Introduction

Female genital mutilation (FGM) is a deeply entrenched cultural tradition practiced by various ethnic groups in more than 28 countries on the African continent. The practice is also found among populations in countries on the Arabian peninsula, in the Middle East, and in Southeast Asia.

Over the last thirty years, African women, local associations, non-governmental organizations (NGOs) and national and international institutions have been active in campaigns to expose the practice of FGM as a serious violation of the human rights of women and girls and have worked toward eliminating it. However, despite the implementation in many countries of projects aimed at preventing the traditional practice -- as well as the enactment of laws forbidding it in some countries -- there is a need for better coordination of initiatives, the sharing of lessons learned, and the involvement of all social actors, from the international to the community level, to strengthen the message within these traditional societies to reject FGM.

With the recent increase in emigration of African populations, African immigrants have imported the practice of FGM to Europe and other Western countries. Serious attention to the enactment of preventative measures against FGM in Western countries can no longer be postponed. To this end, AIDOS (Italian Association for Women in Development), NPWI (No Peace Without Justice) and TAMWA (Tanzanian Media Women’s Association) have obtained the financial support of the European Union and other donors to execute an international “STOP FGM” Campaign. Seven other NGOs from Mali, Burkina Faso, Gambia, Egypt, Somalia, Ethiopia and Kenya are also taking part.

The “STOP FGM” Campaign is aimed at increasing the awareness of the public, especially in African and Arab countries, regarding the human rights issues involved in the practice of female genital mutilation, and its negative impacts on women and girls. The Campaign is also aimed at fostering and strengthening the involvement of civil society and governments in an effort to eradicate the practice, particularly through political action and the adoption of increasingly effective legal measures.

A key moment in the “STOP FGM” Campaign was the Afro-Arab Expert Consultation on Legal Tools for the Prevention of Female Genital Mutilation held in Cairo (Egypt) from June 21 to 23, 2003. This publication was prepared to document the Expert Consultation and its results.

The aim of the Expert Consultation was to define both legal content and strategies for more effective legislation to prevent female genital mutilation. It was organized in collaboration with the Egyptian Society for the Prevention of Harmful Practices (ESPHP), and sponsored by Egypt’s National Commission for Childhood and Maternity (NCCM) under the auspices of Egypt’s First Lady, Her Excellency Mrs. Suzanne Mubarak.

Mrs. Mubarak addressed her opening remarks to about one hundred participants from 28 African and Arab countries where FGM is practiced. Additional participants included international jurists and experts, representatives of the United Nations, and representatives from myriad African organizations fighting traditional practices that are harmful to women, boys and girls.
Presentations were made by Mohammed Sayed Tantawy, the Sheik of Al Azhar and Egypt’s highest Islamic authority, and Bishop Moussa, a representative for H.H. Pope Shenouda III, Patriarch of the Coptic Church. Each, respectively, made the point that the practice of female genital mutilation is neither called for by, nor has it any basis in, Islam or Christianity.

Technical consultation at the Expert Conference was provided by CRR, the Center for Reproductive Rights (USA), and RAINBO, Research Action and Information for the Bodily Integrity of Women, (UK). The technical consultants presented a comparison of the various laws and political initiatives enacted for the elimination of FGM, based on documents prepared specifically for the Expert Conference. The documents included a paper by Laura Katzive of CRR, Using Legislation to Promote Women’s Rights: Considerations in Drafting and Implementing Legislation to Prevent FGM, and a paper by Nahid Toubia of RAINBO, Legislation as a Tool for Behavioral Change, which assessed possible impacts of legislative initiatives and cited examples from a number of countries where legislation has already been implemented.

Following this discussion, three African country case studies were presented: in Kenya, lawyer Ken W. Wafula saved a number of minors from FGM utilizing protection orders provided for in civil law; in Mali, non-governmental organizations are fighting to defeat resistance in Parliament to a bill against FGM; and, from Burkina Faso, an assessment of the first years of enforcement of a 1996 law against FGM.

Finally, since the migration of FGM to Western countries is of increasing concern, Fareda Banda, a researcher at the University of London School of Oriental and African Studies, was invited to discuss how legislation can be used to prevent FGM in Europe. Her paper, Legal Tools for the Prevention of FGM: a Perspective from Europe, compares the opposite approaches of France and Great Britain, analyzes the European Resolution Against FGM, and examines the possibility of granting women and girls who leave their countries to escape FGM political asylum. AIDOS contributed to the discussion by presenting a document by Tamar Pitch, The Right Law: Legal Treatment of Female Genital Mutilation, in which the objectives, effects, and limits of exclusively penal legal action are analyzed.

