

Equality Now and End FGM Canada Network-NGO-Canada-session

Committee on the Rights of the Child Secretariat

Office of the High Commissioner for Human Rights (OHCHR)

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Re: Information on Canada for consideration by the Committee on the Rights of the Child at its 90th Session (3 May - 3 June 2022)

Introduction

We present the following submission in advance of the 90th session of the Committee on the Rights of the Child ('the Committee'), taking place between 3 May - 3 June 2022, for consideration of the fifth and sixth periodic reports of Canada. Equality Now and the End FGM Canada Network are writing to express our concern about the continued prevalence of Female Genital Mutilation/Cutting (FGM/C) in Canada and the failure of the Canadian government to take concrete and effective action to end FGM/C in Canada and provide support for survivors, which constitute a violation of the principles of non-discrimination and rights to basic health and welfare of the girl-child under the Convention on the Rights of Child.

We note the Committee's General comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health (art. 24) which states, "Gender-based discrimination is particularly pervasive, affecting a wide range of outcomes.... Attention also needs to be given to harmful gender-based practices and norms of behaviour that are ingrained in traditions and customs and undermine the right to health of girls and boys." (CRC/C/CG/15, ¶ 9).

Information about the authors of the submission-End FGM Canada/Equality Now

Equality Now is an international human rights NGO with ECOSOC status and the mission to achieve legal and systemic change that addresses violence and discrimination against women and girls around the world. Founded in 1992, Equality Now is a global organization with partners and members in every region. Ending sexual violence, ending sex trafficking, ending harmful practices and achieving legal equality are the main areas of Equality Now's work. This submission also references Equality Now's report 'Female Genital Mutilation/Cutting: A Call for a Global Response' published in 2020, jointly with the End FGM European Network and the U.S. End FGM/C Network.

The End FGM Canada Network is a coalition of individuals and civil society organizations that exists for the purpose of promoting, upholding and enforcing the human rights of girls and women residing in Canada, as enshrined in the Canadian Charter of Rights and Freedoms, the United Nations' Universal Declaration of Human Rights, and the Declaration of the Rights of the Child, to be protected from the practice of female genital mutilation or cutting (FGM/C), to end FGM/C in Canada and worldwide, and to support survivors of FGM/C in Canada by working collaboratively with stakeholders to increase awareness, strengthen measures to protect girls

at risk, and aid in the creation of systems of support for impacted women and girls.

Female Genital Mutilation/Cutting in Canada

FGM/C is a harmful practice that involves the partial or total removal of the external female genitalia, or other injury to the female genital organs for non-medical reasons. It is recognised internationally as a violation of the rights of girls and an extreme form of violence which infringes on their right to be free from all forms of discrimination, right to life and physical integrity, including freedom from violence and the right to health.

There are no official, publicly available estimates of the number of survivors of FGM/C living in Canada, or women and girls at risk of undergoing FGM/C. However, the Canadian Border Services Agency has stated that “it is almost certain” that FGM/C is also happening in Canada. Canada has sizeable populations of diaspora communities from countries where FGM/C is known to be practiced. A 2016 study authored by anti-FGM organization Sahiyo which surveyed 385 women around the world – primarily from the Dawoodi Bohra community – and found that of those women, 18 (5%) lived in Canada and had all undergone FGM, with two undergoing the procedure in Canada itself. Informal analysis by the End FGM Canada Network of Canada’s 2016 census data reveals that approximately 100,000 survivors of FGM/C live in Canada and thousands of young girls are at risk. However, this estimate is based on immigrants from countries in Africa and the Middle East which have nationally-representative prevalence data on FGM/C. The practice of FGM is far more widespread globally, with evidence indicating the presence of FGM/C in over 90 countries around the world, in both diaspora communities and local populations with a long standing practice of FGM/C. An analysis of Canada’s 2016 census data reveals that Canada’s population includes women and girls whose families have migrated from over 50 of these countries where FGM/C has been taking place for generations. In most instances, FGM/C is performed on children and adolescent girls below the age of 18.

There are numerous studies that have surveyed Canadian survivors of FGM/C. A 2017 study by Sahiyo documents two instances of FGM/C where women from the Bohra community had undergone the procedure in Canada. A 2018 study documents interviews with 14 Somali-origin women living in Toronto who had undergone FGM/C. Another 2017 study interviewed seven women living in Canada, all of whom had been cut in their countries of origin (which included Djibouti, Ethiopia, Mali, Guinea, Egypt, etc.), but did not perpetuate FGM/C on their daughters. A study that focused on the health concerns of women living with FGM/C also surveyed 21 women living in Canada (of which 20 had undergone FGM/C who originated from 15 different African countries where FGM/C takes place).

In early June 2021, the End FGM Canada Network interviewed three young 25-year-old women, T.O., F.A., and M.M., all born in Canada and Canadian citizens; two testified that they were taken to Egypt and one to Somalia as children and forced to undergo FGM/C while they were minors. (See Annex for more information) They further testified that they know ten other girls who suffered the same fate. Past news reports also indicate that girls in Canada have been taken to their countries of origin to be cut, despite the fact that such “vacation cutting” is prohibited under Canadian law.

The CEDAW Committee in 2016 in its Concluding Observations on the eighth and ninth periodic reports of Canada had expressed concern that information on harmful practices, including FGM/C and ways to combat them is not readily accessible to women and girls in Canada. The CEDAW Committee recommended that the Canadian government “systematically collect disaggregated data on harmful practices in the State party and make information on ways to combat such practices widely available.” We understand that Statistics Canada has partially complied with this recommendation and gathered some data based on Canada’s 2016 census to estimate the number of women and girls living in the country who have undergone FGM/C and/or who are at risk of having FGM/C performed on them. The failure to make public available data on FGM/C, however, is in contravention of the CEDAW Committee’s recommendations.

