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**POLICY BRIEF**

**CROSS-BORDER  
FEMALE GENITAL  
MUTILATION IN  
EAST AFRICA**

**Despite stronger measures to improve accountability in achieving zero female genital mutilation (FGM) in the region, the last decade saw an increasing trend towards maintaining the practice, for example through medicalization and cross-border FGM. In East Africa, the trend in cross-border FGM puts at risk the progress achieved in eliminating the practice. The only way we can reach zero FGM by 2030 is by concerted and immediate action to address all aspects of FGM.**

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## INTRODUCTION

Female genital mutilation (FGM) is a human rights violation, a form of gender-based violence and it discriminates against girls and women. Globally, more than 200 million girls and women alive today have undergone FGM, including in 30 countries in Africa.

In the last three decades, the African continent has witnessed a decline in FGM, but in some countries the practice remains prevalent among girls and women. Several countries have laws criminalizing FGM, some have allocated specific budget lines for FGM interventions and others have put in place multisectoral coordination mechanisms to ensure coordinated efforts to end FGM.

However, cross-border FGM has emerged as a new trend that threatens the gains made towards ending FGM. It is estimated that one quarter of the 200 million girls and women affected are from the East African border areas in Ethiopia, Kenya, Somalia, Tanzania and Uganda.<sup>1</sup>

The COVID-19 pandemic could have far-reaching impacts on the efforts to end FGM. Because of COVID-19 disruptions, we anticipate a one-third reduction in the rate of progress towards ending FGM by 2030. The pandemic-related disruptions in prevention programmes may mean that 2 million FGM cases could occur over the next decade that would otherwise have been averted.

Without concerted and accelerated action, another 68 million girls are likely to undergo FGM by 2030 in the practising countries, making FGM a continuing burden in the region.

Ending FGM is a fundamental step towards achieving the Sustainable Development Goals. The global commitment to eliminate all forms of FGM by 2030 is clearly stated under **goal 5 on gender equality, target 5.3, “eliminate all harmful practices such as child, early and forced marriages and female genital mutilation”**.

This ambitious goal would require strong political commitment and the adoption of prevention and response measures that address emerging trends such as cross-border FGM. However, the new threats posed by the increased frequency of cross-border FGM in the region could undermine achieving zero FGM by 2030.

This policy brief highlights the cross-border dimension of FGM (Ethiopia, Kenya, Somalia, Tanzania and Uganda) in the Eastern Africa region. The brief describes the factors that perpetuate cross-border FGM and the work that is being done to reduce the rates.

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<sup>1</sup> UNFPA (2019), *Beyond the Crossing: Female Genital Mutilation across Borders* (New York, UNFPA). Available at <https://www.unfpa.org/publications/beyond-crossing-female-genital-mutilation-across-borders>.



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The information presented is based on research conducted by the United Nations Population Fund (UNFPA) Kenya Country Office, UNFPA East and Southern Africa Regional Office (ESARO) and the Kenya Anti-FGM Board. The report highlights the extent of the practice among communities on the borders and the threat that poses to the abandonment of the practice of FGM by 2030 in the region.

..... The policy emphasizes the following key priorities:

- 1 ..... Harmonizing legislation and policies to include common standards on cross-border FGM
- 2 ..... Strengthening intergovernmental collaboration (cross-border) for effective implementation of a costed multisectoral plan of action, especially in border towns
- 3 ..... Measuring changes, developing interventions that are informed by evidence and effective in reducing cross-border FGM, and recognizing the need to invest in process evaluation research to capture new trends.

## NATURE OF CROSS-BORDER FEMALE GENITAL MUTILATION

Cross-border FGM refers to the movement of families and mutilators across national borders for the purpose of providing or receiving FGM. A recent study, carried out by the Kenya Anti-FGM Board in collaboration with UNFPA,<sup>2</sup> shows that cross-border FGM has emerged as a new trend in practising communities to avoid prosecution. The study shows the influence of border communities on the prevalence of FGM.

The border areas of the five East African countries have a higher prevalence of FGM than the national averages. Approximately 60 per cent of respondents from Ethiopia, 14 per cent from Somalia, 17 per cent from Tanzania and 71 per cent from Uganda travelled to Kenya to undergo FGM. Studies have shown that the prevalence of FGM among women aged 15–49 in Ethiopia is 65 per cent, Kenya 21 per cent, Somalia 98 per cent, Tanzania 10 per cent and Uganda at 0.3 per cent.