Following the presentations, discussions took place in two large working groups. One group, chaired by Nahid Toubia (RAINBO) and Kathy Hall-Martinez (CRR), discussed "Opportunities and Objectives of the Law as an Instrument for Promoting Social Change". The other group, led by Laura Katzive (CRR) and Mona El-Tobgui (ESPHP), discussed “Elements of the Legal Approach to FGM”. In addition to the international experts, discussion participants included a large group of activists, jurists, and university teachers, as well as officials from a number of Egyptian ministries. To facilitate discussion, a list of questions was prepared based on the papers. At the end of the discussion sessions, each group prepared a final document. The select committee of organizers, technical consultants and representatives of the NCCM then prepared a draft final resolution, which was approved in the plenary session on June 23.

"The Cairo Declaration for the Elimination of Female Genital Mutilation" encourages all governments to pass legislation aimed at the progressive elimination of FGM, and includes 17 recommendations to ensure that those laws become instruments of real prevention.

The discussion groups concluded that law can be an important and useful tool for women who want to protect their daughters from FGM, and can aid them in combating the pressure from both family and community to engage in the practice. However, both groups acknowledged that the law alone is inadequate, that it must be part of a larger program for
women’s empowerment and for the protection of their human rights as defined in the main treaties, international conventions, in the action programs of the Cairo Conference on Population and Development, and at the Beijing Conference on Women.

The participants concluded that law must be accompanied by targeted public information campaigns and measures aimed at legitimizing the law within the communities so that it is acknowledged, understood and used as an instrument for the protection of minors. The roles of the mass media, the judiciary system, the social-health system, organized civil society, and the schools were seen as essential in re-shaping the individual and social behavior at the root of female genital mutilation, and for the construction of a new social context wherein the law can be successfully applied. Finally, there was a forceful call for the investment of adequate resources, both at the national and international levels, to guarantee implementation of prevention programs that would engage many segments of society.

“The Cairo Declaration for the Elimination of Female Genital Mutilation” was further reinforced with support from high ranking institutional representatives from the African countries attending: Mariam Lamizana, Minister for Social Action and National Solidarity, Burkina Faso; Gifiti Abassaiya, Minister for Women, Ethiopia; Linah Jebji Kilimo, Under-Secretary of State for Local Development, Kenya; Edna Adan Ismail, Minister for Foreign Affairs, Somaliland; Memunatu M. Koroma, Deputy Minister of Social Welfare, Gender and Children’s Affairs, Sierra Leone. This support was bolstered by the participation of Jaap Doek, President of the United Nation’s Children’s Committee, and Halima Warzazi, United Nations Special Rapporteur on Traditional Practices. Also attending were representatives of the main UN agencies involved in the issue (UNIFEM, UNICEF, WHO, UNFPA, UNDP), and the European Commission, the Office of the Italian Development Corporation, the World Bank, and USAID.

A few days after “The Cairo Declaration for Elimination of Female Genital Mutilation” was adopted, the Maputo Summit of the African Union approved the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa. The Protocol will become enforceable after its ratification by 15 countries, and further reinforces the international framework for the national laws to prevent FGM advanced by the Cairo Declaration, included at the beginning of these proceedings.

Finally, the Expert Conference was also the occasion to launch the International Appeal Against Female Genital Mutilation, introduced by AIDOS and NPWJ in Brussels on December 12, 2002, and already signed by numerous international figures and thousands of people around the world (found in the appendix to this volume). Additional signatures were also collected on the campaigns official web site, www.stopfgm.org, the first portal on activities and actors involved in prevention of FGM.
The Declaration for the Elimination of the FGM

Adopted at the Afro-Arab Expert Consultation on Legal Tools for the Prevention of Female Genital Mutilation

Cairo, June 23, 2003

We, the representatives of twenty-eight African and Arab countries affected by the practice of Female Genital Mutilation, of international and non-governmental organisations, and experts on FGM, meeting in Cairo from the 21st to the 23rd of June 2003 for the Afro-Arab Expert Consultation on “Legal Tools for the Prevention of Female Genital Mutilation” on the invitation of AIDOS - Italian Association for Women in Development - No Peace Without Justice, the Egyptian National Council for Childhood and Motherhood, and the Egyptian Society for the Prevention of Harmful Practices to Women and Children, under the Auspices of H.E. Mrs. Suzanne Mubarak, First Lady of Egypt, organised within the framework of the “STOP FGM Campaign” supported by the European Commission:

