

2012-05-24

Fråga-svar

Könsstympning i Ghana

Fråga

Information önskas om rättstillämpningen av förbudet mot könsstympning i Ghana. Är det vanligt att personer döms för att ha utfört könsstympning? Vilket straff döms ut för personer som rätten finner skyldiga till könsstympning? Är det vanligt att maxstraffet döms ut? Vilka personer utför könsstympning?

Svar

Allafrica (2012):

The Police are unable to enforce the laws against female genital circumcisers effectively because most of the personnel do not have sufficient knowledge of the policies guiding Female Genital Mutilation (FGM) in Ghana, says Mr Elvis Sandogo, head of the Social Service unit of the Police Hospital.

Mr Sandogo cautioned policy makers that until they involve the Police Service in the implementation of policies on FGM, the police will continue to lack the capacity to perform their duties in respect of the harmful cultural practice affecting the health and psyche of women.

On August 7, 1994, FGM was criminalised in Ghana with the enactment of Act 484 in an attempt to stop the practice but conservative people in society still see something good about it and encourage it.

Act 484 amended the Criminal Code, 1960 (Act 29) to insert Section 69A which reads as follows: "(1) Whoever excises, infibulates or otherwise mutilates the whole or any part of the labia minora, labia majora and the clitoris of another person commits an offence and shall be guilty of a second degree felony and liable on conviction to imprisonment of not less than three years. (2) For the purposes of this section 'excise' means to remove the prepuce, the clitoris and all or part of the labia minora; 'infibulate' includes excision and the additional removal of the labia majora."

United Nations Committee against Torture (2011):

23. The Committee takes note of the positive actions of the Government in criminalizing harmful traditional practices, such as female genital mutilation and trokosi (ritual or customary slavery). It also notes the 25 per cent decrease in the number of reported cases of female genital mutilation between 1999 and 2010 although there were still a total of 123,000 reported cases during that period. The Committee remains concerned at the clear incompatibility between certain aspects of Ghana's customary law and traditional practices and the respect for fundamental rights and liberties, including the prohibition of torture and cruel, inhuman or degrading treatment or punishment.(s. 9)

US Department of State (2011):

The law prohibits FGM, but it remained a serious problem in the Upper West Region of the country, and to a lesser extent in Upper East and Northern regions. Type II FGM – defined by the World Health Organization as the excision of the clitoris with partial or total excision of the labia minora – was more commonly performed than any other type. A girl was typically excised between 4 and 14 years of age. According to a 2008 study conducted by the Ghana Statistical Service with support from the UN Children's Fund, approximately 49 percent of girls and women between 15 and 49 years old in Upper West Region – where the practice was most common – had experienced some form of FGM, 20 percent in Upper East Region, and 5 percent in Northern Region.

Intervention programs were somewhat successful in reducing the prevalence of FGM, particularly in the northern regions. Officials at all levels, including traditional chiefs, continued to speak out against the practice, and local NGOs continued educational

campaigns to encourage abandonment of FGM and to train practitioners in new skills so they could seek alternate sources of income.

In a 2009 survey of girls and women between 15 and 49 years old in Upper West Region, 85 percent stated that the practice should be discontinued, 10 percent were unsure, and only 5 percent supported its continuation. Lower prevalence of FGM among women in Upper East Region was highly correlated with increased education. There were no prosecutions of practitioners during the year.

Reproductive Health Matters (2009):

To avoid legal prosecution, perpetrators have adopted strategies such as circumcising girls at infancy or in secrecy. Others invite circumcisers from neighbouring countries to circumcise their daughters in private in order to circumvent the law. (8,9) Prosecutions of in-country circumcisers have been few, and estimates of the current prevalence rate of the practice have become harder to determine, as cases are so rarely reported to the appropriate authorities. (10,11) Since the promulgation of the law in 1994, in fact, only two cases are on record as having been effectively investigated by the police and subsequently prosecuted in court. They include a 45-year-old farmer, who was sentenced to a five-year jail term for circumcising three girls with the consent of their parents in 2003, and a 70-year-old woman sentenced in 2004 to five years by the Bawku Circuit Court for circumcising seven girls in the Bawku East District. (6, 10)

Practitioners or circumcisers are usually elderly community members, male or female. (17) Some of the harmful effects of FGM which have been identified in Ghana include tetanus due to the use of unsterilised instruments, haemorrhage, septicaemia, obstruction of the urethral opening and obstructed labour during childbirth. (17)

Inter-Parliamentary Union (2009):

The Criminal Code Amendment Act 1998 (Act. 554): an Act to amend the 1960 Criminal Code. It Increases age of criminal and sexual responsibility, includes specific offence of indecent assault and revises provisions regarding sexual offences. Shortcomings and gaps that hinder the law's effectiveness have been identified and a

bill has been drafted to further amend Section 769A of the Criminal Code. The bill seeks to redefine FGM and makes offenders those other people who aid and abet the crime. It is hoped that this amendment will make enforcement more effective. So far, the courts have successfully prosecuted and sentenced two practitioners aged 45 and 70 years respectively to five years' imprisonment each.

UN General Assembly (2008):

52. In 1994, Ghana criminalized the practice. Since then, successful prosecutions of those performing FGM have been reported from the Upper West and Upper East Regions. In 2007, Parliament further strengthened the law against FGM by increasing the maximum penalty to 10 years of imprisonment and extending the range of persons who can be prosecuted for involvement in an act of FGM. Officials at all levels of Government, including the President, have also publicly condemned FGM.

