

THE EVALUATION OF WOMEN ASYLUM SEEKERS: A GENDER BASED VIOLENCE CONTEXT

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DISCLOSURES

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Objectives

An overview of women asylum seekers, and the asylum evaluation, within the context of gender based violence.

- ❖ Gain a global overview of gender-based persecution
- ❖ Describe, in more detail, some of the forms of violence against women that have been grounds for asylum
- ❖ Review Female Genital Mutilation/Cutting (FGM/C)
- ❖ Review the unique aspects of the physical exam and affidavit writing for cases of gender based asylum claims

The Concept of Gender Based Violence:

Only recently has GBV been given a name and a place in the legal discourse...

International Human Rights Law was long silent on issues of GBV. Issues such as Domestic Violence weren't considered to be in the purview of Human Rights Law, rather the issues were attributed to private, interpersonal or domestic/social norms issues.

- Example: **UN Convention on the Elimination of all Forms of Discrimination against Women (CEDAW)** (1979) had no provisions on prevention of violence against women.
- 1992 → Gap Closed: a resolution adopted that stated that **GBV is a form of *discrimination*** and thus covered by CEDAW.

When there is limited legal acknowledgment then there is limited paths for redress!

GENDER BASED VIOLENCE (GBV)

- an umbrella term for any harm that is perpetrated against a person's will, and that results from power inequalities that are based on gender roles
- almost always has a greater negative impact on women and girls*. For this reason the term "Gender-based Violence" is often used interchangeably with the term "Violence against Women" (VAW).
- It is rooted in structural gender inequalities, patriarchy and power imbalances.
- It has direct costs to families, communities, economies and global public health.
- GBV typically impacts victims across the lifecycle

Life Cycle Issues in GBV

Pre-birth	Sex-selective abortions, battering during pregnancy (emotional and physical effects on the woman; effects on birth outcome); coerced pregnancy (for example, mass rape in war)
Infancy	Female infanticide; emotional and physical abuse; differential access to food and medical care for girl infants
Girlhood	Child marriage; genital mutilation; sexual abuse by family members and strangers; differential access to food and medical care; child prostitution; child labour; neglect of girl child
Adolescence	Early and forced marriage; dating and courtship violence (e.g. date rape); economically coerced sex; sexual abuse in the workplace; rape; sexual harassment; forced prostitution; trafficking in women; limitations in access to education; dowry/kalim” and other marriage related practices
Reproductive age	Marital rape, partner femicide, psychological abuse, battering during pregnancy and other forms of intimate partner violence; abuse by in-laws and other relatives; dowry abuse and age murders; sexual abuse or harassment at the workplace; rape; extreme exploitation of household labour; kidnapping; forced abortion
Old age	Abuse of widows; against older women

Source: adapted from Heise et al 1994

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Gender-Based Asylum Claims:

Refers to asylum applicants who have been persecuted for reasons directly relating to their gender

- Women's Rights Activist
- Female Genital Mutilation
- Forced / Child Marriage
- LGBTQ
- Honor Killing
- Trafficking / Prostitution
- Domestic Violence



The State of Gender Based Violence in our world

General Safety

Honor Killing / Acid Attacks

Child Marriage

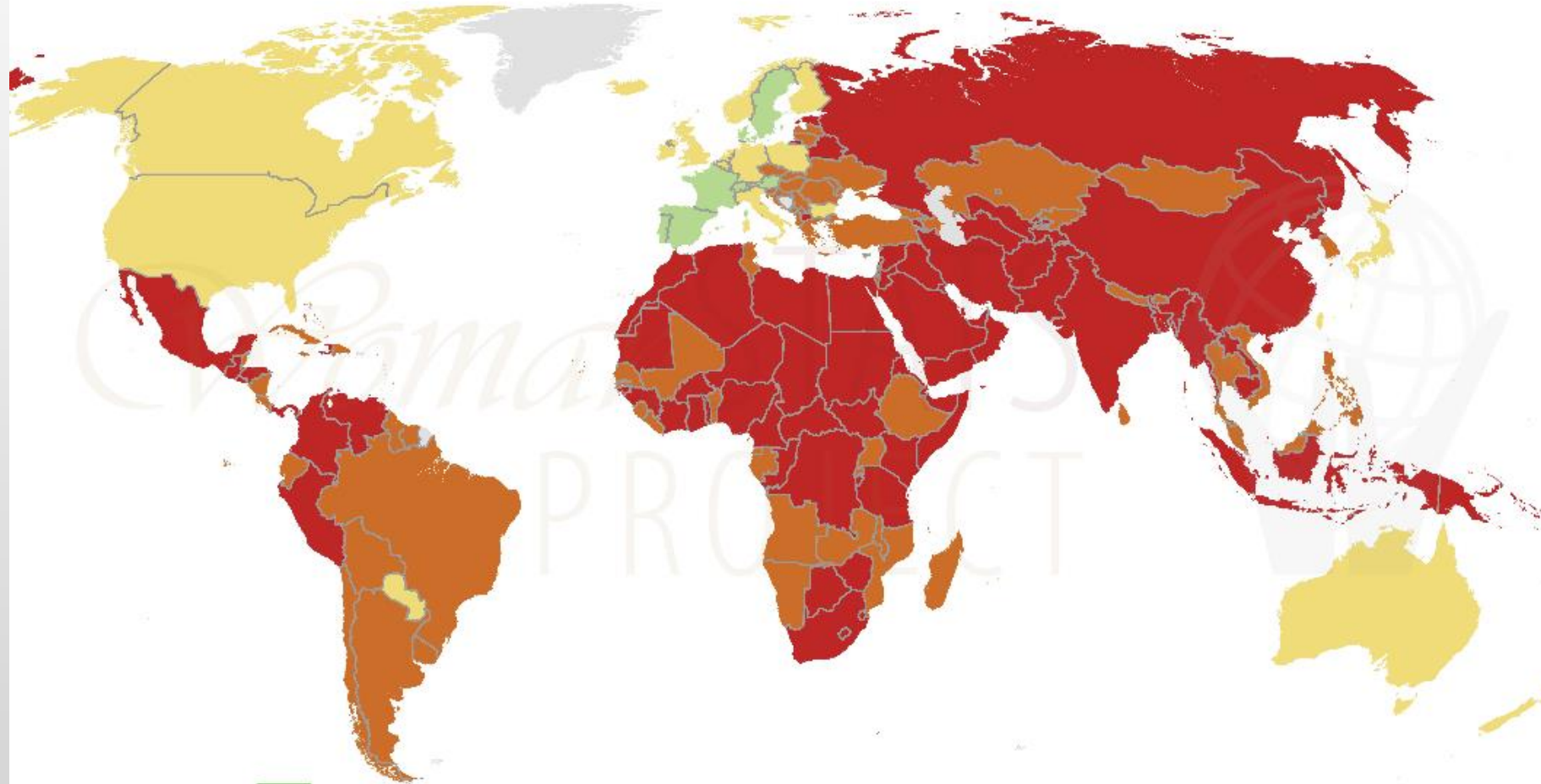
Modern Slavery / Trafficking

Female Genital Mutilation

The Asylum interview and exam for women exposed to GBV.