- Emphasise that all countries affected by the practice of FGM have been represented at the Expert Consultation, making it a unique opportunity for dialogue, exchange of information and points of view concerning the best means and the most appropriate legislative instruments for the prevention and the progressive abandonment of FGM worldwide;
- Recognise and salute the commitment and determination of H.E. Mrs. Suzanne Mubarak, First Lady of Egypt, as well as Her keynote speech delivered at the opening session of the Expert Consultation and her specific contribution to the success of this Afro-Arab meeting;
- Emphasise in particular the statements of the highest religious authorities in Egypt, H.E. Sheikh Mohammed Sayed Tantawy, Grand Sheikh of Al-Azhar, and the representative of H.E. Pope Shenouda III, Patriarch of Alexandria and of the See of St. Mark, who reaffirmed that no religious precept either in Islam or Christianity justifies the practice of FGM;
- Thank the organisers for taking the initiative to convene this Expert Consultation in Cairo and expressing appreciation in particular to the Egyptian National Council for Childhood and Motherhood and the Egyptian Society for the Prevention of Harmful Practices to Women and Children for the warm welcome received in Egypt and to ensure the best working conditions for the meeting;
- Thank the sponsors and other contributors for providing the resources for this Expert Consultation and its follow-up;
- Take note of the results obtained by the working groups, the quality of the contributions by the speakers and all the participants, and the most valuable technical contribution by CRR - Centre for Reproductive Rights - and RAINBO - Research, Action and Information for the Bodily Integrity of Women - which have made the successful outcome of the Consultation possible;
Take note of and support the international “STOP FGM” Appeal, launched on the 10th of December 2002, as well as the Declaration on “Zero Tolerance for FGM” issued by the IAC - Inter-African Committee - on the 6th of February 2003, and signed by African First Ladies and a number of other world renowned figures.

CAIRO DECLARATION FOR THE ELIMINATION OF FGM

WE, the participants in the Afro-Arab Expert Consultation on “Legal Tools for the Prevention of Female Genital Mutilation”

Call upon governments to promote, protect and ensure the human rights of women and children in accordance with the obligations undertaken by them as states parties or signatories to:

• the African Charter on the Rights and Welfare of the Child
• the African Charter on Human and People’s Rights
• the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
• the Convention on the Rights of the Child
• the Cairo Programme of Action agreed to at the International Conference on Population and Development
• the Beijing Declaration and Platform for Action agreed to at the Fourth World Conference on Women

Believe that the prevention and the abandonment of FGM can be achieved only through a comprehensive approach promoting behaviour change, and using legislative measures as a pivotal tool;

Launch the Cairo Declaration, appealing to Heads of State, governments, parliaments and responsible authorities in concerned countries, as well as international organisations and non-governmental organisations, to endorse the following recommendations in their legislation, social and health policies, aid programs, bilateral and multilateral cooperation initiatives.

WE, the participants in the Afro-Arab Expert Consultation on “Legal Tools for the Prevention of Female Genital Mutilation”

Recommend that:

1. Governments, in consultation with civil society, should adopt specific legislation addressing FGM in order to affirm their commitment to stopping the practice and to ensure women’s and young girls’ human rights. Where politically feasible, a prohibition on FGM should be integrated into broader legislation addressing other issues, such as:

• gender equality
• protection from all forms of violence against women and children
• women’s reproductive health and rights
• children’s rights

CAIRO, 21-23 JUNE 2003
2. The use of law should be one component of a multi-disciplinary approach to stopping the practice of FGM. Depending on the national context, outreach efforts by civil society and governments aimed at changing perceptions and attitudes regarding FGM should precede or accompany legislation on FGM. These activities should reach as many members of the public as possible and should include the participation of both elected officials and other government actors and members of civil society, including advocates, religious leaders, traditional leaders, medical providers, teachers, youth, social workers, and all forms of media available. In particular, men must be targets of outreach, as well as family members, including grandmothers, mothers-in-law, etc. Means of outreach should take as many forms as possible in each country, including community gatherings, media (radio, theatre) and other creative means of communication.

3. The work of NGOs is at the heart of social change. NGOs and governments should work together to support an ongoing process of social change leading to the adoption of legislation against FGM. A long-term, multi-strategy approach shaping attitudes and perceptions about women’s status and human rights should lead in the long-run to the criminalization of FGM. Governments and international donors should provide financial resources to empower national NGOs in their struggle to stop FGM. In addition, governments must ensure that national NGOs are able to pursue their activities freely.

4. The legal definition of FGM should encompass all forms of FGM and should be formulated by national legislatures on the basis of the World Health Organization definition and in consultation with civil society, including the medical community. However, depending on the national context, it may be desirable to provide for a period of sensitization to precede enforcement of the prohibition as it applies to parents and family members.

5. Governments should formulate time-bound objectives, strategies, plans of action, and programs, backed by adequate national resources, whereby FGM laws will be enforced, taking into account that legislation condemning FGM has a moral force and an educational impact that could dissuade many individuals from submitting girls to the practice.