All the study sites have very porous borders, most people do not use official border crossings and people move freely from one country to another daily with little to no restriction. This porosity along the borders allows people to move from one country to another to perform or acquire FGM services where the enforcement of the law is perceived to be more stringent in one than in another.

The study also demonstrates that there is a great need to harmonize legislation to allow cross-border collaboration on and coordination of anti-FGM activities, to empower women and girls to make independent decisions, and to work with men and boys to promote gender transformation that can lead to the abandonment of FGM. The lack of jurisdiction to enable law enforcement officers to arrest and prosecute perpetrators on either side of the borders was cited as a barrier to effective enforcement of the law. This therefore puts young women and girls living in border areas particularly at risk of FGM.

Cross-border FGM needs to be addressed urgently, with the full commitment of all five countries, if FGM is to be eliminated by 2030. At the 32nd African Union Heads of State and Government Summit in Addis Ababa, Ethiopia, in February 2019, member states adopted the declaration “Galvanizing Political Commitment towards the Elimination of Female Genital Mutilation in Africa” and endorsed an African Union continent-wide social marketing campaign dubbed the “Saleema initiative”. The launch of the Saleema initiative marked a critical juncture in efforts to accelerate the elimination of FGM in Africa. This initiative calls for political commitment to accelerate the abandonment of FGM, including the emerging trends in cross-border FGM and the medicalization of FGM. The new Decade of Action compels us to intensify our efforts to ensure that the global target of eliminating FGM by 2030 is achieved.

2 UNFPA (2019), *Beyond the Crossing: Female Genital Mutilation across Borders* (New York, UNFPA). Available at <https://www.unfpa.org/publications/beyond-crossing-female-genital-mutilation-across-borders>.

Following the launch, ministers and representatives of Ethiopia, Kenya, Somalia, Tanzania and Uganda gathered in Mombasa, Kenya, in 2019 for a ministerial-level meeting hosted by the Government of Kenya. The overall objective was to strengthen intercountry collaboration on FGM in the border areas, share good practices, and chart a way forward in response to cross-border FGM. At the end of this meeting, a declaration was adopted that calls for harmonizing laws and policies, integrating cross-border aspects of FGM within the national multisectoral plans of action, strengthening intergovernmental authorities' collaboration and coordination and community awareness and education, and increasing research on cross-border FGM.

## WHAT ARE THE KEY FACTORS CONTRIBUTING TO CROSS-BORDER FEMALE GENITAL MUTILATION?

- 1 . . . . . Shared traditions among border communities and existing relationships, especially intermarriage, that contribute to perpetuating FGM. The study shows that 67 per cent of all women and girls brought to Kenya to undergo FGM are close relatives of people in Kenya.<sup>3</sup>
- 2 . . . . . Fear of arrest in native countries and a perception of more limited prosecution in neighbouring countries. Although countries such as Ethiopia, Kenya, Tanzania and Uganda have national legislation to address and prevent FGM, there are still no harmonized provisions for the five countries. This gap enables cross-border FGM, as the penalties range from high to low depending on the country.
- 3 . . . . . There is also a significant lack of funding for research on this issue.
- 4 . . . . . Lack of proximity to circumcisers in native countries and the quality and affordability of FGM services in neighbouring countries.
- 5 . . . . . Financial incentives for circumcisers.
- 6 . . . . . An absence of strong regional monitoring mechanisms for reporting FGM.

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3 UNFPA (2019), *Beyond the Crossing: Female Genital Mutilation across Borders* (New York, UNFPA). Available at <https://www.unfpa.org/publications/beyond-crossing-female-genital-mutilation-across-borders>.







## IS THERE AN ENABLING LEGAL AND POLICY ENVIRONMENT TO END CROSS-BORDER FEMALE GENITAL MUTILATION?

As a continent, Africa has developed progressive policies on and legal frameworks for ending FGM.