53. While there are indications that the practice of FGM in Ghana may be declining, new cases continue to be reported. Civil society organizations and medical practitioners note that FGM is increasingly performed on younger girls, who are less likely to resist or report the crime. Some families apparently also send their daughters abroad to have the procedure carried out. The fact that in some neighbouring countries FGM is not criminalized or the legislation against it is not enforced, and since Ghanaian law does not apply extraterritorially, makes it difficult for the Ghanaian authorities to take action, even if they find out about such cases. (s. 16)

Ghanaweb (2008):

Practitioners of FGM

An elderly woman in the village, who is designated as the practitioner, usually performs the FGM. She may also be a traditional birth attendant and sometimes a village barber.

UNFPA (2008):

The Ghanaian law equates the offence to a second-degree felony. The law in the United Republic of Tanzania provides for compensation of the victim by the perpetrator, to an extent to be determined by the court.

Under the laws of Burkina Faso, Eritrea, Senegal and Togo, and in the recently approved bill awaiting presidential assent in Ghana, accomplices are punishable. (s. 15)

Region/Block 2. Burkina Faso and northern Ghana, where there is increasingly widespread opposition to the practice, as well as effective law enforcement. (s. 80)

FGM Network (2008):

She revealed that by Act 741 of the Criminal Code it is an offence for anybody to engage in such a practice and offenders are liable for a term imprisonment of not less than five years and not more than ten years.

Mrs. Dadzie said although there is a law that frowns on the practice, the inability of the law to prosecute cross border offenders has offered people the opportunity to take their female children to neighboring countries like Burkina Faso to engage the services of practitioners.

UNDP (2007):

FGM, for example, has been abolished under Section 69A of the Criminal Code, 1960 (Act 29). The passage of the 1994 legislation may be described as an important landmark in an attempt by the Government and civil society groups to arrest the practice. Ghana may be described as one of the very few African countries to have enacted legislation abolishing FGM. However, the intended effect of the law remains to be felt, due to the strong traditional beliefs associated with the practice, low awareness of the law, general illiteracy, economic benefits derived by excisors and low levels of enforcement (UNICEF, 2000). As at 2000, information from the Police showed that no more than seven FGM arrests have been made nationally, there is no corresponding data to show if the perpetrators were fully prosecuted.

A significant feature of these arrests was that in the majority of these cases, the perpetrators had left the Northern Region to effect the practice out of country in Burkina Faso where vigilance for the procedure is low. In June 2007, the Parliament of Ghana, frustrated by the persistence of the practice of FGM, upped the minimum sentence for the offence from 3 to 5 years in jail after a proposal by the CLPA Committee of Parliament to have a minimum of 10 years failed in the house. The Parliament

of Ghana is yet to learn that criminal laws alone do not solve social problems. (s. 123)

IRB Canada (2006):

In addition, several sources report that a seventy-year old woman was sentenced to five years imprisonment in January 2004 for performing FGM on seven girls in the Upper East region (UN 2 Feb. 2004; Equality Now n.d., 19; US 8 Mar. 2006, Sec. 5). Two Ghanaian NGOs working on women's rights continued lobbying for more stringent legislation on FGM in 2006; however, one of them indicated that Ghanaian's perceptions of FGM were gradually changing due to public awareness programs and that more people were reporting cases of FGM (UN 2 Feb. 2004).

AWEPA (odaterad):

Female genital mutilation/cutting is performed by traditional health practitioners, women and men who have inherited the position of excisor, male barbers, herbalists, members of secret (religious) societies and of certain castes or families, traditional birth attendants, midwives, nurses and physicians⁸. Many of these traditional 'circumcisers' have no or limited medical training and/or knowledge of anatomy and surgical techniques^{9,10,11} (s. 14)

US Department of State (2001):

In Ghana, the procedures are performed by excisors known as "wanzams" (both men and women), the elderly in society (i.e. the traditionalists), mothers or traditional birth attendants (TBAs) who use unsterilized instruments such as knives and razor blades.

There have been seven arrests under the Act since 1994 and at least two practitioners have been successfully prosecuted and convicted. In March 1995, police arrested and charged the practitioner of FGM/FGC on an eight year old girl and the parents of the girl under the law. In June 1998, a practitioner was sentenced to three years in prison for having performed this procedure on three girls. There is no central record of arrests and convictions or any independent study to show the impact of the law. There is the opinion by some that the law has driven the practice underground.

Denna sammanställning av information/länkar är baserad på informationssökningar gjorda under en begränsad tid. Den är sammanställd utifrån noggrant utvalda och allmänt tillgängliga informationskällor. Alla använda källor refereras. All information som presenteras, med undantag av obestridda/uppenbara fakta, har dubbelkontrollerats om inget annat anges. Sammanställningen gör inte anspråk på att vara uttömmande och bör inte tillmätas exklusivt bevisvärde i samband med avgörandet av ett enskilt ärende. Informationen i sammanställningen återspeglar inte nödvändigtvis Migrationsverkets officiella ståndpunkt i en viss fråga och det finns ingen avsikt att genom sammanställningen göra politiska ställningstaganden. Refererade dokument bör läsas i sitt sammanhang.

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