Physical Security of Women

Scaled 2014



- Women are physically secure
- Women have fairly high levels of physical security
- Women have moderate levels of physical security
- Women have low levels of physical security
- Women lack physical security
- No Data

HONOR KILLING – SHAME KILLING

Murder of a member of a family due to the perpetrators' believe that the victim has brought shame or dishonor to the family, or has violated the principles of a community or religion

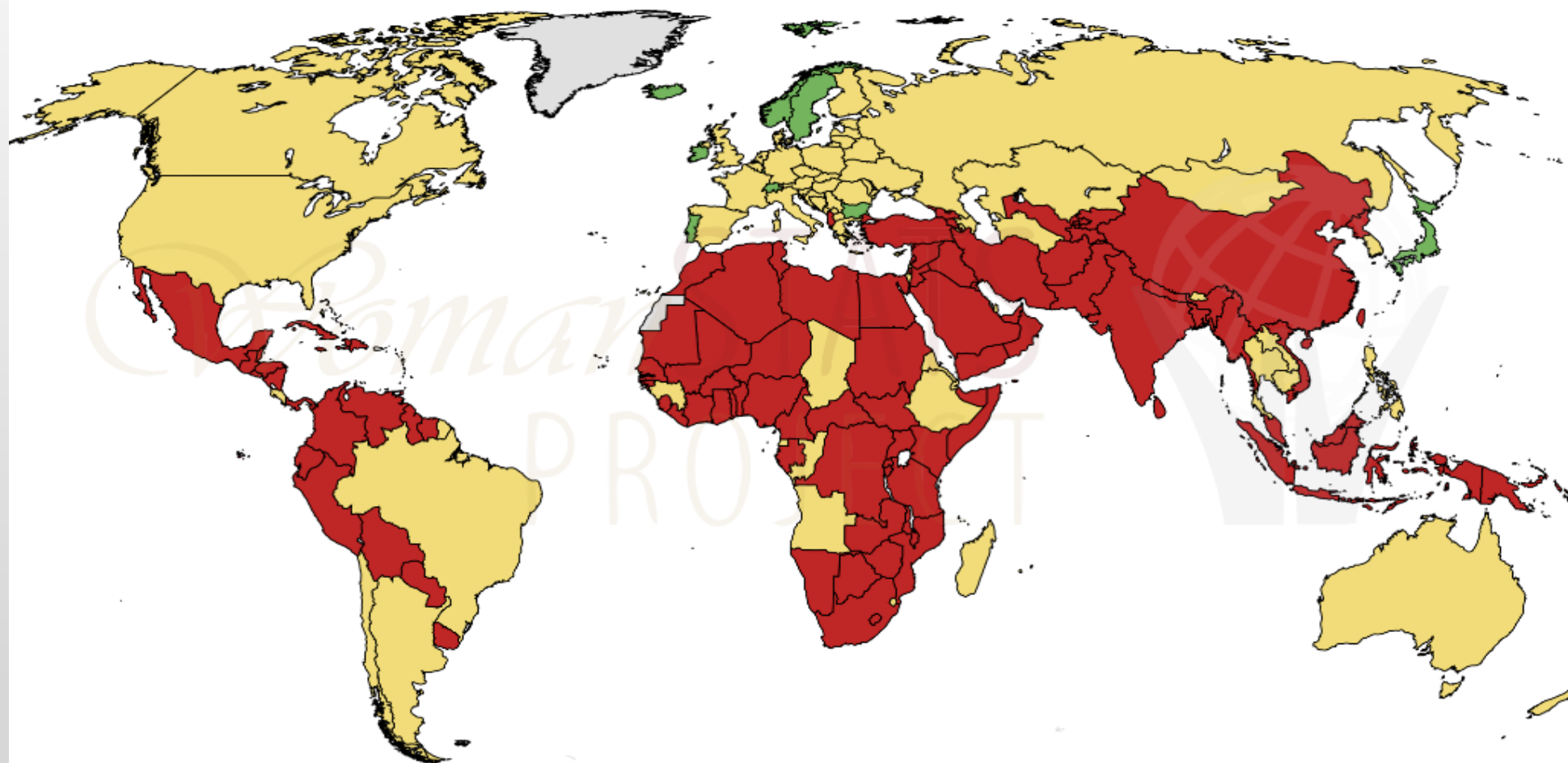
“Femicide”

- Refusing to enter an arranged marriage
- Having sex outside of marriage
- Being a victim of rape
- Renouncing a faith
- Seeking a divorce







Societal Sanction for the Murder of Women/Femicide

Scaled 2016



MURDER-SCALE-1

-  No societal sanction for the murder of women
-  Limited societal sanction for the murder of women
-  Considerable societal sanction for the murder of women
-  No Data

FEMICIDE IN LATIN AMERICA

- Several Latin American countries, including Colombia, Ecuador, Bolivia and Brazil, have explicitly incorporated femicide as a specific crime in their penal codes, as opposed to classifying it as a crime of passion, which is treated as a lesser crime“

Back to Mail 9:45 PM theguardian.com

development Women's rights and gender equality

Women in Peru protest against rising tide of murder and sexual crime

Tens of thousands expected to support marches in Lima and beyond as women stage countrywide 'cry against impunity' in face of almost daily attacks



A protester holds a placard bearing the words 'Ni Una Menos' - 'Not one less' - at a June women's rights rally in Buenos Aires. Peruvian campaigners are to stage a similar protest. Photograph: Omer Musa Targal/Getty Images

Dan Collins in Lima
04:00 EDT Saturday, 13 August 2016
Follow Dan Collins

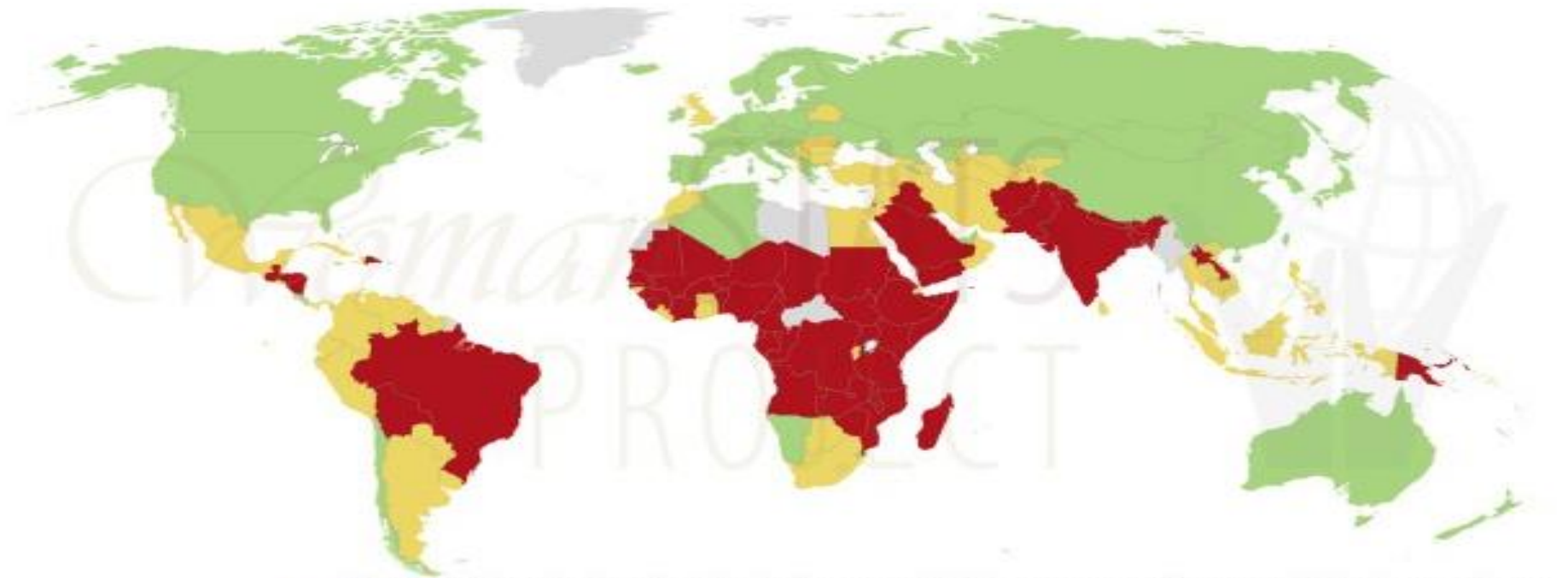
Acid Attacks







- Incidence is unknown
- Primarily in South East Asia
- On the rise in the Middle East
- Cheap and easy
- "18-year-old Rahmaniya reports that her brother threatens to stab her to death or throw acid in her face if she continues to go to school"
- The New York Times: Kabul's women seek refuge indoors after a series of acid attacks ,

Gender Based Violence: CHILD MARRIAGE.