- ..... Aspiration 6, Priority 51, of the African Union Agenda 2063 aims to eliminate all forms of gender-based violence and discrimination against women and girls.
- ..... Article 5 of the African Charter on Human and People's Rights on the Rights of Women in Africa calls on member states to eliminate the practice of FGM through education and awareness and legal measures and to ensure that the survivors of FGM receive psychosocial support.
- ..... At the Nairobi Summit, the commemoration of the 25th anniversary of the International Conference on Population and Development, Governments and civil society organisations renewed existing and made new commitments to eliminate all harmful practices, including FGM. At the highest political level of the summit's host Government, President Uhuru Kenyatta made a bold commitment to ending FGM (including cross-border FGM) in Kenya by 2022.
- ..... In 2016, the East African Community passed the East African Community Prohibition of Female Genital Mutilation Bill (which includes Kenya, South Sudan, Tanzania and Uganda), which defines and calls for prosecution of cross-border FGM offences and calls for the establishment of a sub-regional coordination mechanism and for reinvigorating efforts to eliminate FGM. The bill also obliges the member states to strengthen collaboration and coordination in prosecuting FGM cases.
- ..... The Pan-African Parliament action plan to end FGM in Africa (2016) highlights the need for initiatives to strengthen actions against cross-border FGM.
- ..... An African Union continental initiative on elimination of FGM – the Saleema Initiative – recognises that in order to meet the target of zero FGM by 2030, there is need to address cross-border FGM.
- ..... In October 2018, UNFPA, the United Nations Children's Fund (UNICEF) and the African Union co-hosted the International Conference on Female Genital Mutilation in Burkina Faso, with the theme "Galvanising political action to accelerate the elimination of female genital mutilation by 2030". Kenya, Tanzania and Uganda agreed to address the challenge of cross-border FGM, leading to the first-ever Regional Inter-Ministerial Meeting to End Cross-Border FGM.
- ..... The Regional Inter-Ministerial Meeting to End Cross-Border FGM, which brought together Government representatives from Ethiopia, Kenya, Somalia, Tanzania and Uganda, adopted a declaration to strengthen coordination and cooperation mechanisms to eliminate cross-border FGM. This was followed by the development

of an action plan to this end. The UNFPA–UNICEF Joint Programme on Female Genital Mutilation, the largest global programme to accelerate its abandonment, has supported this plan of action.

- ..... In the Loita Declaration, cultural leaders from the Loita clan of Kenya and Tanzania affirmed their commitments to end FGM through collaboration and cooperation with the Governments of Kenya and Tanzania and to protect women and girls through community awareness and promote education for girls.
- ..... There have been positive steps taken by countries to implement the regional action plan to end cross-border FGM. For example, in Kenya in 2020, there was an increase in community reporting of FGM along the Kenya–Uganda border. In addition, the Kenya National Police Service rescued 12 girls who had crossed from Uganda to Kenya to undergo FGM.
- ..... In Uganda, Members of Parliament held a national-level policy discussion in 2019 to ensure that cross-border FGM was on the agenda.

| COUNTRY  | NATIONAL LEGISLATION PROHIBITING FGM  | LEGISLATION WITH PROVISIONS ON CROSS-BORDER FGM   |
|----------|---|---|
| ETHIOPIA | The Criminal Code (2004)  | None  |
| KENYA    | The Constitution of Kenya<br>The Prohibition of Female Genital Mutilation Act 2011<br>The Penal Code (revised 2014)<br>The Protection Against Domestic Violence Act (2015)<br>The Revised Children Act (2016) | Articles 21 and 28(1) of the FGM Act 2011 criminalise cross-border FGM  |
| SOMALIA  | No national legislation to end FGM  | None  |
| TANZANIA | The Sexual Offences Special Provisions Act 1998<br>The amended Section 169 of the Penal Code<br>The Law of the Child Act 2009   | None  |
| UGANDA   | The Prohibition of Female Genital Mutilation Act 2010<br>The Children (Amendment) Act 2016 passed into law  | Section 15 (extra-territorial jurisdiction) of the Female Genital Mutilation Act 2010 criminalises cross-border FGM |

## WHAT NEEDS TO HAPPEN TO END CROSS-BORDER FEMALE GENITAL MUTILATION BY 2030?

The following section highlights areas that can contribute to ending cross-border FGM in East Africa. Despite the availability of programmes to prevent and respond to FGM and change social norms in the cross-border areas, and the attendant achievements observed, much still remains to be done by the Governments of Ethiopia, Kenya, Somalia, Tanzania and Uganda to ensure that local policies and legislation are effectively implemented in the cross-border areas. In addition, we need a bilateral agreement to strengthen cross-border anti-FGM efforts. While we have made progress, COVID-19 has shown us that the achievements to date are fragile and that our efforts to end FGM must be sustained and accelerated.

We propose the following specific recommendations on legal and policy frameworks, capacity-building, anti-FGM programmes targeting changes in social norms, and research.





## A **LEGAL AND POLICY FRAMEWORKS**

All of the countries, except Somalia, have put in place laws and policies and a specific budget line to prohibit the practice of FGM. Only two countries in the region, Kenya and Uganda, have laws that address cross-border FGM. Lack of a regional law on FGM, including cross-border FGM, limits coordination and collaboration between intergovernmental institutions and authorities across the borders to address FGM.

