

Female Genital Mutilation: the law in NSW



This fact sheet summarises the Ask LOIS webinar on this topic, presented by Ina Gaha, NSW Education Program on FGM on 29 September 2016.

This webinar can be viewed for free at www.asklois.org.au/webinars/past-webinars.

This factsheet looks at:

The practice of FGM
Communities settled in NSW affected by the practice
Crimes (Female Genital Mutilation) Act 1994 and 2014 Amendment
First prosecution under the Act
FGM and mandatory reporting responsibilities for girls identified at risk.

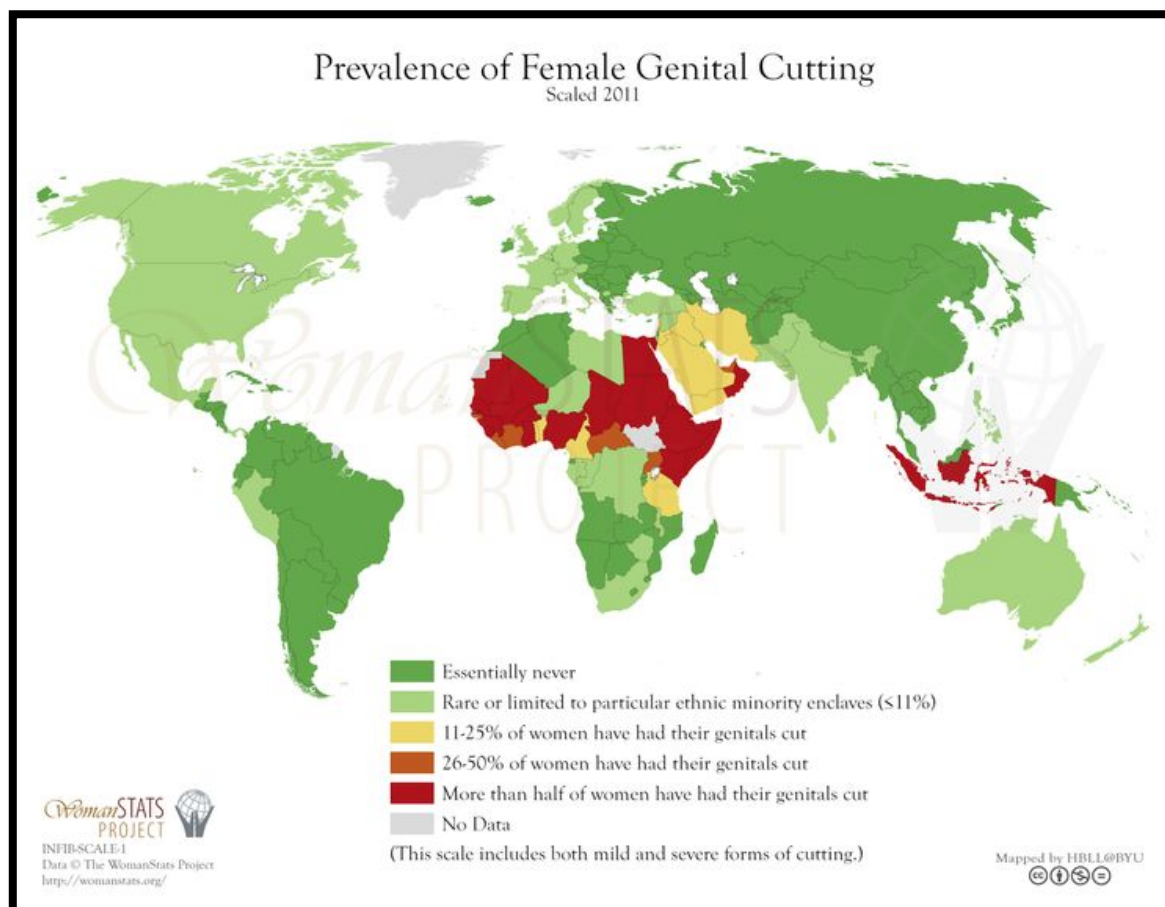
What is Female Genital Mutilation

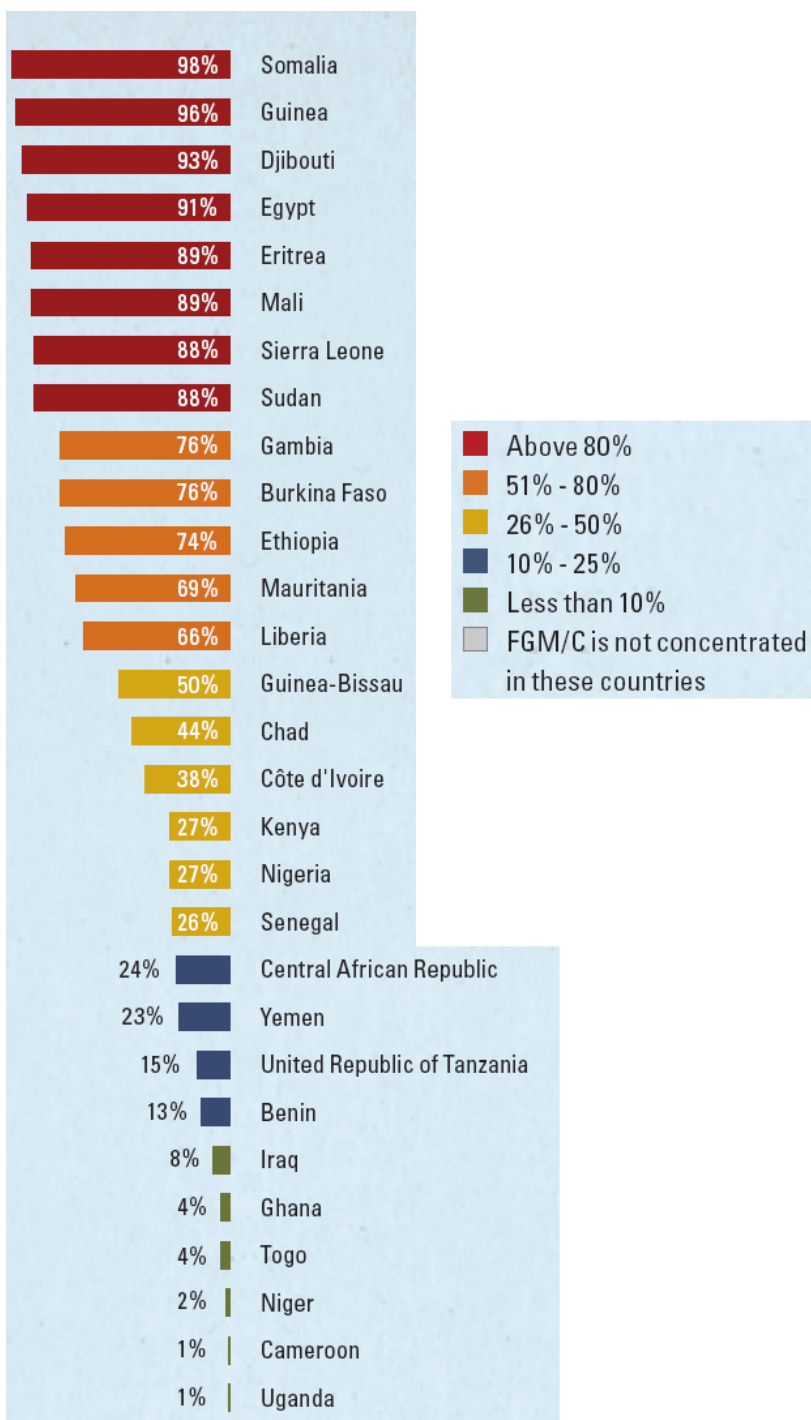
The term **Female Genital Mutilation** refers to all procedures involving partial or total removal of the external female genitalia or other injury to the female genital organs for non-medical reasons.

FGM is now acknowledged as a widespread practice with serious health effects.