Practice of Child Marriage for Girls
Scaled 2015



-  Sources indicate that less than 5% of girls are married 16 or younger, or there are strict barriers to underage marriage, or that there is significant cultural disapproval of underage marriage
-  Sources indicate 5-10% of girls are married at 16 or younger, or there are low barriers to underage marriage, or that there is little or no cultural disapproval of underage marriage
-  Sources indicate over 10% of girls are married age 16 or younger, or that underage marriage is normal/common, or that there is actual cultural encouragement of underage marriage
-  No Data


WOMENSTATS
PROJECT
ADM-SCALE-1
Data © The WomenStats Project
<http://womenstats.org/>

Map by Think Spatial


VisualLightBox.com

Child Marriage

Child Marriage is any formal marriage or informal union where one or both parties are under 18 years of age

- It occurs across countries, cultures and religions
- It is fueled by gender inequality, poverty and insecurity
 - Daughter is economic burdon.
 - Marriage can settle a household debt or raise money for the family.
- Globally, girls who marry before age 15 are 50% more likely to face physical or sexual violence from a partner.
- Every year, 15 million girls are married under 18.
 - 28 girls every minute
 - 1 girl every 2 seconds



Child Marriage

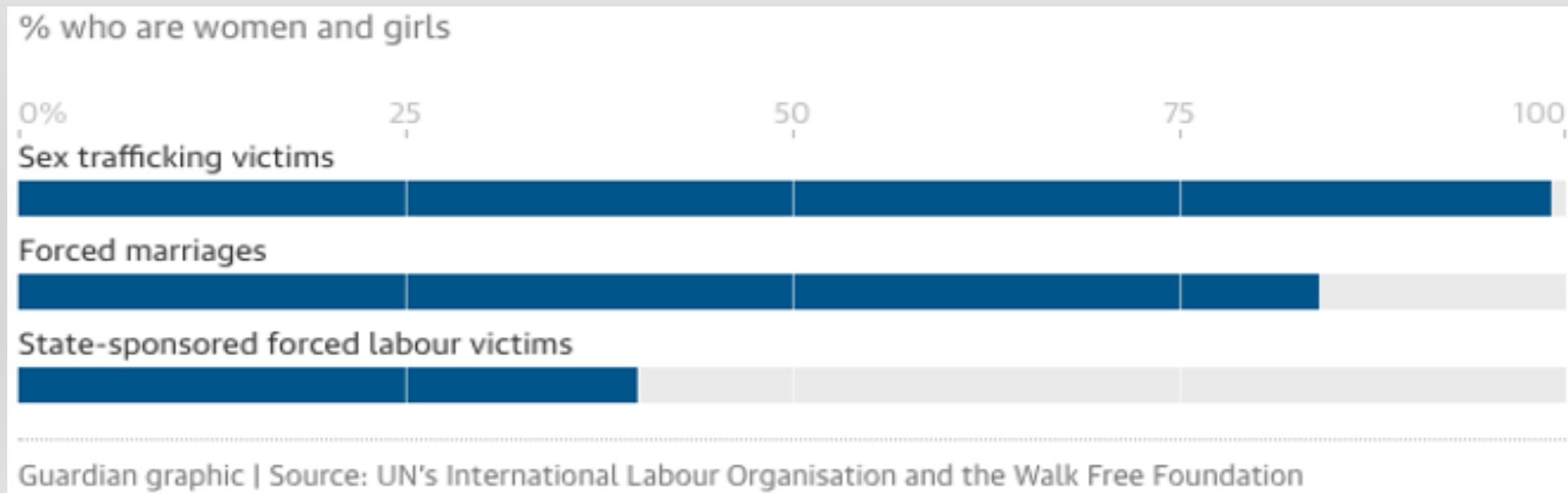
- Girls in poverty are 2.5 times more likely to be married as children.
- Child marriage fits most criteria for enslavement
 - Forced to work and serve others under threat of mental or physical punishment
 - Treated as property
 - Sexual servitude
 - Deprived of their rights to health, education and safety.



Modern Slavery: Forced labor and marriage

Women and Girls accounted for 71% or 29 million of all modern slavery victims in 2016

“More precisely, women and girls represent 99 per cent of victims of forced labour in the commercial sex industry and 58 per cent in other sectors, 40 per cent of victims of forced labour imposed by state authorities, and 84 per cent of victims of forced marriages.”



Human Trafficking

- It is a modern form of slavery – an extreme form of labor exploitation.
- Second largest criminal industry worldwide.
 - Global profits estimated \$44.3 billion annually.
 - Fastest growing criminal industry
 - 45.8 million people trafficked in 167 countries in 2016
- The inequities women face in status and lack of opportunities worldwide make women particularly vulnerable to trafficking.



SUPPORTING A CLAIM OF FEMALE
GENITAL MUTILATION/CUTTING

DISCUSSION GUIDE

- Definition, Prevalence, and Cultural Drivers
- WHO Types
- FGM/C as a violation of Human Rights
- FGM/C and Asylum in the U.S.

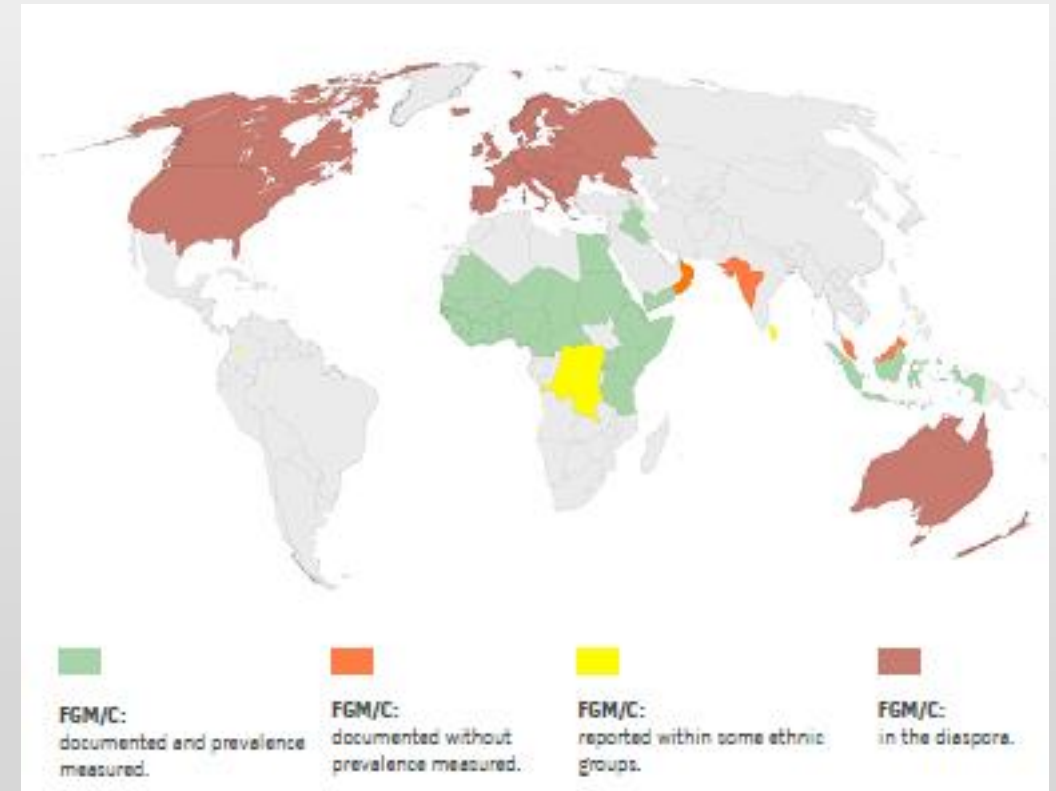
“..All procedures that involve the partial or total removal of external genitalia or other injury to the female genital organs for non-medical reasons.”

