt injury to the reflexogenic zones: the throat area, the area around the carotid sinuses, the diaphragm, and the area around the external genital organs if clinical and morphological data is present» (point 6.1.27). Other types of damage dangerous to a person's life are not likely in this context;

— Female circumcision can be qualified as damage to health (article 111 of the Criminal Code) only if it results in the loss of an organ or

¹ Accidental infliction of harm to health in this case is irrelevant, with the exception of possible complications arising as a result of FGM.

loss of function of the organ, in this case «loss of productive capability, expressed as loss of the man's ability to perform the sexual act and inseminate a woman, and loss of the woman's ability to perform the sexual act and conceive, bear and give birth to a child» (point 6.6.2). The current law provides an exhaustive list of possible types of harm classified as serious according to these criteria, and the loss of an organ's functions (the sexual function in this case) without loss of productive capability is not grounds in itself for qualifying the harm caused as serious;

— In cases where female circumcision does not cause such consequences to a woman's health, it could potentially be qualified only under article 115 of the Criminal Code — deliberate infliction of non-serious damage to health.

Given the typical age of girls upon whom the procedure is performed, in cases involving serious damage to health, the act should fall under 2 (b) of article 111 of the Criminal Code.

Two other aspects should also be taken into account.

2.1. The nature and motivations of the actions carried out by those who perform female circumcision raise the issue of whether we can qualify these acts as a crime motivated by political, ideological, racial, ethnic or religious hatred or hostility or motivated by hatred or hostility towards a particular social group (article 111 part 2 (e), and article 115 part 2 (b) of the Criminal Code). In this case, the motive would be hatred or hostility towards women as a social group. Those motivated by hatred or hostility express their negative attitude towards an alien manifestation and attempt to eradicate it (in this particular case, by suppressing women's sexual desire, and it is not important here whether the perpetrators attain their goal or not). The social group in this situation is a group of people sharing the same social criteria (markers), such as sex, religious faith, and ethnic origin.

2.2. In accordance with the current point 1 of Ruling No 16 of the Russian Supreme Court Plenum of December 4, 2014, «On judicial practice in cases involving crimes against sexual inviolability and the individual's sexual freedom,» the motives for carrying out the crime (satisfying sexual desires, revenge, ethnic or religious hatred, desire to degrade the victim and so on) «are not of importance for qualifying the crime.» The plenum ruling deals with crimes against sexual freedom and sexual inviolability of the individual, and if we take into account current judicial practice, the irrelevance of the motives for committing the crime mentioned in the plenum ruling opens up the possibility for qualifying criminal acts under the provisions set out in chapter 18 of the Criminal Code.

In other words, committing violent acts of a sexual nature is not automatically linked with the guilty party's desire to satisfy his or her sexual needs. Article 132 of the Criminal Code places a general prohibition on various condemnable practices, including informal practices in prisons, for example, and this prohibition applies in equal measure to female circumcision too. In relation to this practice, the Supreme Court has already stated that the motive for the action is not relevant (clarification of December 20, 2006, on case No 81-006—73).

The provisions of article 132 of the Criminal Code stipulate penalties for violent acts of a sexual nature such as «sodomy, lesbianism or other acts of a sexual nature involving the use of force or the threat of violence against the victim or against others, or taking advantage of the victim's state of helplessness.» FGM could be considered to come under the category of «other acts of a sexual nature» committed with the use of force against the victim or taking advantage of the victim's state of helplessness, given the victim's age (comment to article 131 of the Criminal Code).

The nature of the female circumcision procedure means that it involves physical contact with the victim's genitals. While article 132 of the Criminal Code does not give specific examples, we do know that acts of a similar nature (using a finger to break the hymen, for example) fall under this article in practice. As an act involving contact and comparable in form of expression and possible negative consequences to intercourse, sodomy, and lesbianism,¹ FGM could hypothetically be considered as coming under «other acts of a sexual nature» in terms of the provisions of article 132 of the Criminal Code.

Given the age of most victims of FGM, it should come under the provisions of article 132 part 4 (b) of the Criminal Code.

Circumstances that could rule out the act's criminality or in other ways prevent criminal charges from being brought

In the context of the female circumcision practice, we need to clearly delineate two categories of victims depending on their age.

If the procedure was performed on an individual who had already reached the age of 18 and given their conscious and voluntary consent, there would be no grounds for criminal liability because the victim's consent to the act would rule this out.² Furthermore, the provisions of articles

¹See *Bimbinov A. A. Ненасильственные половые преступления (Non-violent sexual crimes): dissertation for candidate of legal sciences degree. M. 2015. P 155*

²Unlike the legislation in a number of foreign countries, which states directly the irrelevancy

115 (1) and 132 (1) of the Russian Criminal Procedural Code place such cases under the category of private or private-public prosecution (part 2–3, article 20 of the Criminal Procedural Code).