The Honourable Prime Minister, Justin Trudeau, issued a statement on the International Day of Zero Tolerance for Female Genital Mutilation, 2022 acknowledging the need for improved data collection stating that, “Canada

firmly and unequivocally denounces female genital mutilation. No woman or girl - anywhere in the world - should ever live in fear of physical or psychological harm.” The mandate to collect the data is with the federal government. Data collected thus far, has not been made public.

Legal and Policy Interventions of the Canadian Government relating to FGM /C

In addition to the Convention on the Rights of the Child, Canada is a signatory to the Universal Declaration of Human Rights (UDHR), International Covenant on Civil and Political Rights (ICCPR), International Covenant on Social, Economic and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and the Convention against Torture (CAT). These international commitments create both negative and positive duties on the Canadian government to protect, promote and fulfill the rights under the international human rights law. Canadian courts have recognised the importance of Canada upholding its obligations under international treaties to protect rights enshrined therein.

The Canadian Constitution includes the Canadian Charter of Rights and Freedoms. Under section 7 of the Charter, everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice. The rights under the Charter apply to Canadian citizens and non-citizens.

The Canadian Criminal Code was amended in 1997, to include FGM/C as a form of aggravated assault. Any person conducting FGM/C for non-medical reasons faces up to 14 years of imprisonment. If a person does not commit the act but agrees aids or abets the act of FGM/C, they can be convicted as a party to the offence under section 21(1) of the Criminal Code.

Section 273.3 (2) the Canadian Criminal Code prohibits taking a minor outside the country for the intention to conducting, aiding or abetting FGM/C for non-medical purposes and/or causing bodily harm.

There has not been a single criminal prosecution or conviction for FGM/C in Canada since the legislation was enacted.

Canada was the first country to recognize fear of gender persecution as a ground for claiming refugee status. The Canadian Immigration and Refugee Board has granted refugee status to some women whose children would have been subjected to FGM/C, if she had been forced to return to her country of origin.

A Federal Interdepartmental Working Group on FGM which was formed in 1994, compiled a report in 1999 as a part of their “ongoing commitment of Canadians and the Government of Canada to stop this practice in Canada and to improve the health and well-being of affected women and their communities”. The report made recommendations to the stakeholders, health-care providers, government and the communities affected by the practice. It recommended that, “[t]o ensure that the practice of FGM does not occur in Canada, it will be critical to continue to promote and provide ongoing respect for the cultures of affected communities”; and that, “[c]itizenship and Immigration Canada could provide early, effective intervention by developing information packages that are given directly to families upon arrival in Canada”. Almost three decades later, despite the continually increasing levels of immigration from affected countries, the vast majority of these recommendations have not been implemented.

The above mentioned Interdepartmental Working Group held community-wide consultations and based on those consultations expressed that there is a need for a “national database of FGM-related activities” and “resource centres for disseminating information on FGM”. These recommendations have not yet been implemented.

The Canadian government has taken a number of measures to combat FGM/C, including funding small scale-initiatives and research on FGM/C and including an advisory about the illegal nature of FGM/C in its citizenship guide. Most recently, the department of Women and Gender Equality funded the End FGM Canada Network's 'Joining Hands' project to create interactive online education modules for health care, education and child protection professionals. However, as highlighted above, the measures taken by the Canadian government

fall far short of what is required to end FGM/C within Canada and address the needs of FGM/C survivors living in the country. In its report to the Committee, the Canadian government has highlighted the focus on FGM/C in its 2017 Feminist International Assistance Policy. While Canada's international assistance efforts are indeed commendable, the Canadian government also needs to make more efforts and dedicating more resources domestically towards combating the harmful practice of FGM/C.

There is need for acceleration of efforts against FGM/C, including effective enforcement of the laws against FGM/C. The Canadian government needs to take a comprehensive approach towards ending FGM/C, starting with the establishment of national prevalence statistics to inform policies. It should look to European countries and learn from successful initiatives in terms of both protection for girls and support for survivors.

Suggested Recommendations to the State Party

We respectfully urge the Committee to issue the following recommendations to the Canadian government:

Collect national statistical prevalence and other relevant data on the number of women and girls living in Canada who have either undergone FGM/C or are at risk of undergoing FGM/C; and ensure that any such data collected is made publicly and widely available.

Effectively enforce laws against FGM/C within the country, including taking steps to prosecute offenders.

Develop a multi-sectorial cross-country National Action Plan coordinated by a lead ministry which initiates policy development, monitors and further coordinates policy action on FGM/C, and facilitates cross-sectoral initiatives in the fields of education, health, and child protection; in consultation with survivors, CSOs, experts and affected communities.

Increase core and project-specific funding to non-governmental organisations and culturally-competent service providers to support survivors, implement prevention strategies in community organizations, and develop and deliver FGM/C related trainings.

Implement the recommendations of the Federal Interdepartmental Working Group Report published in 1999.

Facilitate, assist and make accessible the immigration and citizenship process for women and girls who are at-risk or have undergone FGM/C in their country of origin.

Take concrete measures to prevent the practice of FGM/C within its borders and anyone leaving the country for the purpose of conducting FGM/C.

Advocate for the availability of and access to culturally competent support service providers (health interpreters, social workers, etc.) who are knowledgeable about FGM/C to ensure that women and families receive adequate and respectful counselling and support.

Improve government co-ordination between the federal, provincial and territorial levels to prevent, eliminate and create awareness on FGM/C in Canada through use of a multi-sectoral approach.

Take steps to facilitate, assist and make accessible the immigration and citizenship process for women and girls who are at-risk or have undergone FGM/C in their country of origin; and put in place effective mechanisms for the immigration and asylum claims of the family members of at-risk girls.