-World Health Organization (WHO)

FEMALE GENITAL MUTILATION/CUTTING
(FGM/C)

GLOBAL FGM/C STATISTICS

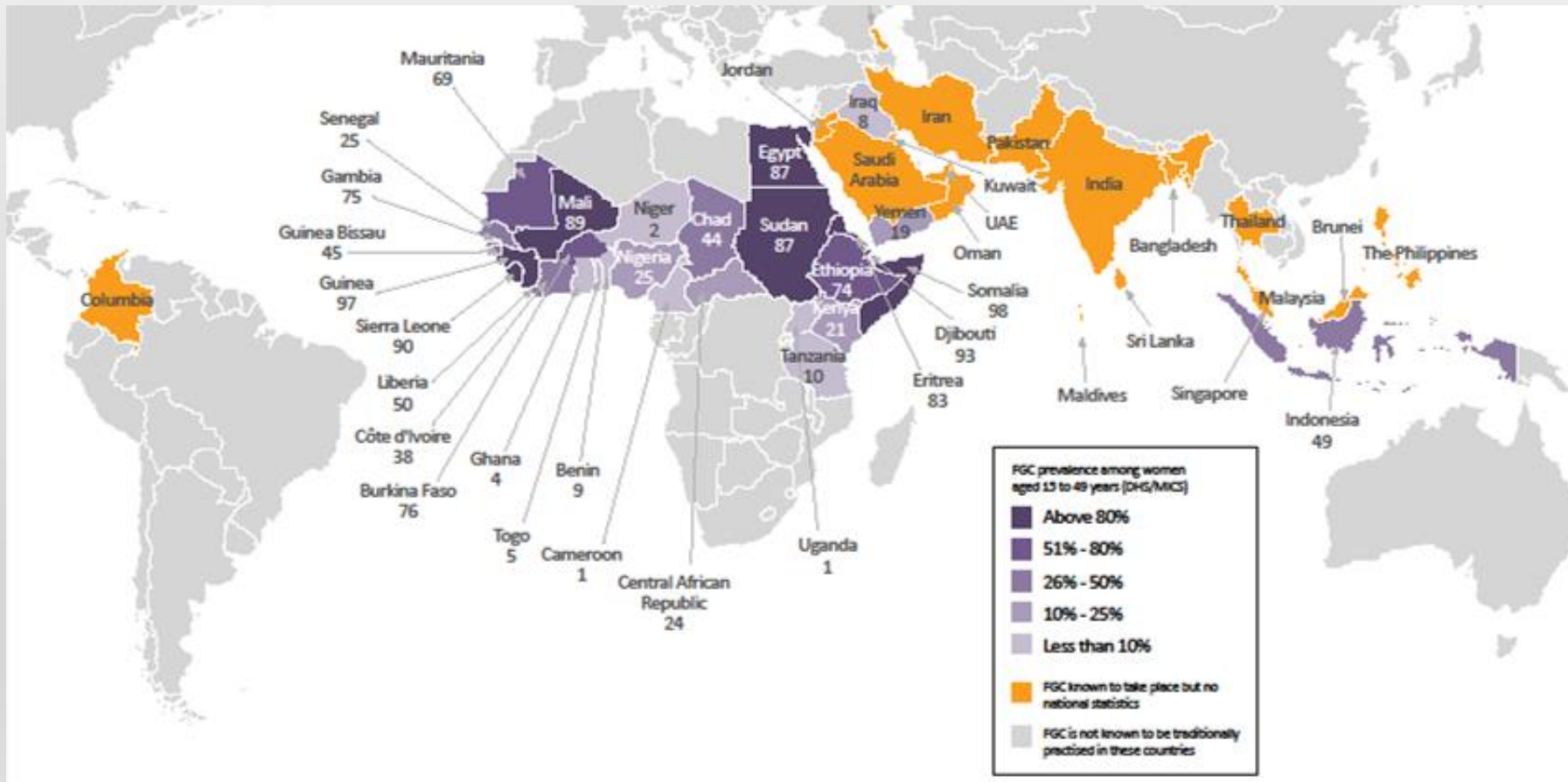
- According to WHO more than 3 million girls are at risk every year ¹
- Over 200 million girls have already been cut in about 30 countries ¹
- About 97% of U.S. women and girls at risk were from African countries ²
 - Most prevalent in sub-Saharan Africa ²
 - Only 3% from Asia (Yemen and Iraq) ²
- Global migration has shifted pattern of prevalence ²
 - Women and girls from high prevalence countries immigrating to Western Host countries such as the U.S has led to increased prevalence



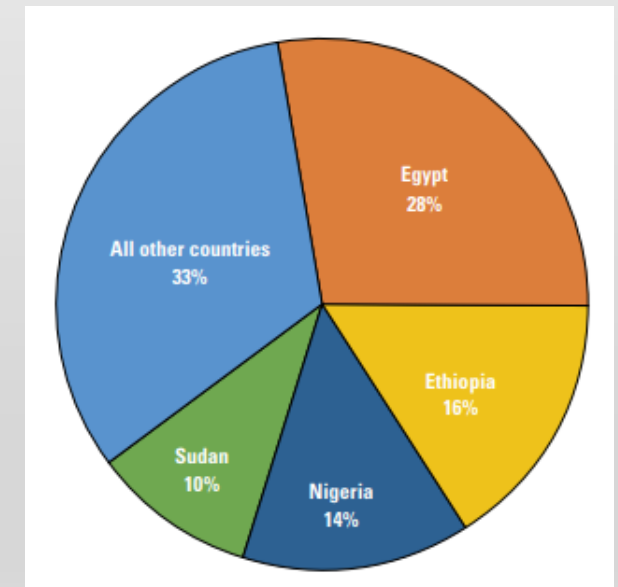
Source: ¹World Health Organization (WHO). (N.p), (2008). "Female Genital Mutilation." Retrieved May 16, 2018 from <http://www.who.int/mediacentre/factsheets/fs241/en/>);
²Mather, M. & Feldman-Jacobs, C. (2015). Women and Girls at Risk of Female Genital Mutilation/Cutting in the United States. Population Reference Bureau. Retrieved May 17, 2018 from <http://auth.prb.org/Publications/Articles/2015/us-fgmc.aspx>; Wassu-UAB Foundation and the Interdisciplinary Group for the Prevention and the Study of Harmful Traditional Practices (IGPS-HTP) of the Autonomous University of Barcelona, 2016

FGM/C: A WIDESPREAD CULTURAL PRACTICE

Prevalence of FGM/C among girls and women ages 15-49, by country



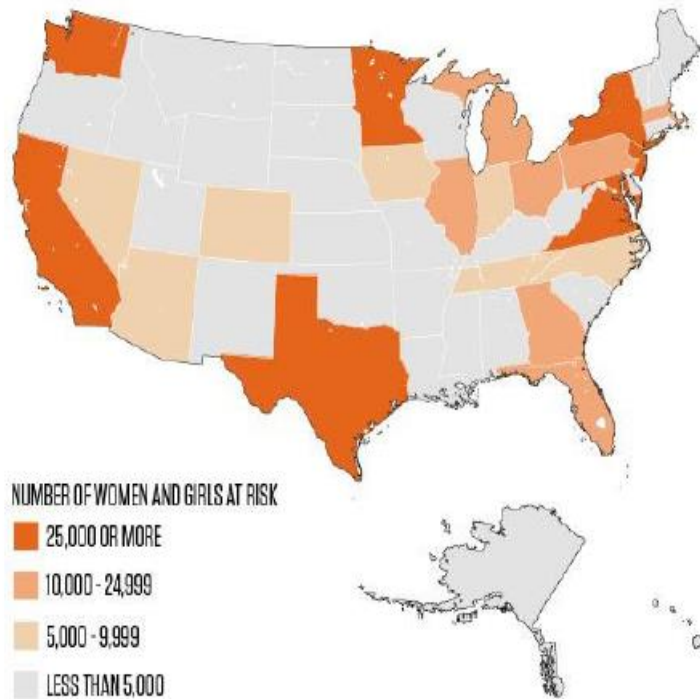
Geographic distribution of girls and women age 15+ affected by FGM/C



*Excludes Indonesia

FGM/C IN THE U.S.