But if the circumcision procedure was performed on an individual not yet 18, or if consent was not conscious and/or voluntary, it would not be possible to use consent as grounds for not considering the act as entailing a criminal penalty.

But in the FGM context, this still leaves the possibility of using performance of a religious rite as a non-codified circumstance constituting grounds for not considering the act as amenable to a criminal penalty.

In this context, for performance of a religious rite to be considered as grounds for excluding criminal liability, the situation must meet the following criteria:

- The religion in question must be recognised by law, in other words, must not be a religion considered extremist in nature;

- The rites in question must be established and be regularly practiced. They should be widespread and not just a narrowly-confined local custom that is not supported by the majority. For example, the Skoptsy, a sect that practised castration during the period of the Russian Empire, could not cite these grounds in their favour;

- The ritual should involve the conscious and voluntary consent of participants. In the case of children, their parents (or adults acting as parents) can give consent on their behalf;

- The ritual should not involve infringements on life and health, or at least, should not have any long-term effects on health.

The practice of female circumcision looks questionable from the point of view of points two and four on this list, especially point four, which is formulated in quite general terms and is very liberal towards existing customs. One can find affirmations in literature, after all, that no religious rite (or quasi-religious rite or social practice) can justify any degree of damage to the victim's health.

We know that «the rites and rituals of many religions may harm believers' well-being, such as, for example, the practice of fasting, which is particularly long and strict in Orthodox Christianity, or circumcision practised on Jewish or Muslim male babies» (ECHR, *Case of Jehovah's Witnesses*

of consent in the case of FGM, Russian law does not contain such provisions and, in principle, a person has the right to consent to undergoing procedures harmful to health (even of a serious nature). But overall, consent in situations where harm is inflicted remains a controversial concept.

of Moscow and Others v. Russia, Application no. 302/02, June 10, 2010, para. 144). But in all of these other cases, believers' health does not suffer the lasting damage that is caused by FGM, and in any case, even with regard to circumcision, calls to end this practice in modern society (at least until a child reaches the age of majority) are receiving growing attention.

Thus, from the point of view of the criminal law currently in force, FGM cannot be justified on the grounds of performance of a religious rite.

CONCLUSIONS AND RECOMMENDATIONS

Today, many women continue to be subjected to various forms of discrimination in private and family life and in relation to their status in society. Some of these types of discrimination, solidly anchored in the dominant culture in particular communities and based upon or ascribed to religion, are tacitly accepted or tolerated by the state and society. Some forms of discrimination, such as female circumcision, are cruel in nature and amount to denying a woman her basic rights: the right to life, health, inviolability and dignity.

The practice of female genital mutilation, which is damaging for women's health, legal status and situation in general, is still in demand and enjoys support among certain sectors and communities in several districts of Dagestan, where the practice is seen as part of their religion and a religious duty. Despite this, there is not a single religious text that obliges believers to carry out FGM. There are no medical grounds for the procedure and it can have serious consequences for the health of a woman and her future child. From the ritual point of view, women who have undergone the procedure cease to experience what is considered an indecent pleasure in the sexual act and fulfil only the reproductive function. Thus, a mistaken and even manipulative interpretation of religious dogma has raised the act of circumcision to the rank of a social mechanism for keeping women under control, thus subjecting them to an extreme form of societal discrimination.

The practice is traditionally considered necessary to ensure that girls grow up «properly» and to prepare them for adulthood and marriage. Female circumcision can be included among rituals carried out upon reaching majority and thus becomes an important component of the female cultural identity. Both men and women in the given communities usually support the widespread practice of FGM and those who have not undergone it can encounter condemnation and discrimination.

In terms of Russian criminal law, FGM is a crime that falls under the provisions of the Russian Federation Criminal Code. But the absence of any direct ban on carrying out female circumcision makes it difficult to effectively enforce the current laws and this is partially reflected by the complete absence of cases in this area in the Russian courts.

Speeding up the process to abandon the practice of FGM requires combined and consistent measures vis-à-vis the affected communities, with a focus on human rights and gender equality. Measures should include efforts to engage in dialogue in order to promote women's and children's rights within communities, so that collective measures can be adopted with the goal of abandoning the practice.

Measures could include the following:

Legislative measures

Pass laws to criminalize customs and practices that have a harmful and discriminatory effect on women, including female genital mutilation. Adopt laws, in particular within the criminal law framework, to prohibit and criminalise other types of practices that harm women's inviolability and dignity. Institute stricter criminal penalties for those found guilty in cases of FGM as the crime concerned is committed primarily against children.

Define as female genital mutilation any procedure that involves partial or full removal of the external female genitalia or any other harm to the female genitalia for non-medical reasons, regardless of whether the procedure is carried out in a medical facility or elsewhere.

Make provisions for effective sanctions to be taken against anyone who encourages or takes part in harmful practices, including religious, traditional, community leaders, tribal leaders, medical workers, social workers and people working in the educational system.