6. If existing criminal sanctions are enforced in the absence of specific legislation on FGM, governments should work with civil society to undertake a major information campaign to ensure that all members of society, particularly those who practice FGM, are aware that the existing law will be enforced.

7. In adopting a law, religious leaders, civil society organizations, including women’s and community-based organizations, and health care providers, among others, should be part of the consultative process. Efforts to end FGM must be focused on empowering women to make choices impacting their health and their lives.

8. Religious leaders should be sensitized to the negative impact of FGM on women’s reproductive and sexual health. Religious leaders who support ending FGM should be incorporated into outreach strategies.

9. Once legislation prohibiting FGM has been adopted, whoever performs FGM, including...
health professionals and traditional circumcisers, should be put on immediate notice that performing FGM gives rise to legal and professional sanctions.

10. Licensed medical practitioners should be subject to the maximum available criminal penalties. Professional associations should adopt clear standards condemning the practice of FGM and apply strict sanctions to practitioners who violate those standards. Practitioners may be suspended or lose their licenses to practice. In addition, they should face civil liability for malpractice or unauthorized practice of medicine. Appropriate ethical guidelines against FGM should be incorporated into medical education and training curricula.

11. Provided sufficient outreach and sensitization has taken place, members of the community with knowledge of cases of FGM should be held criminally liable for failure to report such cases. Special measures are needed to protect those who come forward to report a case. Governments should consider alternative methods of monitoring prevalence and effects of FGM, for example, through gathering statistics from health care centers. Law enforcement officials should be trained to respond to cases of FGM (including cases that may still be prevented) in a manner that meets the needs of women and young girls affected by the practice.

12. Women and young girls should be empowered to access legal remedies specified by law to prevent FGM. In particular, women and young girls who are victims or potential victims of FGM have the right to bring a civil action to seek compensation from practitioners or to protect themselves from undergoing FGM. Resources, such as information on legal rights, legal assistance, and social services and support for girls who may face negative repercussions from their families and communities, should be provided to women and girls. Medical professionals should assist by providing evidence supporting the claim of the girl or woman who has undergone FGM. The deterrent effect on practitioners of possible civil actions against them involving monetary damages may be significant.

13. The age of a girl or woman or her consent to undergoing FGM should not, under any conditions, affect the criminality of the act.

14. During periods of armed conflict, both governments and international donors must sustain activities aimed at ending the practice of FGM and other forms of discrimination against women and girls.

15. As agreed at the International Conference on Population and Development in Cairo in 1994 and the Fourth World Conference on Women in Beijing in 1995, as well as their subsequent reviews, governments should ensure all women access to the full range of reproductive and sexual health services and information. In addition, reproductive and sexual health information and education, including information on the harmful effects of FGM, should be incorporated, where appropriate, into school curricula and other community education programs. Women who have undergone FGM should have access to the information and special health care they need.

16. In countries where minorities, including migrants, are vulnerable, governments should
not use the adoption of laws against FGM to undermine the full enjoyment of human rights by these minorities. In such contexts, it is particularly important that criminal legislation be part of a broader strategy to provide resources to support community needs and to promote the health and human rights of community members. Members of minority communities, particularly activists working to stop the practice, should be consulted and their views taken into account prior to adoption and enforcement of the law. In some cases, it may be appropriate for legislation targeting FGM to make reference to constitutional protections of minority rights.

17. Governments should implement the regional and international conventions that they have ratified, protecting the rights of women and children, and comply with their obligations to take action to end practices that harm women and young girls, including the adoption of legislation prohibiting FGM. Implementation measures should include translation of these texts into national languages and outreach programs to ensure broad knowledge of the rights protected under the law. Civil society could promote government accountability under these treaties by using UN treaty monitoring bodies. NGOs can use treaty bodies’ Concluding Observations and Recommendations to push for additional government actions. For example, legal mechanisms to intervene on behalf of children who may be subject to FGM may currently be inadequate but could be developed.

WE, the participants in the Afro-Arab Expert Consultation on “Legal Tools for the Prevention of Female Genital Mutilation”

Further recommend that:

The Cairo Declaration will be officially presented to the Secretary-General of the United Nations and the presidents of the African Union and the European Union, as well as the Secretary-General of the League of Arab States and the Organisation of Islamic Countries;

Finally,

WE agree to hold a follow-up meeting to be convened on the African continent in a year’s time, to review progress achieved towards the implementation of the Cairo Declaration.

Participants of the Expert Consultation from the following countries have adopted the Cairo Declaration:


Cairo, June 23, 2003