

The GLOCEPS

Weekly Influential Brief

Research and Analysis in Transnational Organised Crimes Pillar

Facilitators of cross-border female genital mutilation in East Africa

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Photo Credit: Spotlight Initiative

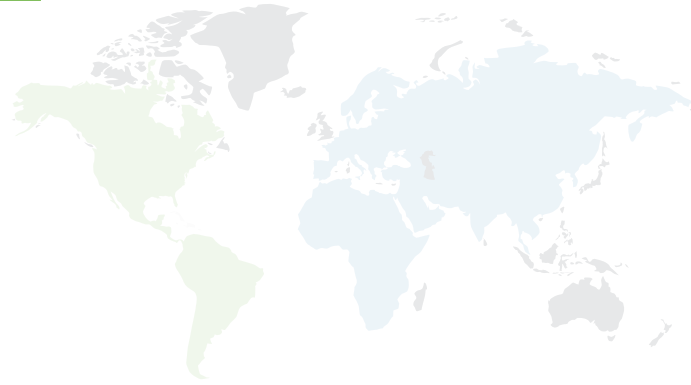
Executive Summary

According to the United Nations Population Fund (UNFPA), 2022 report, it is estimated that about 50 million girls and women affected by Female Genital Mutilation (FGM) are from East African border areas. Key contributing factors include, social pressure, border porosity, marginalization, legislative and regulatory gaps which continue to hinder practical interventions against the practice. Similarly, shared harmful traditions and persistent socio-economic challenges amongst cross-border communities have continued to fuel the growth of cross-border

FGM. The vice has led to long-term health challenges including HIV/AIDS, fistulas and menstrual problems.

In efforts to eliminate the menace, this paper calls for urgent measures to address existing flaws promoting the growth of the harmful act across regional border communities. Suggested recommendations include, increased psychosocial support initiatives, enhanced border security mechanisms, increased socio-economic inclusion of affected communities' and harmonization of regional anti-FGM laws.





Context

The relationship between shared traditional influences and cross-border FGM activities in East Africa is complex and interrelated. FGM is deeply rooted in cultural and traditional beliefs and is considered a necessary rite of passage for girls and women in many regional border communities. In addition, the act is seen as a way of increasing a woman's social status and prestige, resulting in conformity pressures. Through intermarriages, sharing such culture contributes to the growth of the vice. This has been witnessed and reported amongst the Maasai, Oromo, and Pokot, as prospects of marriageability favour female genital cutting due to perceptions of ensuring premarital virginity and marital fidelity among these communities.

Likewise, disharmony in law enforcement procedures across the region and gaps in anti-FGM legislation have escalated the prevalence of cross-border FGM. While Kenya and Uganda have legislations with provisions against the menace, Ethiopia, Somalia, and Tanzania do not, thus undermining coordinated policing efforts toward its elimination across regional borders. Consequently, border areas

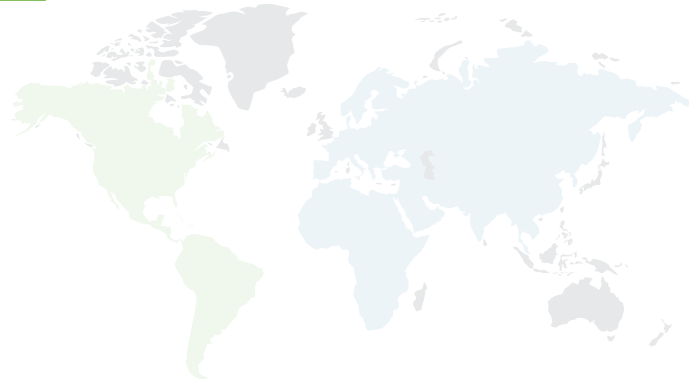
of the aforementioned countries record higher occurrences of FGM than national averages. According to a 2019 survey by UNFPA, approximately 71% of respondents from Uganda and 60% from Ethiopia had previously traveled to Kenya to partake in the practice.