When it comes to setting penalties, a distinction should not be made between different types of female genital mutilation.

Members of all relevant professions, including workers in children's establishments, medical and social service workers, staff in schools and extracurricular children's establishments, and religious communities should inform the relevant authorities about any known or reported cases of female genital mutilation.

Provide the relevant specialised services for those who have undergone this harmful practice in specially established shelters for victims of violence.

Information and awareness

Organise dissemination by NGOs, universities, medical institutions, schools, pre-school establishments and other organisations of the basic data and information on such traditions and practices; provide support at national and local level to women's organisations working to eliminate FGM and other customs harmful to women's health; encourage politicians, specialists, religious and community leaders at all levels, as well as the media and the arts world, to assist in setting an agenda in favour of eliminating FGM; adopt the needed educational and training programmes and organise seminars based on the results of scientific studies on the issues related to FGM.

Education and training

Educational and information campaigns should be tailored to the target populations as well as to religious leaders, midwives, people who carry out FGM, local leaders and practitioners of folk medicine. The mass media, communications and other professional sectors all can play a substantial auxiliary role in this work.

Organise special training for teachers in the school system and also teachers working in other establishments in order to further their education and improve the environment for women to be able to defend their rights, condemn violence against women, including harmful practices, and raise teachers' awareness about the specific harmful practices to which schoolgirls could be subjected.

Religious education and dialogue with religious leaders

Encourage dialogue between religious leaders and other parts of society, in particular NGOs, state and local government agencies, medical workers, politicians, directors of modern and traditional forms of communication, educational establishments, mass media outlets and so on.

Appendix. Relevant provisions of the Russian Federation Criminal Code

Article 111. Intentional infliction of a grave injury

1. Intentional infliction of a grave injury, which is hazardous for human life or which has involved the loss of sight, speech, hearing, or any organ or the loss of the organ's functions, or which has expressed itself in the indelible disfiguring of the human face, and also infliction of other harm which

is dangerous to human life or which has involved an injury to a person's health, joined with considerable permanent loss of general ability to work by not less than one third or by the full loss of an occupational capacity for work, which capacity was evident to the guilty person, or which has involved the interruption of pregnancy, mental derangement, or the victim's falling ill to drug addiction or toxicosis, — Shall be punishable by deprivation of liberty for a term of up to eight years.

2. The same acts committed:

a) in respect of a person or his relatives in connection with his official activity or the discharge of his public duty;

b) with respect to a minor or another person who is, knowingly for the guilty person, in a helpless state, as well as with special cruelty, torture or torments for the victim;

c) by a generally hazardous method;

d) by hire;

e) out of malicious motives;

f) out of political, ideological, racial, national or religious hatred or enmity, or hatred or enmity with respect to any social group;

g) for the purpose of using the organs or tissues of the victim;

h) using weapons or objects used as weapons, —

shall be punishable by deprivation of liberty for a term of up to 10 years with restriction of liberty for a term up to two years or without such.

Article 115. Intentional Infliction of Light Injury

1. Intentional infliction of light injury which has temporarily damaged health or caused an insignificant stable loss of general capacity for work —

Shall be punishable by a fine of up to 40 thousand roubles, or in the amount of the wage or salary or any other income of the convicted person for a period of up to three months, or punishable by compulsory works for a term of up to 480 hours, or corrective labour for a term of up to one year, or by arrest for a term of up to four months.

2. The same deed committed:

a) as an act of hooliganism;

b) out of political, ideological, racial, national or religious hatred or enmity, or hatred or enmity with respect to any social group;

c) using a weapon or objects used as a weapon —

shall be punishable by compulsory labour for a term of up to three hundred and sixty hours, or by corrective labour for a term of up to one year, or by restriction of liberty for a term of up to two years, or by compulsory labour for a term of up to two years. or by an arrest for a term of up to six months, or by deprivation of liberty for a term of up to two years.

Article 131. Rape

Note. The offences provided for by Item b of Part Four of this article, as well as by Item b of Part Four of Article 132 of this Code, shall also include the offences having the constituent elements provided for by Parts Three and Five of Article 134 and by Parts Two and Four of Article 135 of this Code that have been committed in respect of a person under twelve years old, because such person by virtue of the age thereof is in the helpless state, that is, he/she cannot understand the nature and meaning of the actions made in respect of him/her.

Article 132. Violent actions of a sexual nature

1. Sodomy, lesbianism or other actions of a sexual nature involving the use of violence or the threat thereof with respect to a male (female) victim or to other persons or taking advantage the helpless state of the victim —

Shall be punished with deprivation of freedom for a term of from three to six years.

4. The acts provided for in parts one and two of this article if they:

a) led to the accidental death of the victim;

б) were committed against a person not yet 14 years of age —

Shall be punished with deprivation of freedom for a term of from 12 to 20 years and deprivation of the right to hold certain offices or engage in certain activities, or without such penalty, and with restriction of freedom for a term of up to two years.