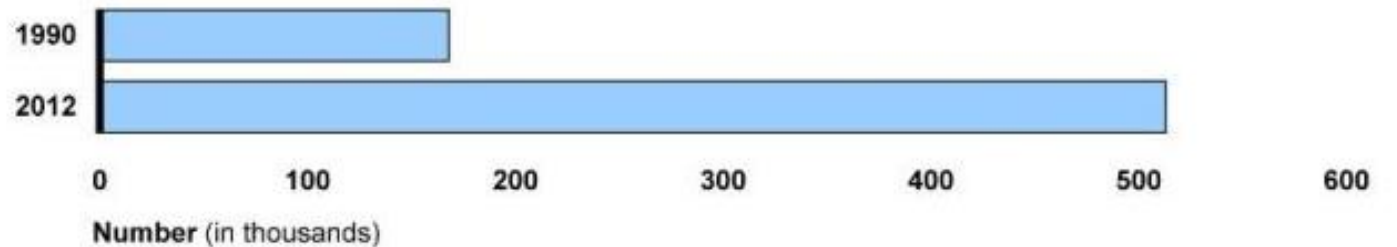
THE NUMBER OF WOMEN AND GIRLS AT RISK OF FGM/C VARIES WIDELY ACROSS THE STATES.



Source: Population Reference Bureau, 2013 data.

Figure 2: CDC Estimates of the Number of Women and Girls in the United States at Risk of or Who Have Been Subjected to FGM/C, 1990 and 2012

Estimate year



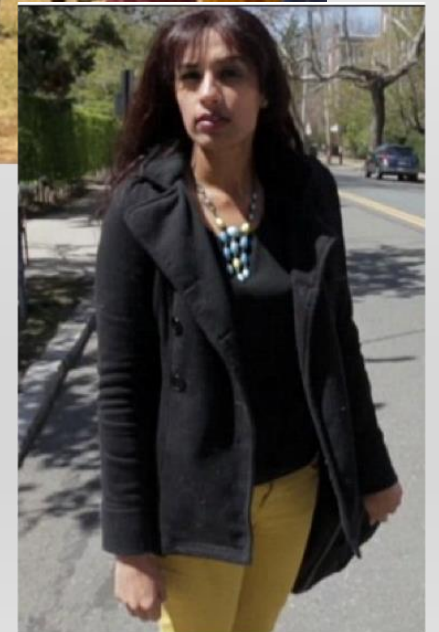
Source: GAO analysis of CDC documents. | GAO-16-645

Notes: Using the same methodology as it did to determine its 1990 rate, the Centers for Disease Control and Prevention (CDC) estimated that 545,000 women or girls were at risk of female genital mutilation/cutting (FGM/C) in 2012. However, CDC found that its estimate of 513,000 women or girls at risk of FGM/C was more reliable because of newer data sources that were not available when it produced its 1990 estimate. Therefore, we use CDC's most reliable estimate for 2012 in this figure.

(Excerpted from [GAO-16-645](#))

WHY DOES FGM/C CONTINUE?

- Deeply embedded beliefs and norms
- Reasons cited vary between regions and over time
- **Respect for tradition**
 - “Sunna”—Arabic word meaning ‘tradition’ or ‘duty’
 - Sign of respect towards history and cultural tradition of community
- **Rite of passage**
 - Initiation into womanhood ^{2,5,6}
 - Circumcision ceremony is a very important event in a female’s life



Source: WHO. (2018) *Care of women and girls living with female genital mutilation: a clinical handbook*. Geneva: World Health Organization. Licence: CC BY-NC-SA 3.0

IGO. <http://apps.who.int/iris/bitstream/handle/10665/272429/9789241513913-eng.pdf>; ²United Nations Organization (UN). (N.p), (2008) *World Health Organization and Department of Reproductive health*.

“Eliminating Female Genital Mutilation. An interagency statement.” Retrieved May 16, 2018 from

http://www.un.org/womenwatch/daw/csw/csw52/statements_missions/Interagency_Statement_on_Eliminating_FGM.pdf; ⁵Johnson, C.E., Ali, S. A., & Shipp, M. P-L. (2009). *Building community-based participatory research partnerships with a Somali refugee community*. *American Journal of Preventive Medicine*, 37(6 Suppl1), S230-S236. Doi:10.1016/j.amepre.2009.09.036; ⁶Vissandjée, B., Denetto, S., Migliardi, P., & Proctor, J. (2014). *Female genital cutting (FGC) and the ethics of care: community engagement and cultural sensitivity at the interface of migration experiences*. *BMC international health and human rights*, 14(1), 13. Doi: 10.1186/1472-698X-14-13

WHY DOES FGM/C CONTINUE? CONT.

- **Religion**

- FGM/C predates religions
- More cultural than religious ⁵
 - Muslims, Christians, Jews, and indigenous religions practice
 - Practice can be adopted by new groups due to migration and displacement ^{2,5}

- **Social convention**

- Sense of cultural identity- feel pride and community belonging²
- Social acceptance in their community
- Fear condemnation, harassment, stigmatization, rejection, and exclusion

WHY DOES FGM/C CONTINUE? CONT.

- **Marriageability**
 - Makes females eligible/increases chance for marriage
 - Fueled by economic and social desire/need for marriage
- **Ensure virginity, chastity, and faithfulness**
 - Preserve a woman's virginity before marriage and ensure fidelity after marriage
 - Protect a family's honor²
 - Control female sexuality
 - Reduce a woman's libido
- **Enhance fertility**
 - Belief that uncut women will not become pregnant or face difficulties during labor

WHY DOES FGM/C CONTINUE? CONT.

- **Cleanliness, beauty, and femininity**
 - Belief that it's more hygienic (Tahour means cleanliness)
 - Spiritual purity
 - Notion that girls are “clean,” “beautiful,” or “more respectable” after removal of body parts that are considered “unclean,” “unfeminine,” or “male”
- Local structures of **power, authority, and economy** (e.g., community leaders, religious leaders, circumcisers, medical personnel) can contribute to upholding the practice

TERMINOLOGY AND TYPES

- Terminology
 - Circumcision
 - Female Genital Mutilation
 - Female Genital Mutilation / Cutting
 - Cutting
 - L'excision
 - Sunna

Terms by country

- Khifad (Sudan)
- Kutairi (Kenya)
- Thara (Egypt)
- Gudiniin (Somalia)

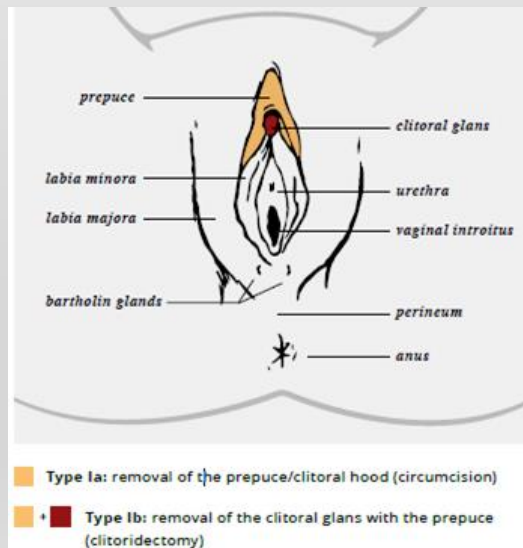
- Types
 - WHO recognizes 4 types of FGM/C (Types I, II, III & IV), but these designations do not necessarily correspond to regional language terms or local way of classifying cutting.