Socio-economic challenges amongst practicing communities have also resulted in increased forced marriages of young girls enhanced by FGM, in exchange for bride price. This has been witnessed amongst the Somali (94%), Samburu (86%), Abagusii (84%) and Maasai (78%). Comparable incidence rates of the practice have also been witnessed amongst the Oromo and Pokot communities inhabiting Kenya's borders with Ethiopia and Uganda. It is therefore important that interventions are prioritized in efforts to eliminate cross-border FGM in fulfilment of Aspiration 6, Priority 51, of the African Union Agenda 2063, seeking to eradicate all forms of harmful acts and discrimination against women and girls. Initiatives towards this should principally target regional transnational undertones linked to FGM.



Photo Credit: EEAS - Europa.eu





Key issues

This section discusses contributors to cross-border female genital mutilation in the East Africa region.

Social pressure

Social pressures linked to communal conformity and fear of rejection remains a key factor hindering the eradication of FGM amongst border communities. Girls and women from FGM practicing communities are at a higher risk of being taken across regional borders to undergo the procedure. This is often driven by the belief that the act must be performed by a specific practitioner or in a particular location.

Communities such as the Maasai, Pokot, and Kuria (who live along Kenya's western and southwestern borders with Uganda and Tanzania) continue to record increased rates of cross-border FGM, showcasing Kenya's role as a destination area for Ugandan women and girls seeking to undergo FGM under the guise of holiday visits to relatives.



Photo Credit: Al Jazeera

Border Porosity

Kenya's porous borders continue to facilitate uncontrolled movement of people without detection or regulation, including those participating in FGM. In 2022, data from Kenya's anti-FGM board indicated that an estimated 3,000 girls had been subjected to illegal cross-border transportation to undergo the cut. FGM's secretive nature coupled with

inadequate policing at border posts and the existence of unlicensed boda boda operators in the affected areas have influenced the growth of the vice. In addition, limited resources for border enforcement have equally provided security challenges. This showcases the negative influence of Kenya's porous borders on cross-border FGM.





Marginalization

Recent literature confirms the existence of a positive relationship between drought and increased rates of child marriages enhanced by FGM amongst marginalized communities. For instance, statistics by UNICEF (2022) classified 14 out of 23 drought-affected counties in Kenya as FGM hotspots. During the same period, East Africa witnessed nearly 3.3 million children dropping out of school from a previously recorded 1.1 million due to the ongoing drought. This negatively impacts the socio wellbeing of girls in affected regions as the harsh conditions coupled with socio-economic exclusion continues to introduce new dynamics towards increased child marriages. Families in such regions are now marrying off more girls to accumulate wealth, as dowry items such as crops and livestock continue to diminish. In consequence, this

exposes many girls to risks associated with cross-border circumcision.

Ethiopia, the most affected by the ongoing drought, recorded nearly triple the usual figures of FGM-related child marriages in 2021-2022. Similarly, a January 2022 assessment by UNICEF in Somaliland reported a rise in Gender Based Violence (GBV) due to drought. Of the highlighted risk factors, child marriages, and FGM were highlighted as positively correlated, with increased rates of up to 50% in some locations. Further, findings by Plan International (a development and humanitarian organization advancing children's rights and equality for girls) in 2022 indicated that increased migration, especially amongst agro-pastoralists in search for water and pasture significantly exposes young girls and women to threats linked to FGM.





Photo Credit: The Guardian

Legislative and Regulatory gaps

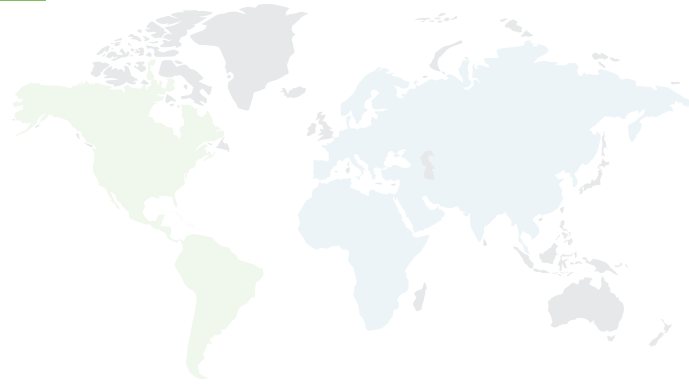
Despite the introduction of the Sexual Health Bill in 2017 by the East African Legislative Assembly (EALA), to address sexual and reproductive health risks, gaps still remain. As such, loopholes including non-conformity with partner states' domestic laws and the Maputo protocol's omission, have led to its delayed assentment. The protocol underscores the importance of women's rights to exercise self-determination and bodily autonomy, free of discrimination, coercion, and violence.