### KEY RECOMMENDATIONS

- A regional law that prohibits FGM is needed and should consider provisions that:
  - Harmonize the offences and minimum penalties to eliminate the need for people to cross borders to face less punitive penalties and escape the law
  - Capitalize on local and religious rules and laws that prohibit the practice of FGM
  - Protect those who report or are witnesses in FGM cases
  - Address emerging issues such as the medicalization of the practice and self-mutilation.
- A robust policy structure with accompanying plans of action is needed at regional level, providing minimum standards while allowing countries to integrate these policy provisions to reflect their unique situations. The policies should include:
  - Implementation strategies with dedicated budgetary allocations
  - A monitoring and evaluation framework to track progress throughout the border communities
  - Standard operating procedures on how to deal with FGM cases in each jurisdiction in the region
  - Other complementary policies that address interrelated issues, such as health and psychosocial support for survivors of FGM and re-admission to school for girls rescued from FGM and child marriage.
- National legal pluralism should be addressed to provide guidance on how to deal with the inherent conflict between the formal law on the one hand and religious and customary rules on the other to achieve social legitimacy within the formal criminal law.

## B **CAPACITY BUILDING**

Knowledge of existing legal provisions and policies within the countries is varied, and some communities further along the borders having limited understanding of the laws prohibiting FGM. In some communities, observance of the social, cultural and religious norms that dictate the practice of FGM is so strong that the laws banning the practice are rarely adhered to. Despite legislation being in place, law enforcement agencies are reluctant to implement the laws because their knowledge of them is limited, and some enforcement officials still believe in the practice as they are part of communities practising FGM.

### KEY RECOMMENDATIONS

- Train all law enforcement officials on the practice of FGM and the anti-FGM laws. Joint training sessions would be ideal to ensure uniformity of understanding of the practice of FGM and the law.
- Improve the ability of law enforcement officials to arrest perpetrators and raise awareness of FGM and the law within their communities by improving the infrastructure and other resources such as cars to increase their mobility within their administrative areas.
- Raise awareness of the existence of the national laws banning FGM, and the associated penalties, along the Kenya–Ethiopia border among the Dasenach (Ethiopia) and Borana (both Kenya and Ethiopia) and among the Somalis in Mandera (both Kenya and Somalia). Awareness-raising among community members is needed: including key community players such as religious and cultural leaders is important, as this encourages buy-in from community members and increases compliance with the law.
- Make extensive use of local media outlets and accessible social media platforms to raise awareness of FGM, including the support services available in the cross-border areas.

## C — **PREVENTIVE AND RESPONSE PROGRAMMES ON ANTI-FGM PRACTICE SHOULD BE SCALED UP**

There is a need to focus on awareness-raising and education among communities and key stakeholders involved in the prevention and response services to end FGM along the borders. The awareness-raising should focus on FGM as a human rights violation and address the social, cultural and religious norms that perpetuate the practice despite knowledge of the laws in place prohibiting the practice.

### KEY RECOMMENDATIONS

- Intensify advocacy and awareness-raising activities throughout the border areas. Such activities should be designed to address specific drivers in the different communities and other harmful practices such as child marriage.
- Provide much-needed comprehensive health services, including psychosocial services, to help survivors deal with FGM-related complications in the cross-border areas.
- Harness the influence of religion in eradicating the practice by promoting the correct religious teachings and using religious leaders as agents of change.
- Institute an accountability mechanism to prevent medical professionals from engaging in any form of FGM. In addition to criminalizing the medicalization of the practice, medical institutions should have policies for dealing with medical professionals who perform FGM.
- Tailor interventions to specific communities' belief systems in the cross-border areas to ensure that social change is community driven and participatory and to give the people more say in transforming their social norms and values towards a new reality.
- Introduce evidence-based social norm change models with indicators to allow community members to come up with community consensus on alternative rites of passage ceremonies while abandoning the practice of FGM completely.
- Map out organizations engaged in FGM prevention and response activities and services to improve the distribution of these services and establish referral systems among the various organizations in collaboration with Government departments.



## D — RELATED RESEARCH

Because of the complexity of the problem, there is a need for more studies on cross-border FGM to improve understanding of its manifestations, the motivations of the various communities, new trends, changes in practice, and other factors in order to develop effective and, above all, sustainable intervention strategies.





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