TYPES I AND II

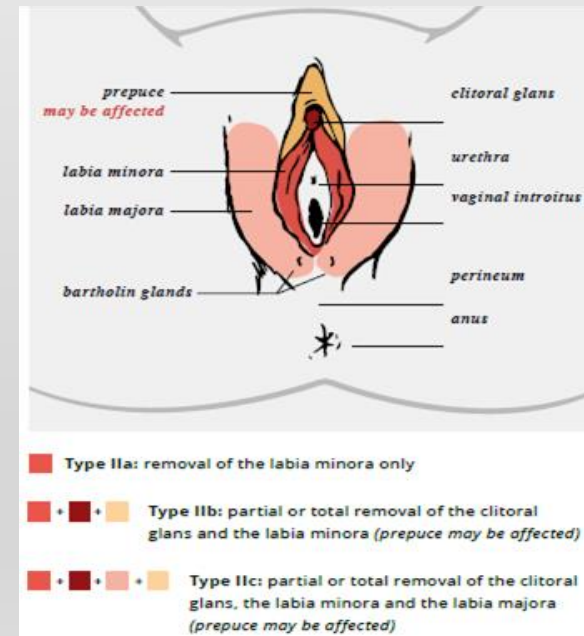
Type I

Partial or total removal of the clitoral glans (clitoridectomy) and/or the prepuce



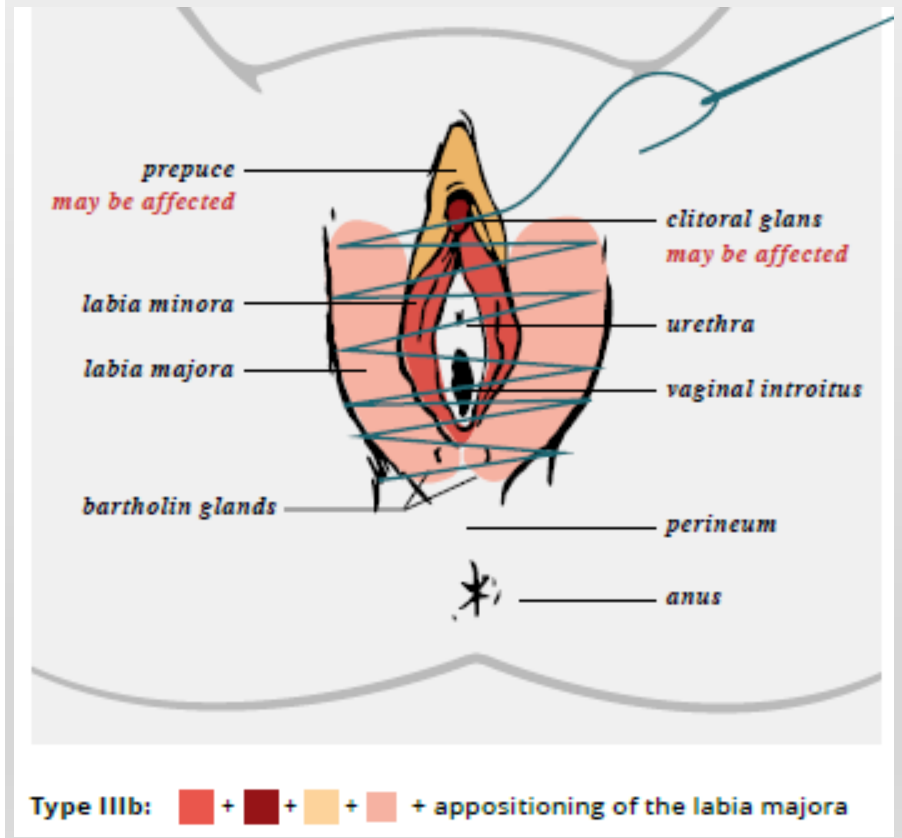
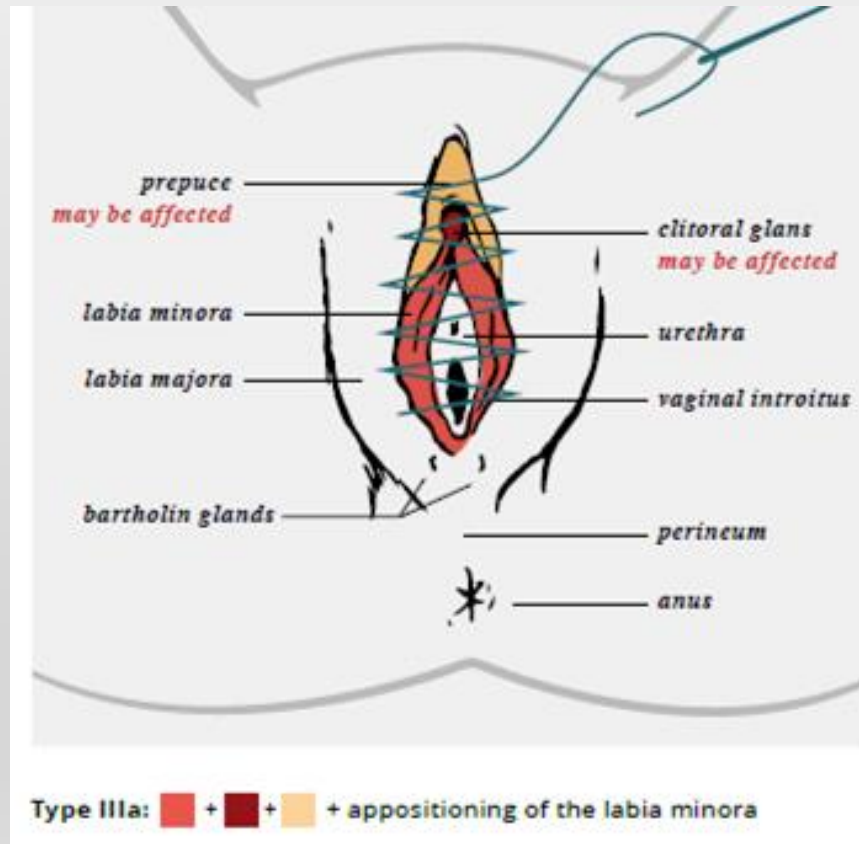
Type II (Excision)

Partial or total removal of the clitoral glans and the labia minora, with or without excision of the labia majora



TYPE III (INFIBULATION)

Narrowing of the vaginal opening with the creation of a covering seal by cutting and appositioning the labia minora or labia majora with/without excision of the clitoral prepuce and glans majora with/without excision of the clitoris



DEINFIBULATION AND REINFIBULATION

Deinfibulation/Defibulation

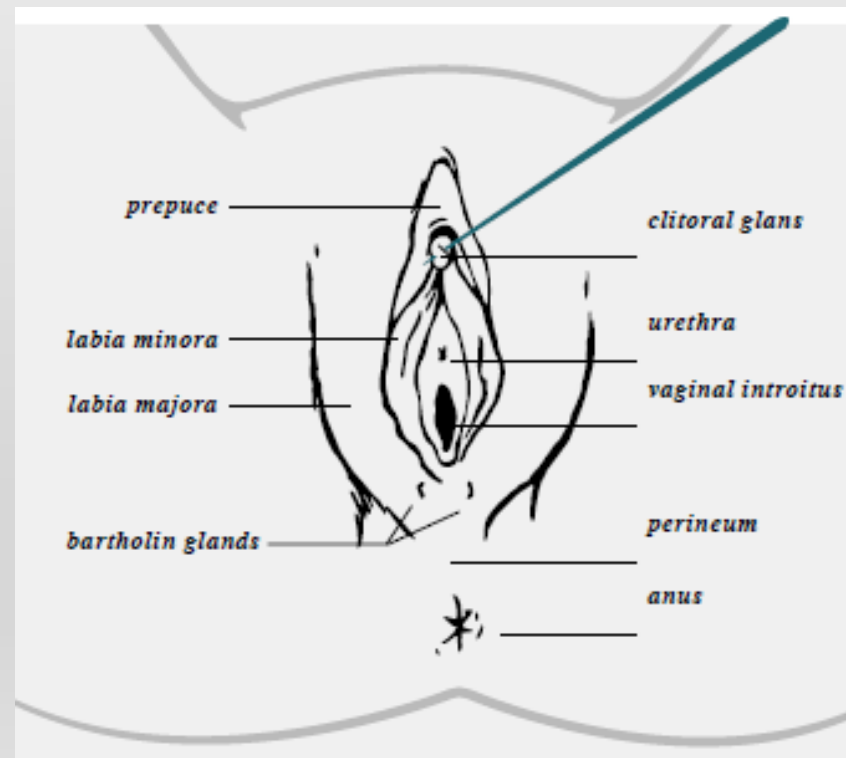
- The surgical procedure to open up the closed vagina of FGM Type III and is often performed on the wedding night and prior to childbirth