Equally, despite Kenya and Uganda having legislations (i.e., Articles 21 and 28 [1] of the FGM Act 2021 and Section 15 of the Female Genital Mutilation Act 2010) with provisions against cross-border FGM, Ethiopia, Somalia, and Tanzania do not, hence undermining coordinated policing efforts. The lack of sufficient harmonization of relevant laws between East African countries has made it difficult to effectively monitor and enforce laws prohibiting cross-border FGM. This has propelled the number of individuals illegally

crossing borders to participate in the procedure. Individuals from FGM-practicing communities often travel to bordering countries where law enforcement is weak. For instance, despite Uganda recording the lowest rate of FGM in East Africa, marginalized districts bordering Kenya, such as Moroto, Nakapiripirit, and Amudat in Karamoja, continue to record exceptionally high prevalent rates.

The inadequate involvement of communities during legislative processes continues to contribute to the unacceptance of anti-FGM laws leading to lack of law ownership. Resultantly, communities engaged in the practice view anti-FGM laws as statuses imposed to challenge their norms and cultures, leading to increased resentment. Limited creation of awareness by regulatory bodies such as the East African Community (EAC) on the harmful effects of the act leads to law defiance, particularly amongst Somali communities in Mandera, the Kuria, and Samburu, prompting opposition towards FGM laws.





Conclusion

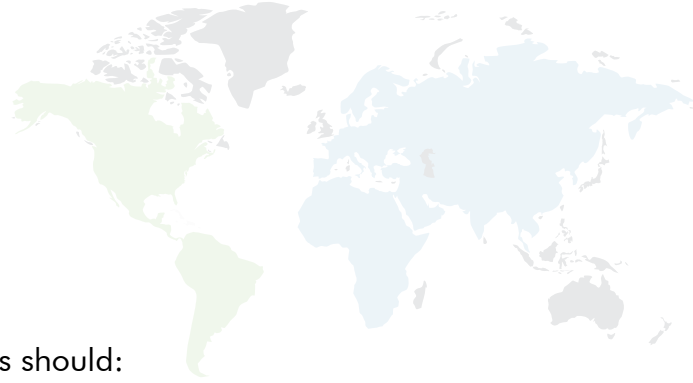
East Africa continues to experience increased incidences of FGM particularly along its border communities. This has been intensified by various factors ranging from beliefs tied to shared harmful traditions, socio economic challenges and legislative enforcement gaps. In efforts geared towards addressing regional cross border FGM, Kenya has the opportunity to spearhead regional consultations on the revision and assentment of the 2016 EAC draft bill on the prohibition of FGM. Additional measures such as, increased spread of awareness and regional harmonization of laws against the harmful act would be significant in tackling the vice.



Recommendations

1. The Ministry of Public Service, Gender, and Affirmative Action should collaboratively work with:
 - a) Civil society groups to increase psychosocial support programs targeting the wellbeing of young girls and women in affected communities.
 - b) The Ministry of Interior and National Administration to enhance border patrol initiatives to monitor border movement of women and young girls especially those involved in the FGM practice.
 - c) The Ministry of education and other relevant stakeholders to promote female pro-based education initiatives to promote girls' education.
2. The Judiciary should:
 - a) Provide guidance on dealing with existing conflicts between formal and customary laws to achieve social legitimacy within the criminal law.
 - b) Harmonize offenses and minimum penalties targeting illegal border crossing for purposes of FGM.





3. Regional governments should:

- a) Synchronise existing relevant legislations concerning cross-border FGM allowing inter-regional cooperation.
- b) Fast track the review and assentment of the 2016 EAC draft bill on the prohibition of FGM to capture the emergent cross-border dimension.
- c) Develop a robust monitoring and evaluation framework to track progress in eliminating FGM among cross border communities.



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