Prevalence

Over 200 million girls and women affected around the year.
5 million per year, 8000 every day, one girl every three minutes





- Above 80% **Somalia, Guinea, Djibouti, Egypt, Eritrea, Mali, Sierra Leone, Sudan**
- 51%-80% **Gambia, Burkina Faso, Ethiopia, Mauritania, Liberia**
- 26%-50% **Guinea-Bissau, Chad, Cote D Ivoire, Kenya, Nigeria, Senegal**
- 10-25% **Central African Republic, Yemen, United republic Tanzania, Benin**
- Less than 10% **Iraq, Ghana, Togo, Niger, Cameroon, Uganda**

Reasons for Practice

- Tradition
- Religion
- Social cohesion
- Economics
- Psychosocial
- Hygiene and aesthetics



Human Rights

Female Genital Mutilation violates a series of well established human rights principles, norms and standards:

- Principle of equality and non-discrimination on the basis of sex
- The right to life when the procedure results in death
- Right to freedom from torture or cruel, inhuman or degrading treatment

International action against FGM

In 2010 the United Nations declared February 7th as International Day of Zero Tolerance.

In 2012 the United Nations General Assembly unanimously passed a resolution banning the practice of FGM. Australia was a co sponsor.

The pace of change against FGM varies widely around the world and is very complex

The empowerment of women is seen to be of critical importance in stopping FGM (UNICEF 2013)

Australian context

The Family Law Council in 1994 issued a report on FGM which recommended that legislation on FGM be passed as a criminal offence and that it constituted child abuse under Australian child protection legislation.

It is now a crime under state based law in every state and territory in Australia

NSW Legislation

Crimes (Female Genital Mutilation) Amendment Act 1994 No. 58

An Act to amend the Crimes Act 1900 to prohibit female genital mutilation.

Crimes Amendment (Female Genital Mutilation) Act 2014 No 15

An Act to amend the *Crimes Act 1900* to make further provision for offences relating to female genital mutilation; and for related purposes. [Assented to 20 May 2014]

Section 45 of the *NSW Crimes Act* says that FGM is not allowed. A person cannot:

- “excise, infibulate or mutilate the whole or any part of the labia minora or labia majora or clitoris of another person”; or
- “aid, abet counsel or procure a person to perform any of those acts on another person”.

This means that it is against the law to:

- Circumcise a woman, girl or female baby
- Remove or cut out any part of the female genital area (‘excise’); or
- Stitch up female genital area (“infibulate”); or
- Cut the clitoris or part of the clitoris; or
- Damage the female genital area in other ways

When the law says that a person cannot “aid abet, counsel, or procure” a person to perform FGM, this means that it is also against the law to:

- Help someone do these acts; or
- Get someone else to do these acts



A person cannot:

- take a girl from NSW (overseas) or arrange for another person to be taken from the State, with the intention of having FGM performed on that girl.

A person found guilty can be sentenced up to 21 years in gaol.

Dahwoodi Bohra (2013) - Recent FGM case in NSW

Two girls were alleged to have been circumcised in NSW. Small community – not previously recognised.

Three people were charged in NSW.

All three people have been found guilty, in November 2015 and sentenced in March 2016.

Child protection responsibilities

Report if you have reasonable grounds to suspect a child at risk of harm to the Family and Community Services (Community Services) - You don't have to prove a child is at risk or being abused

Child Protection Helpline **ph. 133 627**

Resources

For more information in English and other languages advice or support contact the NSW Education Program on FGM: phone (02) 9840 3877.

Or visit the website

www.dhi.health.nsw.gov.au/NSW-Education-Program-on-Female-Genital-Mutilation

References:

- Crimes (Female Genital Mutilation) Amendment Act 1994 No. 58
- Crimes Amendment (Female Genital Mutilation) Act 2014 No 15
- UNICEF Female Genital Mutilation/Cutting A statistical overview and exploration of the dynamics of change UNICEF New York 2013
- UNICEF Female Genital Mutilation/Cutting A Global Concern UNICEF New York 2016
- [The Womanstats Project Maps and Graphics -](#)
- www.womanstats.org/maps.html accessed 26/09/16
- World Health Organization, Female Genital Mutilation Fact Sheet Feb 2016 accessed 04/16
[Http://www.who.int/mediacentre/factsheets/fs241/en/](http://www.who.int/mediacentre/factsheets/fs241/en/)
- World Health Organization, 2008, Eliminating Female Genital Mutilation, An interagency Statement UNAIDS, UNDP, UNECA, UNESCO, UNFPA, UNHCR, UNHCHR, UNICEF, UNIFEM, WHO