Reinfibulation

- The re-stitching of FGM Type III to reclose the vagina after childbirth

TYPE IV

All other harmful procedures to the female genitalia for non-medical purposes (e.g., pricking, piercing, incising, scraping, cauterization)



VIDEO: TYPES OF FGM/C

Female Genital Mutilation: A Visual Reference and Learning Tool for Health Care Professionals

https://www.youtube.com/watch?reload=9&v=XRid7jIUzMY&has_verified=1

**Female Genital Mutilation:
a visual reference and
learning tool for healthcare
professionals**

Jasmine Abdulcadir^{a,b}, Lucrezia Catania^c, Michelle Jane Hindin^b,
Lale Say^b, Patrick Petignat^a, Omar Abdulcadir^c

^aDepartment of Obstetrics and Gynecology, Geneva University Hospitals, Faculty of Medicine, University of Geneva, 30 Blvd de la Cluse 1211 Geneva, Switzerland

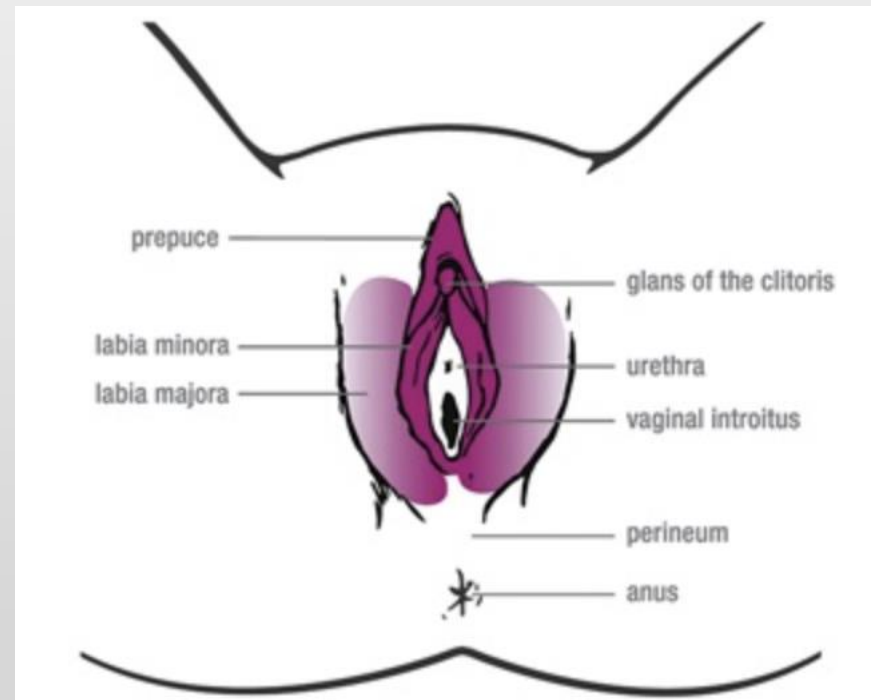
^bDepartment of Reproductive Health and Research, World Health Organization, 20, Avenue Appia, 1211 Geneva, Switzerland

^cRegional Referral Centre for the Treatment and Prevention of FGM, health promotion of immigrant women, Department of Maternal and Child integrated activity, University of Florence, Largo Brambilla 3, 50134 Florence, Italy

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HUG Hôpitaux Universitaires de Genève UNIVERSITÉ DE GENÈVE FACULTÉ DE MÉDECINE Azienda Ospedaliero Universitaria Careggi human reproduction programme hrp research for impact CC BY-NC-ND

CAN YOU CLASSIFY THIS CUTTING?



Abdulcadir, J et al. Female Genital Mutilation: A Visual Reference and Learning Guide for Health Care Professionals. Obstetrics and Gynecology, Nov. 2016.

WHEN SEEING OR
TREATING WOMEN,
KEEP ALL OF THE
HEALTH
CONSEQUENCES IN
MIND.



According to new WHO guidelines, **health-care providers** need to know how to:

World Health Organization

#endFGM

 **Treat the health conditions** that may affect women with female genital mutilation

			
Gynecological complications	Obstetric complications	Mental health disorders	Sexual dysfunction
such as menstrual problems, pelvic pain	such as difficult labour	such as depression, anxiety	such as painful intercourse

FGM/C VIOLATES:

- UN Universal Declaration of Human Rights
- International Covenant on Civil and Political Rights: “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”
- International Covenant of Economic, Social, and Cultural Rights: “The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”
- Convention on Rights of the Child: “States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.”

PERTINENT LEGAL PRECEDENT

- Kasinga (1996): 17 y/o from Togo fleeing forced marriage and FGM
 - BIA recognized FGM as a form of persecution, based on membership in a social group (young women from a particular tribe in Togo who opposed the practice)

Inconsistent rulings (BIA, Federal circuit) due to issues such as past persecution, changing conditions in home country, definitions of social group

- Matter of A-T- (2011): Malian woman cut as an infant, facing forced marriage to a cousin. Initially rejected by BIA.
- Matter of A-B- (2018): “The mere fact that a country may have problems effectively policing certain crimes—such as domestic violence or gang violence—or that certain populations are more likely to be victims of crime, cannot itself establish an asylum claim.”

Sources: Kim, Yule. Asylum law and Female Genital Mutilation: Recent Developments. *CRS Report for Congress*. February 15, 2008. Available at www.fas.org

“Gender-based asylum law training: quick reference to the law.” Tahirih Justice Center. Available at www.asistahelp.org

WHAT CHALLENGES ARE ENCOUNTERED DURING THESE EVALUATIONS?

- Time, language, and privacy
- Re-traumatization
- Inquiring without leading, asking without stigmatizing
- Recognizing the physical and psychological manifestations of FGM/C
- Examining uncut daughters
- Medical needs may arise during the evaluation



WHAT'S DIFFERENT ABOUT PROSECUTING HR VIOLATIONS AGAINST WOMEN?

- Generally occurs in the context of overall cultural disregard and discrimination
- May be so common that it is not considered persecution in the country of origin.
- Often culturally sanctioned, even if illegal
- Women rarely seek help from the police or other authorities – makes documentation difficult

This stands in contrast to political persecution or imprisonment.

THE ASYLUM INTERVIEW AND AFFIDAVIT

The Gender Violence Based Focus



Drexel
Medicine
Women's Care Center

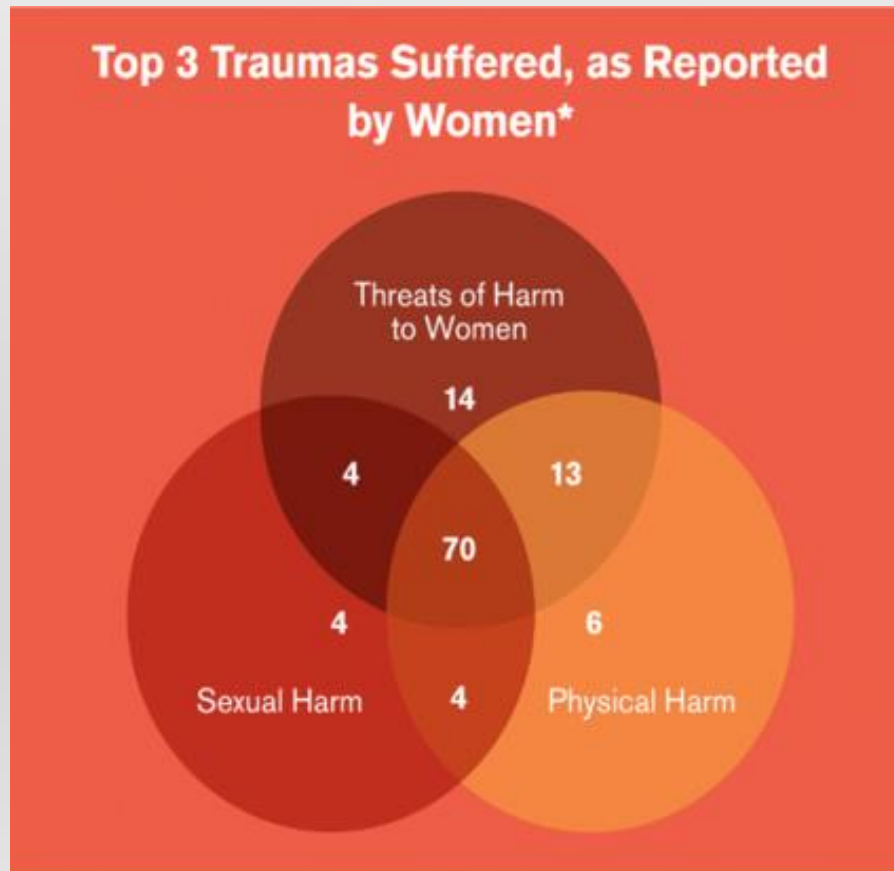
Important Details for Your Interview:

- As with any Asylum Interview: Provide an Introduction and Purpose and Overview of the visit
 - Reassurance that the visit/exam is to help the client in seeking Asylum
- Review Privacy and Confidentiality: Medical record / Computer / contents of letter generated.
- The GBV focus: Expanded history:
 - Family Structure
 - Education
 - Marriage arranged?
 - Related Life Cycle Events
- Acknowledgement of difficulty and emotional strength in completing the interview and exam.

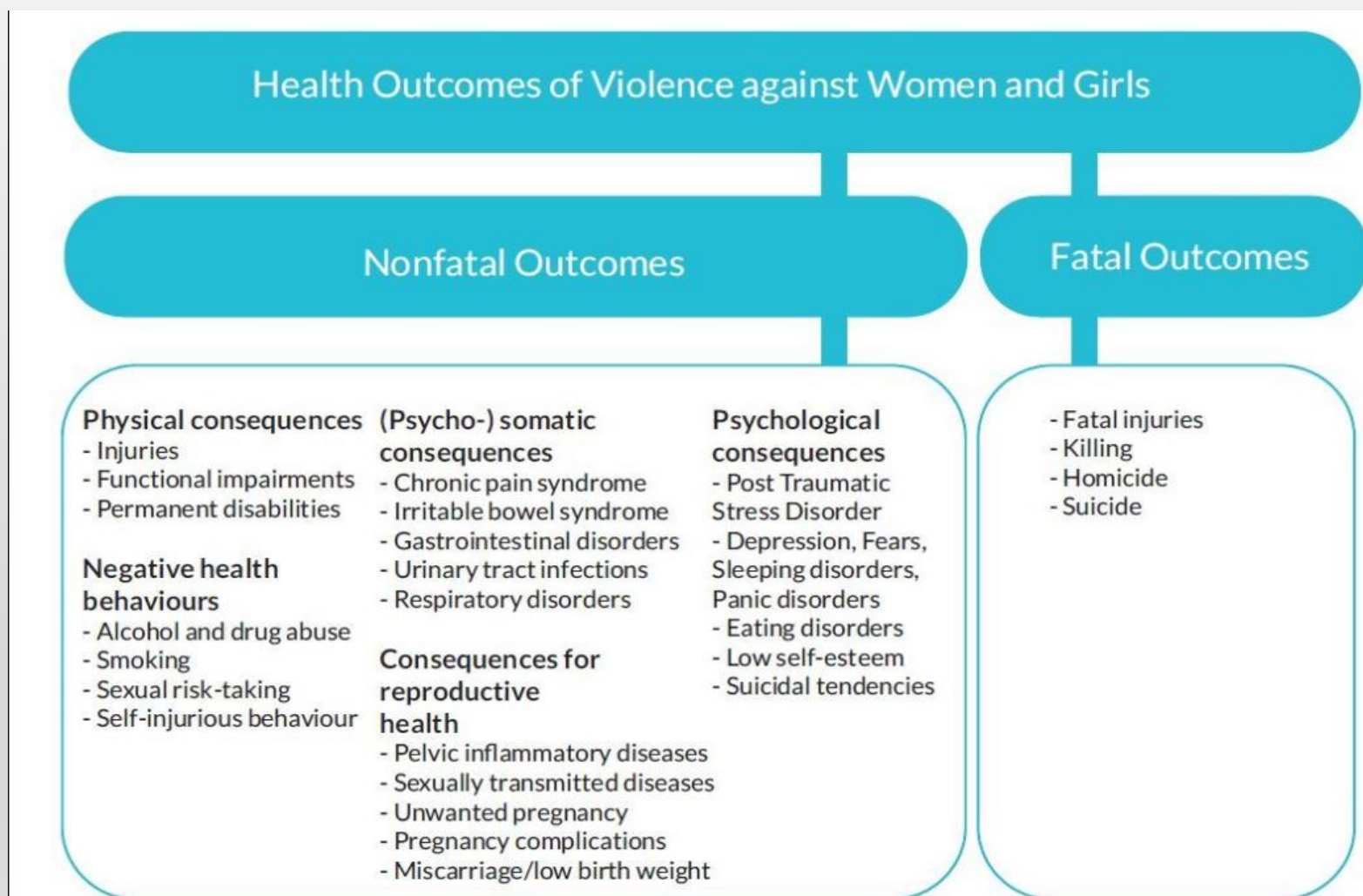
The Gender Based Violence Context

Remember- gender Based Violence rarely happens in isolation: where there is one form there are likely to be others.

Women on the Run, UNHRC 2015



Health Outcomes of Gender Based Violence



Specific to FGM

- At what age did it occur?
- Does she remember the circumstances? Be Specific
- Who brought her to the place to be cut?
- How many other girls were there?
- What did she see, hear?
- Who did the cutting? Who else was there?
 - Did she have to have it done more than once?
- What did she know in advance about what was going to happen?
- What procedure was followed after the FGM and where?
- How did FGM affect her sexual functioning, urination, menstrual periods, fertility, pregnancy and childbirth, interpersonal relationships?
- Document gender of children, where children live and FGM status in children

Final Thoughts on the Affidavit

- GBV context facilitates an exploration of the continuum of the persecution experiences that may have occurred.
- Collaborative Effort: Communication with the legal team is key.
- Your Affidavit does not repeat the client's full narrative
 - Focus on parts of the narrative that are most relevant to the physical exam.
- Minimize jargon
- Transmit information professionally.

Policy/ Healthcare

- Female Genital Mutilation/Cutting: A Global Concern. Geneva: UNICEF; 2016
- Female Genital Mutilation/Cutting: A Statistical Overview and Exploration of the Dynamics of Change. New York: United Nations Children's Fund; 2013
- WHO Global Strategy to stop Health Care Providers from Performing Female Genital Mutilation, 2010
- Female Genital Mutilation and Obstetric Outcome: WHO Collaborative Prospective Study in Six African Countries. *Lancet*. 2006;367(9525):1835–41. doi:10.1016/S0140-6736(06)68805-3.
- Female Genital Mutilation in the United States: Protecting Girls and Women in the United States from FGM. Sanctuary for Families Report 2014
- WHO Guidelines on the Management of Health Complications from Female Genital Mutilation 2016
- Female Genital Mutilation/ Cutting: Existing Federal Efforts to Increase Awareness should be Improved, GAO report 2016

First Person Accounts

- This American Life Episode #586 May 6, 2016 with Mariya Karimjee
- Cut, by Hibo Wardere
- The Cruel Cut – BBC documentary

